12-30-82
Vol. 47 No. 251
Pages 58207-58494

federal register

Thursday
December 30, 1982

Selected Subjects

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 301, 302, 305 and 310

Recommendations of the Administrative Conference

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States, at its Twenty-fifth Plenary Session, adopted two recommendations and one statement of views. The Conference also adopted an amendment to its bylaws concerning committee structure. The subjects of these Conference actions are described below. Recommendations of the Administrative Conference are published in full text in the Federal Register upon adoption. Complete lists of recommendations and statements, together with the texts of those deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR Parts 305 and 310).

DATES: These recommendations and the statement were adopted December 16–17, 1982 and issued December 27, 1982.

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

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

The Administrative Conference of the United States at its Twenty-fifth Plenary Session, held December 16–17, 1982, amended its bylaws to restructure its standing committees so that they may function more effectively. (This notice also includes a conforming amendment to the Conference's statement of organization.)

The Conference also adopted two recommendations and one statement of views:

Recommendation 82–6, *Federal Officials' Liability for Constitutional Violations*, calls on Congress to enact legislation that would substitute the United States as the sole defendant in all damage actions against executive branch officers and employees for violations of constitutional rights committed while acting within the scope of their office or employment. The Conference recommends that such legislation permit the United States to assert as a defense any immunity or good faith defense available to the officer or employee. The recommendation also would place responsibility for investigation and discipline of an offending official with the agency that employs the official.

Recommendation 82–7 *Judicial Review of Rules in Enforcement Proceedings*, sets forth factors the Conference believes Congress should consider in deciding whether to restrict the availability of judicial review of agency rules to a limited period immediately subsequent to the issuance of the rule. The recommendation also states that, when Congress chooses to limit review, the limitations should ordinarily apply only to issues related to the rulemaking process or to the adequacy of record support for the rule, while other types of issues should remain open for review in enforcement proceedings.

Finally, the "Statement of the Administrative Conference on Discipline of Attorneys Practicing before Federal Agencies" expresses the view that any current problems arising from the discipline of attorneys by federal agencies are not of such magnitude or so widespread as to require legislative action or the adoption of uniform federal standards.

The transcript of the discussion of these recommendations is available for public inspection at the Conference's offices, at Suite 500, 2120 L Street, N.W., Washington, D.C.

List of Subjects

1 CFR Part 301

Organization and purpose.

1 CFR Part 302

Bylaws of the Administrative Conference.

1 CFR Part 305

Government employees, Liability for torts, Administrative practice and procedure, Judicial review of regulations.

1 CFR Part 310

Lawyers, Discipline of attorneys in administrative proceedings.

PART 301—ORGANIZATION AND PURPOSE

1. Section 301.3 of 1 CFR is revised to read as follows:

§ 301.3 Organization.

The Chairman of the Administrative Conference of the United States is appointed by the President, with the advice and consent of the Senate, for a five-year term. The Council, which is the executive board, consists of the Chairman and 10 other members who are appointed by the President for three-year terms, of whom not more than one-half may be drawn from Federal agencies. It has authority to call plenary sessions of the Conference and fix their agenda, to recommend subjects for study, to receive and consider reports and recommendations before they are considered by the Assembly, and to exercise general budgetary and policy supervision. The total membership of the Conference may not, by statute, exceed 91. It comprises, in addition to the Council, approximately 44 Government members (heads of agencies or their designees) from 36 departments and agencies, and approximately 36 non-Government or public members (lawyers in private practice, university faculty members, and others specially informed in law and government) appointed by the Chairman with the approval of the Council for two-year terms. The Chairman is the only full-time compensated member. The entire membership is divided into six

committees, each assigned a broad area of interest as follows: Adjudication, Administration, Governmental Processes, Judicial Review, Regulation, and Rulemaking. The membership meeting in plenary session is called the Assembly of the Administrative Conference. The Council must call at least one plenary session each year.

PART 302—BYLAWS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

2. The first sentence of 1 CFR 302.3 is revised to read as follows:

§ 302.3 [Amended]

The Conference shall have the following standing committees:

1. Committee on Adjudication;
2. Committee on Administration;
3. Committee on Governmental Processes;
4. Committee on Judicial Review;
5. Committee on Regulation; and
6. Committee on Rulemaking.

* * * * *

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

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

Sec.

305.82–6 Federal Officials' Liability for Constitutional Violations (Recommendation No. 82–6).

305.82–7 Judicial Review of Rules in Enforcement Proceedings (Recommendation No. 82–7).

4. Section 305.82–6 is added to Part 305 as follows:

§ 305.82–6 Federal Officials' Liability for Constitutional Violations (Recommendation No. 82–6).

This recommendation focuses on the increasing risk to federal executive branch officials of civil liability for monetary damages for alleged violations of federal constitutional rights. This vulnerability has expanded dramatically in recent years, as a result of judicially-discovered rights enunciated in *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), and subsequent court cases involving allegations of official misconduct. Under the present system of officials' liability, as developed piecemeal by the courts, an individual federal employee (except certain categories of officials, including the President, who have been ruled to have absolute immunity) may be held personally liable for acts that, though committed while the employee was acting within the scope of office or employment, may subsequently be found to violate a constitutional provision. Juries may hold officials liable for actual damages where they cannot show that their actions were taken in good faith—that is, in the belief that their conduct was lawful—and for punitive damages where they are shown to have acted maliciously or with reckless disregard of the plaintiff's constitutional rights. At present, damages may not be recovered against the United States for violations of constitutional rights as such, although claims arising out of the same conduct may or may not be stated against the Government under the Federal Tort Claims Act, 28 U.S.C. 2671–2680.

The existing system of civil sanctions for constitutional violations by federal officials does not provide adequate assurance of compensation for victims of such violations and discourages proper conduct by Government officials. In addition, the federal government often has interests at stake in constitutional tort litigation involving its officials which may not be represented adequately when individual officials themselves are the defendants on trial.

In *Carlson* v. *Green*, 446 U.S. 14 (1980), the Supreme Court suggested that the courts may properly refuse to entertain monetary damage actions against federal officials if Congress has expressly substituted a different remedy or made available an alternative to the *Bivens* remedy. In the Conference's view, such an alternative system is likely to improve the effectiveness with which federal programs and laws are administered.

To serve the primary goals of compensation, deterrence, and fairness in dealing with constitutional violations assertedly committed by federal officials, and to afford a solution to the problems perceived to flow from the current system of individual liability, Congress should replace the existing system by accepting public liability for wrongs done in the public's name and by strengthening the means of dealing with the wrongdoers. When defending against constitutional tort claims, the Government should be able to assert any immunity or good faith defense available to the officials.

Since the Conference's mandate extends only to matters affecting the administration of federal agencies' programs, this recommendation addresses only actions against executive agency officials. We do not intend to suggest that the same considerations do not apply to officials of the legislative and judicial branches.

Recommendation

1. Congress should enact legislation providing that the United States shall be substituted as the exclusive party defendant in all actions for damages for violations of rights secured by the Constitution of the United States committed by federal executive branch officers and employees while acting within the scope of their office or employment. The legislation should provide adequate procedures to ensure that, where a damage action for violation of such rights is brought against an executive branch officer or employee, such action should be deemed to have been brought against the United States upon certification by the Attorney General that the defendant officer or employee was acting within the scope of his office or employment at the time of the incident out of which the suit arose. The Attorney General's failure to make such certification should be judicially reviewable.

2. Such legislation should provide that, in actions alleging constitutional violations, the United States may assert as a defense any qualified immunity or good faith defense available to the executive branch officer or employee whose conduct gave rise to the claim, or his reasonable good faith belief in the lawfulness of his conduct. The United States should also be free to assert such other defenses as may be available, including the absolute immunity of those officers entitled to such immunity.

3. The agency that employed the offending officer should be responsible for investigation and, where appropriate, for disciplining the official and implementing any other appropriate corrective measures. The Office of Personnel Management should assure, via guidance promulgated through the Federal Personnel Manual and other devices, that agencies are authorized to employ existing mechanisms to impose sanctions on officers and employees who have violated the constitutional rights of any person. Employees should be permitted to assert as a defense in any disciplinary proceeding their good faith in taking the action in question, as well as such other defenses as may be available.

4. Congressional legislation should preserve the opportunity for jury trial only with respect to claims that arose prior to the effective date of the legislation implementing this recommendation.

5. Section 305.82–7 is added to Part 305 as follows:

§ 305.82–7 Judicial Review of Rules in Enforcement Proceedings (Recommendation No. 82–7).

A person adversely affected by an agency rule may ordinarily obtain judicial review of that rule either by instituting a direct review proceeding against the agency in an appropriate court (pre-enforcement review)[1] or by

[1] We use the term "direct review" to refer to judicial review of a rule of general applicability before the rule is applied to a particular person in an adjudicative proceeding. Such review may be by the court of appeals pursuant to a special statutory

asserting the invalidity of the rule as a defense in a civil or criminal proceeding to apply or enforce the rule (enforcement review). Prior to the Supreme Court's decision in *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967), direct review was generally difficult to obtain because of technical defenses such as lack of ripeness or lack of standing, and most review of rules took place in the context of enforcement proceedings.

Under *Abbott Laboratories* and subsequent decisions, direct review of agency rules has become increasingly available. Congress in much recent regulatory legislation has specifically provided for immediate resort to judicial review at the conclusion of the rulemaking proceeding. As a result, direct judicial review of rules has come to be regarded as the norm and review in an enforcement proceeding is less common. In a number of statutes, in fact, Congress has sought to encourage prompt direct review by explicitly precluding or limiting the availability of review at the enforcement stage.

At the same time, and perhaps largely as a result of the increasing importance of direct judicial review of rules, courts have intensified their scrutiny of the administrative process preceding promulgation of the rule. Whereas in the pre-*Abbott Laboratories* era challenges to rules where most frequently based on assertions of lack of agency authority or on inapplicability of the rule to the party's particular circumstances, today the issues in direct review proceedings increasingly include whether the agency made the proper procedural choices in the rulemaking proceeding and whether the rule finds adequate support in the administrative record.

The Administrative Procedure Act does not by its terms establish different standards of review for direct review proceedings and enforcement proceedings, and few courts have considered the implications for review in enforcement proceedings of the increasingly intensive standard developed in direct review proceedings. Moreover, in adopting statutory provisions precluding enforcement review Congress has not distinguished between these process-related objections and other types of objections to rules.

In Recommendation 76–4, the Conference criticized provisions precluding enforcement review in the Clean Air Act and the Federal Water Pollution Control Act. In view of the increasing reliance on direct review and the proliferation of issues concerning the adequacy of the rulemaking process rather than the agency's authority to promulgate a particular rule, however, the Conference now believes that limitations on judicial review of rules in enforcement proceedings may sometimes be appropriate. The purpose of this recommendation is twofold: to identify factors that Congress should consider in deciding whether to preclude enforcement judicial review, and to distinguish between types of challenges to rules that should ordinarily be covered by any preclusion provisions Congress decides to adopt and types of issues that should ordinarily remain available in enforcement proceedings even where preclusion provisions have been adopted.

Sound principles of administrative law favor prompt and dispositive resolution of disputed issues arising from an administrative rulemaking proceeding. Direct review in the court of appeals is more likely to afford such a resolution than later enforcement review in one or more district courts.[2] The uncertainty caused by the potential for conflicting court decisions and by the possibility that a rule may be overturned several years after its promulgation can be extremely disruptive of the regulatory scheme. In addition, reopening a rulemaking proceeding to correct any defects will become increasingly difficult as the original record grows stale over time and the situation of the interested parties changes.

On the other hand, those affected by a rule should have a full and fair opportunity to challenge the rule on all available grounds. These interests must be balanced in determining when limitations on enforcement review of rules are appropriate. The balance will tip in favor of limitations on enforcement review when the impact of foreclosing review on those affected by a rule is the least and when the costs of regulatory uncertainty or of declaring a rule invalid after several years are the greatest. Thus one factor favoring limitations on enforcement review is the likelihood that the groups affected by rules promulgated under a particular statute will be well represented in the agency rulemaking proceeding because, for example, those groups are well defined and/or well organized. Widespread participation in the rulemaking proceeding reduces the probability that any significant issue concerning the rule, particularly one pertaining to the rulemaking process itself, will be overlooked on direct review.

The likelihood that a rulemaking proceeding will involve complex procedures or intensive factual exploration also militates in favor of limits on enforcement review. The more elaborate and formal the administrative rulemaking proceeding (such as those required by hybrid rulemaking statutes),[3] the more likely it is that the rule will be subject to challenge on the basis of a relatively narrow issue involving the procedures used or the record support for some aspect of the rule. As time passes, reopening such a complex proceeding after a court reversal will be increasingly burdensome. Encouraging the dispositive resolution of challenges to a rule on direct review (perhaps while effectiveness of the rule has been stayed) is also advisable when the costs of regulatory uncertainty are particularly high. Sometimes compliance with a rule entails substantial expense that will not be fully recoverable if the rule is later overturned. Similarly, when Congress determines that there is a need to achieve important regulatory goals promptly nationwide, or when it is particularly important that rules apply industry-wide in order to avoid unfair competitive advantage to noncomplying businesses, repeated litigation over the validity of the rules in various district courts should be avoided if possible.

Even when Congress decides that limits on enforcement review are warranted, it should not foreclose all challenges to rules at the enforcement stage. Some grounds for review can be precluded with little unfairness to parties who may be unaware of the original rulemaking proceeding or are otherwise unable to seek direct review, while others raise fundamental questions about the substance of the rule or its application in circumstances that may have been unforeseen at the time of promulgation. Challenges based on asserted errors in the administrative process are those most suitable for preclusion. When objections on procedural grounds are raised early,

review procedure or by the district court in the exercise of its power under the Administrative Procedure Act to review agency action not otherwise reviewable. See ACUS Recommendations 74–4 (Preenforcement Judicial Review of Rules of General Applicability) and 75–3 (The Choice of Forum for Judicial Review of Administrative Action).

[2] The recommendation is based on the assumption that, where Congress has provided by statute for direct review of rules, that review will ordinarily lie in the court of appeals rather than in the district court. See ACUS Recommendation 75–3.

[3] See, e.g., ACUS Recommendations 79–1 (Hybrid Rulemaking Procedures of the Federal Trade Commission) and 80–1 (Trade Regulation Rulemaking Under the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act).

errors may be remedied promptly and the rulemaking process recommenced with a minimum of disruption to the interests of those affected by the rule. And objections based on asserted inadequacy of the administrative record may lose their relevance as that record itself becomes dated. These objections, moreover, do not ordinarily turn on the situation of a particular individual or entity or on a particular interpretation of the rule and can be raised as well by one party as by another.

On the other hand, considerations of fairness and judicial economy may argue for retaining a right to raise in enforcement proceedings those objections based on asserted lack of statutory authority or the inapplicability or unreasonableness of the rule as applied to the facts of the case. Moreover, there may be constitutional inhibitions against precluding or restricting at any time challenges based on the asserted unconstitutionality of a rule either on its face or as applied.

The Conference recognizes that the line between issues of process and those of statutory authority may not always be a bright one. For example, the question of whether there is statutory authority to apply a rule to a particular situation may tend to converge with the issue of the adequacy of record support for the rule. However, if the distinctions suggested below are made, statutory provisions will afford the courts adequate guidance in most situations. When ambiguity nonetheless results, the well established presumption of reviewability will continue to apply.

Recommendation

1. In drafting a statute that provides for adequate pre-enforcement judicial review of rules, Congress should consider whether to limit the availability of review at the enforcement stage. In deciding whether to limit the availability of enforcement review in a particular statute, Congress should consider the following factors as favoring such a limitation:

(a) The likelihood that the rulemaking proceeding will attract widespread participation;

(b) The likelihood that the proceeding will involve complex procedures or intensive exploration of factual issues;

(c) The likelihood that those affected by the rule will incur substantial and immediate costs in order to comply with it;

(d) The need for prompt compliance with the rule on a national or industry-wide basis.

2. When Congress decides to limit the availability of judicial review of rules at the enforcement stage, it should ordinarily preclude review only of issues relating to procedures employed in the rulemaking or the adequacy of factual support for the rule in the administrative record. Judicial review of issues relating to the constitutional basis for the rule or the application of the rule to a particular respondent or defendant should be permitted when these issues are raised in subsequent suits or as defenses to subsequent enforcement actions (subject to the principles of collateral estoppel and stare decisis). Judicial review of issues relating to the statutory authority for the rule should be precluded at the enforcement stage only where Congress has concluded that there is a compelling need to achieve prompt compliance with the rule on a national or industry-wide basis.

3. When Congress limits the availability of judicial review of rules at the enforcement stage as described in paragraph 2, it should provide that, in an exceptional case when foreclosure of issues will work a severe hardship or otherwise produce a manifestly unjust outcome, a court may either dismiss or stay the proceedings and refer the rule to the affected agency for its reconsideration.

4. Paragraph D of Recommendation No. 76-4, 1 CFR 305.76-4, Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act, is hereby superseded to the extent that it is inconsistent with this recommendation.

PART 310—MISCELLANEOUS STATEMENTS

6. The table of contents of Part 310 of Title 1, CFR, is amended to add the following new section:

Sec.
310.8 Statement of the Administrative Conference on Discipline of Attorneys Practicing Before Federal Agencies.

7. Section 310.8 is added to Part 310 to read as follows:

§ 310.8 Statement of the Administrative Conference on Discipline of Attorneys Practicing Before Federal Agencies.

Because of the controversy regarding actions by the Securities and Exchange Commission, through administrative rather than court proceedings, to discipline attorneys whose services were used in transactions that the Commission believes violate the securities laws, the Administrative Conference undertook a study of procedures and concerns of federal departments and agencies in disciplining attorneys practicing before them. The Conference concludes that any current problems arising from the discipline of attorneys by federal agencies are not of such magnitude or so widespread as to require legislative action or the adoption of uniform federal standards.

Dated: December 27, 1982.

Richard K. Berg,

General Counsel.

[FR Doc. 82-35548 Filed 12-29-82; 8:45 am]

BILLING CODE 6110-01-M

FEDERAL LABOR RELATIONS AUTHORITY AND GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2430

Equal Access to Justice Act; Implementation

AGENCY: Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority.

ACTION: Interim rules and regulations; extension of expiration date.

SUMMARY: The interim rules and regulations of the Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority governing awards of attorney fees and other expenses (46 FR 48623 (1981)) (to be codified as 5 CFR Part 2430) are continued in effect pending publication in the **Federal Register** of final rules and regulations.

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: William A. Michie, Labor Relations Specialist, Office of the Chief Counsel, Federal Labor Relations Authority, 500 C Street, SW., Room 201, Washington, D.C. 20424, (202) 382-0891.

SUPPLEMENTARY INFORMATION: The summary comments that accompanied the interim rules and regulations of Part 2430, Chapter XIV of Title 5 of the Code of Federal Regulations as amended in the **Federal Register** on Tuesday, March 16, 1982 (47 FR 11243), stated the interim rules and regulations would expire no later than July 15, 1982. These interim rules and regulations are amended to continue in effect until the publication in the **Federal Register** of final rules and regulations.

List of Subjects in 5 CFR Part 2429

Administrative practice and procedure.

Dated: December 28, 1982.

For the Authority:

James J. Shepard,

Executive Director.

For the General Counsel:

S. Jesse Reuben,

Acting General Counsel.

[FR Doc. 82-35587 Filed 12-29-82; 9:16 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program For Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is amending the Summer Food Service Program (SFSP) regulations by adding the required notice concerning collection of social security account numbers on applications for free and reduced price meal benefits. This change is being made in order to clarify the notification requirements. Several minor changes have been made in response to public comment. The current regulations for the Summer Food Service Program remain unchanged in all other respects.

EFFECTIVE DATE: This final rule is effective January 1, 1983.

ADDRESS: Copies of all written comments are available for public review at the office of the Child Care and Summer Programs Division, Food and Nutrition Service, in Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly or Ms. Beverly Walstrom at the address listed above, or call (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for Program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Pursuant to the review, Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

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

Background

The Summer Food Service Program (SFSP) is authorized by Section 13 of the National School Lunch Act. Comprehensive regulations for the SFSP were last published on February 16, 1982 (47 FR 6790).

On November 5, 1982, (47 FR 50268), a proposed amendment to the SFSP regulations was published. Interested parties were given 30 days in which to submit their comments on the amendment.

At the close of the comment period, a total of thirty (30) comments were received on the proposal from Food and Nutrition Service (FNS) Regional Offices, State administering agencies, sponsors, advocacy groups and private citizens. All comments were studied and summarized so that they could be systematically considered during the development of this final rule.

Section 13(g) of the National School Lunch Act requires the Secretary of Agriculture to publish regulations necessary to implement the SFSP in proposed form by November 1 and final form by January 1. On November 5, 1982, (47 FR 50268) the Department proposed not to alter the regulations published on February 16, 1982, (47 FR 6790), with one exception. The one proposed change added to the regulations the requirement that the social security account number disclosure notice be placed on applications for free and reduced price meal benefits distributed by camps and other programs which document site eligibility through collection of family size and income information.

Section 803 of Pub. L. 97–35 requires that parents or guardians who apply for free and reduced price meals must disclose the social security numbers of all adult household members as a condition of eligibility. The Department proposed to amend § 225.21(d) to include a requirement that the application form contain a notice which informs people of the authority under which the social security numbers are collected, whether disclosure of the numbers is mandatory, and what uses will be made of the numbers. The notice is similar to that used in the SFSP last summer but is more detailed. It was the Department's intent that the proposed change also serve to conform the SFSP notice with the notice required in Part 245 of the regulations governing the delivery of free and reduced price meal benefits in the National School Lunch Program (NSLP).

The Department determined that no other changes were necessary for successful implementation of the 1983 SFSP. Therefore, in all other respects, it was proposed that the final SFSP regulations, published on February 16, 1982, (47 FR 6790), remain unchanged for the 1983 SFSP.

Notification Statement

Five (5) commenters supported the addition, in the regulations, of the language required on the application regarding the disclosure of social security numbers.

One commenter requested clarification regarding the slight difference in the language of the SFSP proposed notification statement from the statement required in the National School Lunch Program (NSLP). The Department regrets any confusion that this discrepancy may have caused, and has revised the statement included in this rule to reflect the current NSLP statement.

Collection of Social Security Numbers

Fourteen (14) commenters suggested that the requirement to collect the social security numbers of all adult household members be deleted from the SFSP regulation. The public is reminded that the proposed rule did not solicit comment on the requirement to collect social security numbers as a condition of eligibility because this requirement is imposed by Section 803 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. Moreover, this legislative requirement was included in the proposed and final SFSP regulations, published on December 11, 1981, (46 FR 60592) and February 16, 1982, (47 FR 6790), respectively, and was implemented during the 1982 SFSP.

One commenter pointed out that the proposed rule made no allowance for adult household members who do not possess social security numbers to indicate this on the application for Program meals. In order to address this concern, the final rule has been amended by including a statement that if an adult household member does not possess a social security number, the application must indicate that such is the case.

Finally, in response to inquiries, the Department wishes to point out that eligibility for free or reduced-price meals in the SFSP is based on the income and family size guidelines for free and

reduced-price meals established for the National School Lunch Program.

List of Subjects in 7 CFR Part 225

Food assistance program, Grant programs-health, Infants and children, Reporting requirements.

Accordingly, Part 225 is to be amended as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Section 225.21 is amended as follows: by revising the last sentence of current § 225.21(d) and by adding paragraphs (d)(1) and (2) to read as follows:

§ 225.21 Free meal policy.

* * * * *

(d) * * * The application shall include the social security numbers of all adult members of the household or an indication that an adult household member does not possess one.

(1) The application shall also contain the following statement, "Sections 9 and 13 of the National School Lunch Act require that in order for your child to be eligible for Program meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for Program meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. The verification efforts may be carried out through Program reviews, audits, and investigations, and may include contacting employers to determine income, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and sponsors shall ensure that the notice complies with Section 7 of Pub. L. 93–579 (Privacy Act of 1974). If a State or local agency plans to use the social security numbers in a manner not described by this notice, the notice shall be altered to include a description of these uses; and (2) the signature of the parent or guardian who has completed the application.

(Sec. 803, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758))

Dated: December 27, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82–35499 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 558; Navel Orange Reg. 557, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 31, 1982–January 6, 1983, and increases the quantity of such oranges that may be so shipped during the period December 24–30, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective December 31, 1982, and the amendment is effective for the period December 24–30, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings.

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on December 28, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

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

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.858 is added as follows:

§ 907.858 Navel Orange Regulation 558.

The quantities of navel oranges grown in Arizona and California which may be handled during the period December 31, 1982, through January 6, 1983, are established as follows:

(1) District 1: 1,000,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

2. Section 907.857 Navel Orange Regulation 557 (47 FR 57253), is hereby amended to read:

§ 907.857 Navel Orange Regulation 557.

* * * * *

(1) District 1: 900,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

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

Dated: December 29, 1982

D. S. Kuryloski,

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

[FR Doc. 82–35591 Filed 12–29–82; 11:44 am]

BILLING CODE 3410–02–M

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7 CFR Part 910

[Lemon Reg. 392; Lemon Reg. 391, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 2–8, 1983 and increases the quantity of lemons that may be shipped during the period December 26, 1982—January 1, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective January 2, 1983, and the amendment is effective for the period December 26, 1982—January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on December 28, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.692 is added as follows:

§ 910.692 Lemon Regulation 392.

The quantity of lemons grown in California and Arizona which may be handled during the period January 2, 1983, through January 8, 1983, is established at 230,000 cartons.

2. Section 910.691 Lemons Regulation 391 (47 F.R. 57443) is revised to read as follows:

§ 910.691 Lemon Regulation 391.

The quantity of lemons grown in California and Arizona which may be handled during the period December 26, 1982, through January 1, 1983, is established at 250,000 cartons.

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

Dated: December 29, 1982

D. S. Kuryloski,

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

[FR Doc. 82–35592 Filed 12–29–82; 11:44 am]

BILLING CODE 3410–02–M

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7 CFR Part 966

Tomatoes Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule extends through June 11, 1983, and from October 10 through June 15 each marketing season thereafter, the grade, size, pack, container, marking and inspection requirements effective from October 13 through December 31, 1982, for tomatoes grown in certain counties in Florida. The regulation will promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615. The final impact analysis relating to this rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 966) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0073.

This action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is designed to promote orderly marketing of the Florida tomato crop for the benefit of producers and consumers, and will not substantially affect costs for the directly regulated handlers.

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

is responsible for its local administration.

This regulation is based upon unanimous recommendations made by the committee at its public meeting at Marco Island, Florida, on September 17, 1982.

The regulation contains requirements identical to those in the interim regulation in effect during the period October 13–December 31, 1982. The grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This will provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The requirements, including those for containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

The requirements in this rule are the same as those in past seasons with the exception of those pertaining to size, pack, and containers. Tomatoes must meet a minimum size requirement of 2$\frac{5}{32}$ inches in diameter, compared with 2$\frac{6}{32}$ inches in past seasons. The committee has determined that the lower requirement permits tomatoes of too small a size to enter fresh market channels. Demand is weak for these smaller sizes, and prices for all tomatoes are adversely affected. The increase in the minimum size standard will not have a substantial effect on the volume of tomatoes shipped to fresh market.

The pack specifications reflect the increase in the minimum size requirement. The adjustment also will result in a more even distribution of tomato shipments among the established size categories.

The trend over the years has been a shift to the use of smaller containers, as evidenced by last year's replacement of the 30-pound container with one of 25 pounds. This year, the committee has recommended the elimination of the 40-pound container. This change will have no affect on tomato handlers, however, since the 40-pound container is no longer in use.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief, experimental or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are exempt.

The following types of tomatoes are exempt from these regulations: elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Only tomatoes shipped outside the regulated area are regulated because of an increase in the U-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption will permit persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This will reduce the problem of enforcement on small shipments of essentially noncommercial nature. The requirements concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several varieties of tomatoes grown in Florida may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varieties usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with the present pack specifications infeasible, the affected varieties may be exempted from the size requirements of the regulation.

The requirements contained in this handling regulation, effective January 1, 1983, will continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. In the past, regulations issued under the marketing order were made efffective for a single marketing season. The change to issue a regulation which will continue in effect from marketing season to marketing season reflects the fact that regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, this action could result in a reduction in operational costs to the committee and the government. Although the regulation will be effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season in accordance with § 966.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before September 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulation on shipments of Florida tomatoes would tend to effectuate the declared policy of the act.

Findings

After consideration of all relevant matter presented, including the proposal set forth in the notice, it is hereby found that the following handling regulation will tend to effectuate the declared policy of the act by setting the grade, size, pack, container and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of tomatoes grown in the production area have begun and the regulation should become effective on the effective date herein to maximize benefits to consumers, (2) notice was given in the November 12, 1982, **Federal Register** (47 FR 51149) allowing interested persons until December 13, 1982, to file written comments and none was received and (3) compliance with this regulation, which is similar to regulations issued during past seasons and the same as that currently in effect, requires no special preparation on the part of handlers subject thereto which

cannot be completed by the effective date herein.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

PART 966—[AMENDED]

Section 966.322 (47 FR 46488, October 19, 1982) is removed and a new § 966.323 is added as follows:

§ 966.323 Handling regulation.

During the period January 1, 1983, through June 11, 1983, this season and during the period October 10 through June 15 each season thereafter, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

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

(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2 6/32 inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in Section 51.1859 of the U.S. Standards for Fresh Tomatoes.

Size classification	Inches	
	Minimum diameter	Maximum diameter
7 x 7	2 6/32	2 19/32
6 x 7	2 6/32	2 13/32
6 x 6	2 15/32	2 29/32
5 x 6 and larger	2 25/32	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2 19/32 inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6 x 6 and Lgr. or 5 x 6 and Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20 or 25 pounds designated net weights and comply with the requirements of § 51.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1), (ii) the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2 6/32 inches in diameter, and (iii) the container weight requirements of paragraph (a)(3).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2).

(e) *Definition.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Fresh Tomatoes (7 CFR 51.1855–51.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and § 980.212 "Import regulations" (7 CFR 980.212)

tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2 $\frac{5}{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

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

Dated: December 23, 1982, to become effective January 1, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-35465 Filed 12-29-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area, Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues through April 1983 a previous suspension of certain provisions of the Oregon-Washington Federal milk order. The suspension removes the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The continuation of the earlier suspension for October through December 1982 was requested by a cooperative association associated with the market to prevent uneconomic movements of milk. Based on available information concerning the market's current supply conditions, continuation of the suspension is necessary to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 6, 1982; published December 10, 1982 (47 FR 55490).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include January 1983 in the suspension period. The initial request for this action was received on November 29, 1982. A notice of proposed suspension was issued on December 6, 1982, inviting interested parties to comment on the proposed action by December 17, 1982.

William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessens 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 order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 55490) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing views were received.

After considering all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of January 1983 through April 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In this third sentence of paragraphs (a) and (b) of § 1124.11, the word "not".

Statement of Consideration

This action continues through April 1983 a similar suspension for October-December 1982 (47 FR 47533). The suspension removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

A continuation of the suspension was requested by a cooperative association that represents a substantial number of producers on the market. The basis for the request is that the continuing increase in milk supplies relative to demand will require the cooperative to handle an increasing quantity of reserve milk supplies during the January–April 1983 period. The cooperative stated that this situation will be aggravated by the discontinuance of manufacturing, except on a seasonal basis, at its principal pool plant under the order. This means that excess milk normally going to a pool plant will have to be moved to nonpool manufacturing plants instead. The cooperative states that this change in milk movements will reduce the amount of milk that it may divert to nonpool plants since the order's allowable diversions are based upon the percentage of the cooperative's milk that is received at pool plants.

Consequently, the cooperative expects its reserve milk supplies during January–April 1983 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of this suspension, the cooperative believes that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically first to pool plants and then to nonpool manufacturing plants in order to still maintain producer status for such milk during the months of January through April 1983.

The cooperative association requested continuation of the current suspension until a more permanent regulatory solution to the supply-demand imbalance in the market could be formulated based on the record of a public hearing. In conjunction with this request, the cooperative petitioned the Department for a hearing to consider proposed amendments to the order that would accommodate present marketing conditions.

Based on available information concerning the market's supply conditions, a continuation of the suspension for the months of January 1983 through April 1983 is warranted, as it will accommodate the pooling and efficient handling of the proponent cooperative's reserve milk supplies pending a hearing at which proposals to amend the diversion provisions may be

considered. In the absence of continuing the suspension, costly and inefficient movements of producer milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have been regularly associated with the market. Continuation of the suspension for the period of January through April 1983 will provide the necessary flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status 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 suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movements from producers' farms to manufacturing outlets. This suspension allows for such economical movements of milk while the dairy farmers involved retain producer status.

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to comment. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1124.11 (a) and (b) of the order are hereby suspended for January 1983 through April 1983.

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

Effective Date: December 30, 1982.

Signed at Washington, D.C., on: December 23, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-35377 Filed 12-29-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 82-095]

State Status Regarding Enforcement of the Swine Health Protection Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document lists the States that have primary enforcement responsibility under the Act and the States that issue licenses under a cooperative agreement with the Animal and Plant Health Inspection Service (APHIS) but do not have primary enforcement responsibility under the Act. The Swine Health Protection Act (Pub. L. 96–468) provides that a State shall have primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary of the U.S. Department of Agriculture determines that the State has and is enforcing laws and regulations which meet the minimum standards of the Act and regulations promulgated thereunder. The Secretary has determined which States should have such responsibility and this information appears in this docket, as do those States which have entered into a cooperative agreement with APHIS to issue licenses under the Act but which do not have primary enforcement responsibility under the Act.

DATES: Effective date January 1, 1983. Comments must be received on or before March 1, 1983.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 728, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5961.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Special Diseases Staff, Veterinary Services, APHIS, USDA, Federal Building, Room 820, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule" as defined in Executive Order 12291. Based on information compiled by the Department, it has been determined that this action will have an annual effect on the economy of less than $100 million; will 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 a significant adverse effect on competition, employment or investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Dr. George P. Pierson, Acting Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment lists the States having primary enforcement responsibility under the Act and the States that issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act. This amendment, therefore, needs to be effective at the same time the remainder of 9 CFR Part 166, which covers all other aspects of the Swine Health Protection Act program, becomes effective on January 1, 1983. The remainder of Part 166 would be ineffective without this amendment.

Therefore, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good

cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action merely lists the States which have primary enforcement responsibility under the Act and the States that issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act.

Background

The Swine Health Protection Act (Pub. L. 96–468), enacted on October 17, 1980, regulates the feeding of garbage to swine. The Act provides that a State shall have the primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary determines that such State has adopted adequate laws and regulations regulating the treatment of garbage to be fed to swine and the feeding thereof which meet the minimum standards of the Act and the regulations promulgated thereunder, has adopted and is implementing effective enforcement procedures, and keeps such records and makes reports as the Secretary may require. The Act also authorizes the Secretary to enter into cooperative agreements with States to coordinate the administration of the Act and regulations with State laws and regulations relating to the feeding of garbage to swine in order to avoid duplication of functions, facilities, and personnel. Regulations implementing the Swine Health Protection Act, 9 CFR Part 166, were Published in the **Federal Register** as a final rule on November 3, 1982, (47 FR 49940–49948). Section 166.14(a) lists the States which prohibit the feeding of garbage to swine and § 166.14(b) lists the States which permit the feeding of treated garbage to swine. However, the adequacy of the State programs had not been determined for purposes of primary enforcement responsibility and it was not known which States would enter into a cooperative agreement with the Animal and Plant Health Inspection Service for administration and enforcement of the Act and regulations and State laws and regulations relating to the feeding of garbage to swine at the time these regulations were published. The Department has now evaluated the State programs and entered into cooperative agreements with certain States. Therefore, § 166.14(c) is amended to list the States having primary enforcement responsibility under the Act and § 166.14(d) is amended to list the States which issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act.

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, Garbage, African swine fever, Foot-and-mouth disease, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, Part 166, Title 9, Code of Federal Regulations, is amended by revising § 166.14(c) and (d) to read as follows:

§ 166.14 State status.

* * * * *

(c) The following States have primary enforcement responsibility under the Act: Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

(d) The following States issue licenses under cooperative agreements with the Animal and Plant Inspection Service, USDA, but do not have primary enforcement responsibility under the Act: Alaska, Arkansas, Minnesota, Washington, and Puerto Rico.

* * * * *

(Sec. 511, Pub. L. 96–592, 94 Stat. 3451 (7 U.S.C. 3802); Secs. 4, 5, 9, 12, Pub. L. 96–468, 94 Stat. 2229 (7 U.S.C. 3803, 3804, 3808, 3811); 45 FR 85696, 46 FR 7266).

Done at Washington, D.C., this 27th day of December, 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-35491 Filed 12-29-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0424]

Regulation D; Reserve Requirements of Depository Institutions; Transaction Accounts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors adopts in final form an amendment to Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to define as transaction accounts time deposits issued in connection with an agreement that permits the depositor to obtain credit by check or similar devices for the purpose of making payments or transfers to third persons or others. This rule was issued in temporary form, effective October 5, 1982, and was amended on November 16, 1982, to exempt from the definition of transaction accounts such time deposits issued before October 5, 1982, that will be renewed automatically on or before December 31, 1982. The final rule is substantially identical to the temporary rule, as amended; however, the Board has clarified that the rule does not regard as transaction accounts time deposits that are pledged to secure incidental overdrafts in a checking account. This action was taken to maintain the distinction between time deposits and accounts that can be used for making payments to third parties. This rule adopts in permanent form the rule published at 47 FR 55209.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Paul S. Pilecki, Senior Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective October 5, 1982, the Board amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to define as transaction accounts, time deposits issued in connection with an arrangement that permits the depositor

to obtain credit, directly or indirectly, through the drawing of a check, draft or similar device that can be used for the purpose of making payments or transfers to third persons or others (47 FR 44992). Under the rule, time deposits subject to such arrangements established prior to October 5, 1982, are not regarded as transaction accounts until the deposit is extended, or matures and renews. On November 16, 1982, the Board expanded the grandfather provisions by exempting such time deposits that will be renewed automatically by December 31, 1982 (47 FR 52692). The Board requested public comment on the temporary rule until December 3, 1982, as to whether any additional arrangements should be covered by this amendment, and whether any arrangements should be eliminated from the scope of the amendment.

Comments on the temporary rule were received from 15 depository institutions. The comments were generally negative, urging rescission of the rule or narrowing of its scope. Those arguing in favor of rescission stated that the rule added to the reserve requirement burden of depository institutions and placed them at a disadvantage *vis-a-vis* competitors that are not required to maintain reserve requirements. Respondents who viewed the rule as too broad commented that the rule should: (1) Allow up to three checks per month, (2) exempt credit lines that are granted prior to opening of a time deposit, or (3) apply to a time deposit only up to the amount of the credit line. Comments favoring the rule indicated that it was necessary because the covered arrangements are inconsistent with the orderly phaseout of interest rate ceilings.

The Board believes that the rule serves a valid purpose in that arrangements involving time deposits and related credit lines are effective substitutes for transaction accounts and provide the opportunity for avoidance of transaction account reserve requirements. As such, balances in these accounts should be distinguished from ordinary time deposits. The Board notes that the recent actions of the Depository Institutions Deregulation Committee authorizing Money Market Deposit Accounts (12 CFR 1204.122) and establishing new rules for the payment of interest on NOW accounts of $2,500 or more further lessen the attractiveness of such credit line arrangements. Hence, continuing to apply transaction account reserve requirements to such arrangements is not likely to be significantly burdensome to depository institutions. Accordingly, the Board has adopted the temporary rule, as amended, in final form.

In adopting the temporary rule, the Board noted that the rule did not affect the ability of a depositor to use a time deposit as collateral for a loan transaction that does not involve the use of a credit line on which checks or similar instruments may be drawn. The Board also notes that the rule does not regard as transaction accounts time deposits that are pledged as collateral as part of an arrangement to protect against *incidental* overdrafts. In this regard, the Board believes that time deposits that are pledged to cover overdrafts in a checking account that is normally operated with a balance in the account should not be covered as transaction accounts. This exception does not apply to time deposits that are pledged to cover overdrafts in accounts that have zero or fixed balances or that have balances such that an overdraft occurs on a regular basis when a check is written against the account.

The impact of this proposal on small entities has been considered in accordance with section 604 of the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 604). Section 411 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 96 Stat. 1520) provides for an exemption from reserve requirements for the first $2.1 million in reservable liabilities at all depository institutions. The Board believes that its action will not add any reserve requirement burden to small depository institutions that have zero reserve requirements as a result of section 411 of the Garn-St Germain Act. In addition, no new recordkeeping or reporting requirements will be imposed as a result of this action.

List of Subjects in 12 CFR Part 204

Banks, Banking, Currency, Federal Reserve System, Penalties, Reporting requirements.

Pursuant to its authority under section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)), the Board amends Regulation D (12 CFR Part 204) by adopting in permanent form an amendment to paragraph (e)(1)(vii) of § 204.2, as it appears at 47 FR 55209 (December 8, 1982).

By order of the Board of Governors, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35352 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 552, 561, and 572

[No. 82-793]

Net Worth Certificates; Regulatory Net Worth; Charter Amendments by Federal Institutions

December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has amended its regulations to implement the Net Worth Certificate Act, Title II, Pub. L. 97–320, 96 Stat. 1493, (October 15, 1982), which authorizes the Federal Savings and Loan Insurance Corporation ("FSLIC") to increase or maintain the capital of a qualified institution by making purchases of net worth certificates ("NWCs"). The amendments (1) set forth the particulars of the net worth certificate program; (2) provide for inclusion of NWCs as an item of regulatory net worth; (3) authorize Federal mutual institutions to issue NWCs to the FSLIC in exchange for promissory notes of the FSLIC; and (4) authorize Federal stock institutions to adopt charter amendments that permit the issuance of NWCs.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION CONTACT: With regard to the application procedures and policies of the FSLIC concerning purchases of net worth certificates, Edward Taubert, Deputy Associate Director for Policy (202–377–6484), or James Kristufek, Associate Director for Programs (202–377–6363), of the Office of Examinations and Supervision; and with regard to legal matters, Thomas J. Haggerty, Senior Attorney (202–377–6911), or Scott Taylor, Attorney (202–377–6439), of the Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469, (October 15, 1982) ("DIA") adds a new Section 406(f)(5) to the National Housing Act ("NHA"), to be codified as 12 U.S.C. 1729(f)(5), which authorizes the Federal Savings and Loan Insurance Corporation ("FSLIC"), in its sole discretion and on such terms and conditions as it may prescribe, to increase or maintain the capital of a qualified institution by making periodic

purchases of net worth certificates ("NWCs") for such form of consideration as the FSLIC may determine. In order to implement this statutory authority and explain its intention regarding purchases by the FSLIC of NWCs, the Federal Home Loan Bank Board ("Board"), as operating head of the FSLIC, is adopting a new Part 572 of the Rules and Regulations for Insurance of Accounts (the "Insurance Regulations"). New Part 572 and the Board's general policy regarding FSLIC purchases of NWCs are designed to provide capital assistance in the manner contemplated by the DIA: (1) to a broad range of institutions which have suffered operating losses and therefore a deterioration of net worth, particularly as a result of their mortgage lending activities, (2) at a low cost to the FSLIC insurance fund, (3) with appropriate provisions to prevent abuses, and (4) in a manner which encourages institutions to improve their operating results and net-worth level as quickly as possible within the bounds of safe and sound management policies.

II. FSLIC Purchases of Net Worth Certificates

A. General

The FSLIC will consider the purchase of NWCs from "qualified institutions" which apply pursuant to the procedure set out in new section 572.3 of the Insurance Regulations. The procedure provides that NWCs attributable to operating losses for an applicable period will be purchased by the FSLIC only if an application has been filed with regard to that applicable period in a timely manner. Neither the DIA nor section 572.3 creates any right in an institution to require that the FSLIC purchase NWCs. The FSLIC retains sole discretion regarding whether or not to purchase NWCs from an institution, the amount of NWCs it may purchase, and any terms and conditions it may impose in connection with any purchase of NWCs. The Board anticipates that it will adopt the applicable forms required by section 572.3 within approximately one week. Thereafter, copies of the forms will be available from the Board and the Principal Supervisory Agents.

To ensure appropriate consultation with State supervisory authorities, as contemplated by the DIA, section 572.3 provides that an application by a state-chartered institution should be supplemented by a certification by the appropriate State authority regarding whether it objects to the FSLIC's purchase of NWCs from the institution.

As explained in the Board's statement of policy, set forth in new section 572.1 of the Insurance Regulations, the FSLIC intends to purchase NWCs from a qualified institution in amounts based on that institution's (1) operating losses for an applicable period, which is any semiannual fiscal year period of the institution ended subsequent to September 30, 1982, and prior to October 1, 1985, and (2) ratio of "equity capital" to total assets. The FSLIC will purchase NWCs in exchange for FSLIC Notes. In general, a "qualified institution," as defined in section 572.2 of the Insurance Regulations, is an institution which (1) has equity capital of 3 percent or less of its total assets, (2) has incurred operating losses for its most recent applicable period net of losses which are the result of speculation in futures or forward contracts, management action designed solely for the purpose of qualifying for FSLIC purchase of NWCs, or excessive operating expenses, (3) has investments in residential mortgage loans or securities backed by such mortgage loans aggregating not less than 20 percent of its total outstanding loans, and (4) will have equity capital after giving effect to the FSLIC's purchase of NWCs of a least one-half of one percent of its total assets. "Equity capital" for the purpose of determining a qualified institution and calculating the maximum FSLIC purchase of NWCs is essentially "regulatory net worth" as defined by section 561.13 of the Insurance Regulations, but is required to include to the maximum extent possible a calculation of "appraised equity capital", as defined in section 563.13(c) of the Insurance Regulations, which otherwise is a permissive item of regulatory net worth, and is also required to include any savings accounts pledged pursuant to an agreement with the FSLIC.

B. Restrictions and Limitations on Amount of NWCs To Be Purchased

Notwithstanding an institution's eligibility as described above, the FSLIC may exercise its judgment not to purchase NWCs from a qualified institution pursuant to Section 406(f)(5) of the NHA under any of the following circumstances.

(1) The FSLIC may refuse to purchase NWCs if it determines, in its sole judgment, that such purchase would be costlier to it than alternative transactions available to the FSLIC or the institution. Alternative available transactions would include a liquidation of the institution (including the paying of insured accounts), transactions permitted within the discretion of the FSLIC in accordance with section 406(f)(1) or (2) of the NHA, or mergers or supervisiory conversions available to the institution which would eliminate or significantly reduce the institution's need for capital assistance under the DIA authority. In making a determination of relative cost, the FSLIC of all projected purchases of NWCs and alternative available transactions.

(2) The FSLIC may refuse to purchase NWCs from a qualified institution if it determines in its sole judgment that, after giving effect to its proposed purchase of NWCs, the institution would be insolvent within six months from the proposed date of purchase. For this purpose, "insolvent" means zero or less equity capital, as defined.

(3) The FSLIC may refuse to purchase NWCs from an institution which has failed to satisfy the FSLIC as regards a significant supervisory problem. A supervisory problem will be deemed to be satisfactorily resolved if the institution is making adequate progress under a plan agreeable to the FSLIC for resolution of that problem.

(4) The FSLIC may refuse to purchase NWCs from an institution unless that institution adopts a business plan satisfactory to the FSLIC, which plan demonstrates a reasonable probability that the institution will be able to redeem the NWCs it issues to the FSLIC.

In addition, the FSLIC may reduce the maximum amount of NWCs which it may purchase, as discussed below, in the following manner.

(1) The amount of an institution's operating losses used to calculate the maximum amount of NWC purchases will be reduced by the amount of losses determined by the FSLIC to result from (i) mismanagement, (ii) speculation in futures or forward contracts, or (iii) management actions designed for the purpose of obtaining assistance of the FSLIC.

(2) Also, the maximum amount of NWC purchases calculated on the basis of actual operating losses will be reduced by an amount equivalent to 80 percent of the institution's operating expenses that are in excess of the mean of operating expenses for the institution's peer group plus 10 percent. This reduction will not be made by the FSLIC, however, if the institution demonstrates that its higher-than-peer-group operating expenses are justified in light of its particular circumstances, e.g., necessary expenses attributable to the commencement of new lending and investment powers that are anticipated to be beneficial to the institution.

The Board is imposing these restrictions and limitations on the FSLIC's purchase of NWCs in order to promote the statutory intent. Implicitly, the Net Worth Certificate Act portion of

the DIA is designed to provide capital assistance to institutions that as a practical matter would not be dealt with by the FSLIC under its traditional assistance and supervisory authority. In light of this and the fact that other FSLIC actions are available in traditional supervisory cases, the Board has determined that the criteria and procedure as to when an institution will be insolvent on a book-value basis established in the section 572.1 policy statement provides a readily ascertainable standard for separating out institutions who should be subject to the FSLIC's traditional oversight. The application of this rule-of-thumb approach does not mean that the FSLIC will or will not grant financial assistance to an institution determined to be in a condition of impending "insolvency", that when an institution reaches a book-value equity capital of zero or less it is in such an unsafe or unsound condition that liquidation or other significant supervisory action by the FSLIC is mandated, or that an institution which has not reached the six-month standard might not in fact be "insolvent" within the statutory meaning granting supervisory authority to the FSLIC. Also, the Board believes, and in significant part the DIA mandates, that no capital assistance should be furnished to an institution where an alternative transaction is clearly available that would eliminate or significantly reduce the requisite assistance.

In addition, in order to promote the statutory intent to provide capital assistance to institutions that have suffered earnings and capital losses primarily as a result of mortgage lending activities so that they may have an opportunity to rehabilitate their financial condition through sound management and prudent exercise of the new powers granted to them, the Board has determined that, in general, no capital assistance should be granted where the institution is not conducting its operations in a prudent manner from a supervisory standpoint or has not clearly evaluated and defined its future operations in an appropriate business plan, and that no assistance should be granted to offset losses attributable to mismanagement, speculation, or other actions designed to obtain assistance. It would not be fair to subject the great majority of institutions that are endeavoring to operate in a prudent and efficient manner to competition from institutions engaged in improper or inappropriate activities, e.g., the aggressive marketing of certificates of desposits carrying a rate of interest significantly in excess of the current-market rate of interest, in a belief that the FSLIC would subsidize such conduct.

C. Maximum Amount of NWCs To Be Purchased

If the FSLIC accepts an application by a qualified institution and determines to purchase NWCs issued by that institution, the FSLIC's maximum purchase of NWCs would be the amount calculated from the following table. However, with regard to the first applicable period for which an eligible institution applies for capital assistance pursuant to the DIA ("initial period"), the maximum amount of NWCs which the FSLIC will consider purchasing will be that amount indicated by the table if operating losses were one half of the amount actually incurred. In effect, where the table indicates that the maximum FSLIC purchase would be 50 percent of operating losses for an applicable period, the FSLIC will only purchase a maximum of 25 percent of operating losses for an initial period. The Board has determined to implement this policy for initial-period calculation of losses because during such period the institution would not have been required to undertake the stringent review of its operations and business plans nor have been subject to the other restrictions, *e.g.*, a limitation on branching, that the Board will require of institutions receiving capital assistance under the DIA authority. The Board anticipates that the development of meaningful operating and financial plans, including plans for asset and liability management, by institutions requesting capital assistance, and the other operating restrictions will promote the rehabilitation of those institutions and lessen the need for capital assistance from the FSLIC during subsequent periods.

If the equity capital of a qualified institution as a percentage of total assets is:	Then the FSLIC may purchase NWCs equal to—*
(1) greater than 2% but no more than 3%.	50% of operating losses.
(2) greater than 1% but no more than 2%.	60% of operating losses.
(3) less than or equal to 1%.....	70% of operating losses.

*The applicable percent of one half of operating losses applies for the initial period. The applicable percent is applied to all operating losses for subsequent periods.

The FSLIC would purchase NWCs from the qualified institution in an amount equal to that percentage of applicable period operating losses (or, if an initial period, one half of such amount) determined by the table based upon the institution's ratio of equity capital to total assets as of the end of the applicable period. However, FSLIC purchases of NWCs will immediately adjust the institution's ratio of equity capital to total assets. Accordingly, when the institution's equity capital ratio after such adjustment, increases to the next higher ratio, the FSLIC would purchase NWCs based on the percentage specified by that new level of the table applied to the remaining operating losses.

In no event will the FSLIC purchase NWCs in an amount that causes an institution's ratio of equity capital to total assets to exceed 3 percent or that exceeds 100 percent of operating losses for the applicable period. Also, the FSLIC will only purchase NWCs if the purchase amount for an applicable period is at least $25,000, and will round amounts in excess of the first $25,000 to the nearest $25,000. However, if the maximum FSLIC purchase of NWCs calculated under the criteria would increase the institution's equity capital ratio to greater than 0.5 percent but the minimum purchase limitation or the rounding procedure would reduce that equity capital ratio to less than 0.5 percent, the FSLIC will purchase the minimum $25,000 amount or round to the next highest $25,000 multiple, as appropriate. Similarly, the FSLIC will round to the next lowest $25,000 multiple if a purchase indicated by the calculation would increase the institution's equity capital to an amount in excess of 3 percent of total assets. Further, if an institution qualifies for capital assistance for two consecutive applicable periods, but would be excluded from the FSLIC's purchase of NWCs because of the $25,000 minimum limitation, then the FSLIC may purchase NWCs as of the end of that second applicable period on the basis of the cumulative amount for the pertinent applicable periods.

For example, if a qualified institution had (1) total assets of $100,000,000, (2) equity capital of $1,800,000 or 1.8 percent of total assets, and (3) operating losses for the applicable period of $1,000,000, the maximum FSLIC purchase of NWCs would be $525,000 (when rounded to the nearest $25,000). The institution would at first be eligible for FSLIC purchases of NWCs at the rate of 60 percent of operating losses. After the FSLIC would purchase $200,000 of NWCs, the institution would have an equity capital ratio of 2 percent, so that additional NWC purchases would be at the rate of 50 percent of operating losses. The calculation is shown as follows.

Operating losses	$1,000,000	
Initial assistance	−333,333 ×.60 =	$200,000
Balance	666,666 ×.50 =	333,333
Total assistance		533,333
Rounded		525,000

For an initial period, the maximum NWC purchase would be that amount calculated from the table if the institution's operating losses for the period were $500,000. In this example, that amount would be $275,000 (when rounded to the nearest $25,000).

D. Restrictions and Conditions Imposed on Issuing Institution

In connection with any purchase of NWCs from an institution, and for so long as those NWCs remain outstanding, the Board will impose various restrictions and conditions upon the institution. Section 572.7 and the terms of the NWCs will prohibit the payment by a stock institution of dividends to holders of its equity securities. Section 572.8 will prohibit an institution having NWCs outstanding from opening any new branch and, without prior approval by the FSLIC, from relocating an existing branch. Section 572.9 will prohibit an institution having NWCs outstanding from entering into any new contract or modifying any existing contract with its holding company without prior approval by the FSLIC. The application required by section 572.3 and the NWC will require (1) the submission of a business plan that addresses, in a manner satisfactory to the FSLIC, operating and financial plans, and plans for asset and liability management, and (2) a commitment by the institution to abide by its plan. Also, the NWCs will contain provisions limiting the incurrence of debt obligations and the making of capital expenditures without prior FSLIC approval.

In general, these restrictions and limitations are the result of traditional concerns by a significant lender or investor to protect his contribution to an entity against abusive conduct or actions which seriously diminish his prospects for recovery. The branching limitation derives from a concern by the Board not to finance highly competitive actions having a possible impact upon other institutions. The Board is desirous of promoting the financial health of the institution needing assistance; once that is accomplished and the FSLIC is repaid, the institution can proceed with any appropriate expansion.

E. Exercise of Authority and Request for Board Consideration

The Board has delegated its authority under this Part, as set out in section 572.4, primarily to the Director of its Office of Examinations and Supervision or his designes, who may include the Principal Supervisory Agent for an institution. Once a determination has been made pursuant to delegated authority that the FSLIC will not purchase the amount of NWCs requested by a qualified institution on the basis of operating losses for an applicable period, that decision becomes final unless within 15 business days the institution files a request for Board consideration of the issue. The request shall explain in detail the reason(s) why the applicant believes that the FSLIC action under delegated authority is inappropriate. In the event of such an appeal from a decision under delegated authority, the Board will consider the institution's request for FSLIC's purchase of NWCs on the basis of the institution's written appeal, application and related material, and such other material as the Board's staff deems appropriate to submit to the Board in connection with its review of the request. The Board will not provide a procedure for oral argument on behalf of the institution.

III. Net Worth Certificates and the FSLIC Note

A. NWCs

It is currently anticipated that the NWC will be patterned after the Income Capital Certificate ("ICC") created by the FSLIC as a unique form of equity security, a hybrid between traditional debt and equity securities. The FSLIC has purchased ICCs from a limited number of institutions in connection with the FSLIC's traditional supervisory activities.

It is further anticipated that the NWCs will require Annual Income Payments ("AIPs") equivalent to dividends on preferred stock, and Annual Redemption Payments ("ARPs"), but no payments would be required to be made to the FSLIC if the institution does not have net income, computed in accordance with the Board's regulatory accounting procedures, for the annual payment period. In addition, the maximum amount of AIPs required to be paid to the FSLIC will be limited to 50 percent of the institution's net income so long as the institution's ratio of equity capital, as defined, to total assets is less than or equal to 3 percent, and thereafter to 75 percent of net income. No ARPs will be required until an institution has greater than a 2 percent net worth ratio. The maximum of ARPs required to be paid to the FSLIC will be limited to that amount which, when added to the required AIPs (including any accumulated AIPs), would equal 50 percent of net income for the year so long as the institution has an equity-capital ratio of greater than 2 percent and less than or equal to 3 percent, and thereafter 75 percent of net income. In no event would an AIP or ARP otherwise required by the NWC be required if it would reduce the institution's net worth, as computed in accordance with generally accepted accounting principles, to zero or less.

The amount of AIPs required by the NWC will be calculated on the basis of the same formula used to calculate the interest rate on the FSLIC Note, as discussed below, and, to the extent that AIPs are not required to be paid to the FSLIC as a result of the percentage-of-income limitations, they will accumulate and compound.

NWCs will grant the FSLIC (or any subsequent holder) a claim in liquidation or reorganization superior in priority to any claim arising out of any other equity interest and junior to the payment of all accounts, certificates of deposit, and debt obligations. During the period that NWCs are outstanding, an institution will be prohibited from the payment of dividends on any of its equity securities.

In addition, the NWCs will contain restrictions as to the amount of additional debt superior in priority to the NWCs that an institution can incur without approval by the FSLIC, and will require approval by the FSLIC for the institution to merge into another institution. In the event that an institution having outstanding NWCs merges into an institution not having outstanding NWCs, the FSLIC will permit the resulting entity to redeem the outstanding NWCs or to assume them as its own. Upon such an assumption, the NWCs will contain an additional provision whereby the institution can limit ARPs otherwise required to the amount which would be required under a 10-year straight-line amortization.

B. FSLIC Notes

It is presently anticipated that the FSLIC Note used to purchase NWCs will be an absolute debt obligation of the FSLIC payable as of a specified date of maturity, but the FSLIC will have the right solely at its option to repay the Note in whole or in part at any time. It is anticipated that initially the Notes will have a 10-year term. The FSLIC Note will be non-transferable except with the prior approval of the FSLIC or except by pledge to a Federal Home Loan Bank as collateral for an advance made in accordance with the lending policies of the Bank.

It is further anticipated that the FSLIC Note will pay interest semiannually at a

rate equal to the standardized financing cost of (yield on) Federal Home Loan Bank ("FHLB") System obligations as of the last business day preceding the beginning of the semiannual period during which the FSLIC Note is issued plus 25 basis points. The FHLB System will publish this standardized six-month-financing cost. The Board views the FHLB System six-month-financing cost as an appropriate estimate of the market interest rate on an FSLIC obligation having a semiannual repricing mechanism. The 25 basis-point differential is provided to compensate an institution for the lack of transferability of the FSLIC Note. The interest on the FSLIC Note, and also on AIPs on the NWCs, will commence accruing as of the first day of the period immediately following the applicable period (on the basis of which the FSLIC issued the Note as the consideration for the purchase of NWCs), notwithstanding the date of actual issuance of the Note. For example, if the FSLIC purchases an NWC in exchange for an FSLIC Note on March 30, 1983, relating to operating losses for the period ended December 31, 1982, the interest on the FSLIC Note, and the AIP on the NWC, will accrue from January 1, 1983.

C. Accounting Treatment

The Board expects that the FSLIC Note used to purchase NWCs will be reflected as an asset at its face amount in the recipient institution's financial statements prepared in accordance with generally accepted accounting principles (GAAP), and that the NWCs issued by the institution will be reflected as part of the institution's total equity in such financial statements in the same amount recorded for the FSLIC Note. The Board hereby directs a similar reporting of these items in an institution's periodic reports to the FSLIC.

The Board notes that the FSLIC Notes and NWCs are independent instruments. The FSLIC Notes unconditionally provide an institution with a stream of future cash flow regardless of the value of the NWCs issued in exchange for the FSLIC Note. Further, this stream of cash flow will provide for the payment of interest at a rate which the Board believes will represent an appropriate rate of return for such an obligation. Accordingly, these Notes represent future economic benefits belonging to the institution and, in the Board's view, meet the definition of assets contained in GAAP (*See Statement of Financial Accounting Concepts No. 3,* "Elements of Financial Statements of Business Enterprises", Financial Accounting Standards Board).

A NWC entitles the holder to AIPs or ARPs only out of the institution's net income. ARPs are further limited by minimum levels of "equity capital", as defined, and net worth computed in accordance with GAAP. In the event of liquidation, the claims of holders of NWCs would be subordinate to the claims of all of the institution's creditors and would be senior only to the claims of the institution's stockholders. In light of these provisions, the Board is of the opinion that the NWCs represent a residual interest in an institution and, accordingly, meet the definition of equity under GAAP.

Accounting for the income provided by the FSLIC Notes and paid to the holder of NWCs should be performed in a manner consistent with the accounting for payments related to assets or equity, respectively. Accordingly, the Board expects an institution to record receipt of interest on FSLIC Notes as interest income and accrue at interim dates any amounts of unpaid interest related to FSLIC Notes it holds. AIPs on NWCs should not be reflected as charges to retained earnings until such AIPs become payable.

IV. Effect on Net Worth

Section 406(f)(5)(J) of the NHA, as adopted by the DIA, states that "[n]otwithstanding any other Federal or State law, net worth certificates purchased by the Corporation [FSLIC] under this paragraph shall be deemed to be net worth for statutory and regulatory purposes." Accordingly, the Board is adopting an amendment to its definition of regulatory net worth, section 561.13 of the Insurance Regulations, to provide that NWCs when issued to the FSLIC constitute an item of regulatory net worth. This permits the inclusion of the amount of outstanding NWCs in an institution's calculation of its reserves and net worth for purposes of paragraphs (a) and (b) of section 563.13 of the Insurance Regulations. In addition, the Board anticipates that, in light of the statutory language cited above and section 406(f)(5)(H) of the NHA as adopted by the DIA, NWCs issued by a State-chartered institution to the FSLIC pursuant to the DIA authority will constitute part of that institution's net worth for State regulatory purposes.

V. Authorization of NWCs by an Institution

The application form required for a qualified institution to request that the FSLIC purchase NWCs in exchange for FSLIC Notes will require a certification by the institution's board of directors that the institution has the authority to issue NWCs in exchange for such consideration. This certification is not required to be included as part of the application until after the institution is notified by the FSLIC that it tentatively intends to purchase NWCs from the institution.

The Board is adopting section 572.10 to authorize a Federal mutual institution, upon appropriate action by its board of directors, to issue NWCs to the Federal agency that insures its accounts in exchange for appropriate consideration from that agency, which may include a promissory note.

With regard to a State mutual institution, section 406(f)(5)(H) of the NHA, as adopted by the DIA, provides in part as follows:

> The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (i) to take part in programs under this paragraph, [or] (ii) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph * * * shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this paragraph * * *.

This provision grants the requisite statutory authority that permits a State-chartered institution to authorize the issuance of NWCs to the FSLIC in exchange for FSLIC Notes. Nevertheless, each State institution must specifically address the requisite action required for that institution to be authorized to issue NWCs to the FSLIC in exchange for FSLIC Notes. This requisite corporate action will be the subject of the certification by the institution's board of directors discussed above. In connection with any NWC purchase, the FSLIC will authorize the NWC issuance by the institution in accordance with section 406(f)(5)(A)(i) of the NHA as adopted by the DIA.

With regard to Federal or State-chartered stock institutions, the FSLIC will require the approval by the institution's stockholders of the issuance of NWCs to the FSLIC in exchange for a FSLIC Note before the FSLIC will purchase NWCs. Stockholder approval must be by at least a majority of the votes cast on an appropriate vote on this question. Stockholder approval of any necessary charter amendment authorizing the NWC issuance, if the general provisions of the proposed transaction with the FSLIC are explained to stockholders, will constitute requisite stockholder approval.

Also, the Board is adopting amendments to its regulations regarding the charter for Federal stock institutions

to permit those institutions to adopt charter amendments authorizing the issuance of NWCs to the FSLIC in exchange for FSLIC Notes (or, with regard to a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation ("FDIC"), the issuance of NWCs to the FDIC in exchange for an FDIC Note). This requisite amendment to the charter of a Federal stock institution requires stockholder approval given at a meeting called, although not necessarily solely, for that purpose and for which stockholders have been given the requisite notice and adequate information on which to base an informed vote on the questions presented.

Attention is directed to the Board's general anti-fraud provisions regarding the solicitation of proxies, set forth at section 569.4 of the Insurance Regulations. The board of director's certification that issuance of NWCs has been validly authorized should state that any required stockholder approval has been obtained.

A qualified institution may file an application under section 572.3 for FSLIC purchase of NWCs for an initial period prior to obtaining stockholder or, if required by a State institution, mutual owner authorization for the issuance of NWCs. In no event, however, will the FSLIC purchase NWCs until their issuance to it in exchange for FSLIC Notes has been validly authorized, and the institution's application has been amended to reflect this.

(g) *Effects of Diverse Accounting Practices.* The Board recognizes that some institutions may raise the issue that reliance on regulatory financial statements for the purpose of calculating the FSLIC's maximum NWC purchase could result in the calculation of different amounts depending upon how a transaction is accounted for by a particular institution. This difference of treatment would arise principally from the accounting treatment accorded (1) a business combination, which might be accounted for by the purchase or the pooling-of-interests method, or (2) gains or losses from the disposition of loans and securities, which might be recognized in the year of sale or, if an appropriate election has been made, amortized to income or expense over the remaining life of the disposed assets.

It is the Board's view that the appropriate accounting for any transaction should be determined at the time of the transaction and should not be subject to change merely because the objectives of the reporting institution or the users of resulting financial information change over time. Accordingly, the regulation makes no attempt to differentiate between institutions which use different accounting principles for apparently similar transactions. However, the Board emphasizes that the accounting treatment afforded transactions, as well as the economic effects of the transactions themselves, will be scrutinized carefully by the Board's staff to ascertain that they are appropriate and are not adopted merely to increase the amount of NWCs that the FSLIC might purchase.

VI. State-Fund-Insured Institutions

The DIA authorizes but does not require FSLIC to purchase NWCs from an institution the deposits of which are insured or guaranteed under State law if that institution otherwise qualifies for such capital assistance and if the State fund enters into an agreement with the FSLIC which provides that the State fund will indemnify the FSLIC for any losses the FSLIC incurs as a result of providing such assistance and that, during any period the State-fund-insured institution has NWCs outstanding, the State fund will maintain a level of assessments on its members which is at least equivalent to the premium assessments paid by insured institutions to the FSLIC.

Accordingly, the FSLIC will consider an application for it to purchase NWCs issued by a State-fund-insured qualified institution if that institution's State fund enters into an agreement satisfactory to the FSLIC which requires it to indemnify the FSLIC for any losses and to establish and maintain as long as any pertinent NWCs are outstanding a level of assessment on all of its members equivalent to that imposed by the FSLIC on insured institutions. The State fund will be required to furnish an opinion of counsel that it has the authority to enter into such an agreement. In order to ensure the indemnification of the FSLIC, the agreement with the State fund will require that the State fund deposit and maintain adequate collateral with the appropriate Federal Home Loan Bank, obtain from each institution the deposits of which it insures an unconditional guarantee of the State fund's indemnification of the FSLIC, or obtain a guarantee of its indemnification obligation by a person satisfactory to the FSLIC. In addition, the State-fund-insured institution will be required to agree that, during any period when it has outstanding NWCs, it will be governed by all rules and regulations of the Board or other Federal regulatory authority that govern an institution whose deposits are insured by the FSLIC, including limitations on rates of return on accounts as set by the Depository Institutions Deregulation Committee.

Regulatory Analysis

The elements of regulatory analysis for major regulations required by Board Resolution No. 80-584 dated September 11, 1980, have been incorporated into the supplementary information contained herein.

List of Subjects in 12 CFR Parts 552, 561, and 572

Savings and loan associations.

The Board finds that observance of the notice and comment period pursuant to 5 U.S.C. 553(b) and 12 CFR 508.12, and that delay of the effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 are unnecessary because it is in the public interest for the program of assistance implemented by these regulations to take effect at the earliest feasible time and because the program of assistance is a matter committed to the discretion of the FSLIC and implemented in significant part by a statement of policy.

However, the Board will consider any comments regarding these regulations in determining whether changes, supplements, or other amendments are appropriate. Comments should be sent to Director, Information Services, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

Accordingly, the Board hereby amends Part 552 of Subchapter C, and amends Part 561 and adds a new Part 572 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, to read as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 552—STOCK ASSOCIATIONS

1. Amend § 552.4 by adding a new paragraph (d), as follows:

§ 552.4 Optional charter provisions.

* * * * *

(d) Amend Charter S or Charter T by renumbering existing sections as appropriate and adding a new section as follows. Where appropriate, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation shall substitute that Agency for the Federal Savings and Loan Insurance Corporation in the following section.

Section 6. *Net worth certificates.* Notwithstanding any provision of Section 5, *Capital Stock.*, the association may issue net worth certificates to the Federal Savings and Loan Insurance Corporation (the "FSLIC") in

exchange for appropriate consideration, including promissory notes of the FSLIC, in accordance with rules, regulations, and policies of the Board. Subject to such rules, regulations, and policies, the board of directors of the association is authorized without the prior approval of the stockholders of the association and by resolution or resolutions from time to time adopted by the board of directors to cause the issuance of net worth certificates to the FSLIC and to fix the designations, preferences, and relative, participating, optional, or other special rights of the certificates, and the qualifications, limitations, and restrictions thereon. Stockholders of the association shall not be entitled to preemptive rights with respect to the issuance of net worth certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issuance of net worth certificates.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

2. Amend § 561.13, by revising paragraphs (b) and (c) to read as follows:

§ 561.13 Regulatory net worth.

* * * * *

(b) The term "regulatory net worth" also includes the sum of outstanding net worth certificates issued in accordance with Part 572 of this Subchapter;

(c) Unless the context indicates otherwise, the term "net worth" wherever used in this Subchapter shall mean "regulatory net worth" as defined in paragraphs (a) and (b) of this section, except that the term as used in § 563.8–4 shall not include items permitted to be used as part of the reserve calculations pursuant to § 563.13(c).

3. Add new Part 572, as follows.

PART 572—NET WORTH CERTIFICATES

Sec.

Authority: Secs. 401, 402, 403, 405, 406, and 407, 48 Stat. 1255, 1256, 1257, 1259, and 1260, as amended (12 U.S.C. §§ 1724, 1725, 1726, 1728, 1729, and 1730); secs. 2 and 5, 48 Stat. 128 and 132, as amended (12 U.S.C. §§ 1462 and 1464); Reorg. Plan No. 3 of 1947, 3 CFR 1943–1948 Comp., p. 1071.

§ 572.1 Statement of policy.

(a) *General.*

(1) Title II of the Garn-St Germain Depository Institutions Act of 1982 (the "DIA"), Pub. L. 97–320, 96 Stat. 1493, (October 15, 1982), amends section 406(f) of the National Housing Act ("NHA"), 12 U.S.C. § 1729(f), to authorize the Corporation, in its sole discretion and on such terms and conditions as it may prescribe to increase or maintain the capital of a qualified institution by making periodic purchases of net worth certificates ("NWCs") for such form of consideration as the Corporation may determine.

(2) This statement of policy explains the Corporation's general intention regarding purchases of NWCs from qualified institutions pursuant to this DIA authority. The other sections of this Part specify the procedures for a qualified institution to request that the Corporation purchase NWCs, govern action by the Corporation on such a request, define pertinent terms, place certain limitations on an institution having outstanding NWCs, and authorize the issuance of NWCs by Federal mutual institutions.

(b) *Purchase of NWCs.*

The Corporation will only consider the purchase of NWCs from a "qualified institution", as defined in § 572.2 of this Part, that requests such purchase by compliance with the application procedure specified in § 572.3 of this Part and only on the basis of that institution's operating losses for the applicable period as to which an application is timely filed. If the Corporation approves an application under § 572.3, it may purchase NWCs from the qualified institution in exchange for promissory notes ("FSLIC Notes") in the appropriate amount as determined by the Corporation. Both the NWCs and the FSLIC Notes will be in forms satisfactory to the Corporation, and will contain such terms and conditions as the Corporation determines to be appropriate under the particular circumstances involved. The Corporation retains sole discretion regarding whether or not to purchase NWCs from an institution, the amount of NWCs which it may purchase, and any terms and conditions it may impose in connection with a purchase of NWCs.

(c) *Maximum amount of NWCs.*

(1) *General.* The maximum amount of NWCs which the Corporation may purchase from a qualified institution will be based on that institution's (i) operating losses for an applicable period, as defined in § 572.2, and (ii) ratio of equity capital as of the end of the applicable period, as defined in § 572.2, to total assets. The following table indicates the calculation of maximum NWC purchases by the Corporation attributable to operating losses for an applicable period.

If the equity capital of a qualified institution as a percentage of total assets is:	*Then the Corporation may purchase NWCs equal to—*
(1) Greater than 2 percent but no more than 3 percent.	50 percent of operating losses.
(2) Greater than 1 percent but no more than 2 percent.	60 percent of operating losses.
(3) Less than or equal to 1 percent.	70 percent of operating losses.

(2) *Initial period.* With regard to an institution's initial period, which is the first applicable period on the basis of which a qualified institution applies for capital assistance pursuant to this Part and the Corporation purchases NWCs, the maximum amount of NWCs which the Corporation may purchase will be that amount indicated by the table for one half of the amount of operating losses actually incurred during the initial period.

(3) *Calculation.* Corporation purchases of NWCs will immediately adjust the institution's equity-capital-to-total-assets ratio for purposes of determining the percentage of operating losses which the Corporation may offset by NWC purchases. Accordingly, when the institution's ratio of equity capital to total assets, after adjustment to reflect NWC purchases, increases to the next higher ratio, the Corporation will purchase NWCs based on the percentage specified by that higher ratio level of the table applied to the remaining operating losses.

(4) *Limitations.* (i) The Corporation will not purchase any NWC subsequent to October 15, 1985.

(ii) The Corporation will not purchase NWCs in an amount which causes an institution's ratio of equity capital to total assets to exceed 3 percent.

(iii) The Corporation will not purchase NWCs applicable to operating losses for an applicable period if the amount to be purchased under the calculation would be less than $25,000, except that Corporation may purchase the $25,000 minimum amount if the purchase amount calculated under the table would increase the institution's ratio of equity capital to total assets from an amount less than 0.5 percent to greater than 0.5 percent.

(iv) Purchases will be rounded to the nearest $25,000, except that (A) if the rounding procedure would cause the institution's ratio of equity capital to total assets to be reduced from an amount in excess of 0.5 percent to less than 0.5 percentage, the amount

purchased will be rounded to the next higher $25,000 multiple, or (B) if the rounding procedure would cause the institution's ratio of equity capital to total assets to be increased to an amount in excess of 3 percent the amount purchased will be rounded to the next lower $25,000 multiple.

(v) Notwithstanding subparagraph (c)(4) (iii) of this section, if an institution qualifies for capital assistance for two consecutive applicable periods, but would be excluded from the Corporation's purchase of NWCs because of the $25,000 minimum limitation, the Corporation may purchase NWCs as of the end of that second applicable period on the basis of the cumulative amount for the pertinent applicable periods.

(d) *Restrictions on NWC purchases.* Even if an institution is a qualified institution, as defined in § 572.2, and has operating losses for an applicable period, the Corporation may exercise its discretion not to purchase any NWCs from that institution pursuant to the DIA authority in the following circumstances.

(1) *Cost.* The Corporation may refuse to purchase NWCs if it determines in its sole judgment that such purchase would be costlier to it than alternative transactions available to the Corporation or the institution. Alternative available transactions would include a liquidation of the institution (including the paying of insured accounts), transactions committed to the discretion of the Corporation in accordance with section 406(f) (1) or (2) of the NHA, or mergers or supervisory conversions available to the institution which would eliminate or significantly reduce the institution's need for capital assistance under the DIA authority. In making this determination of relative cost, the Corporation will consider the net present-value cost to it of all projected purchases of NWCs which would be made under the criteria of this Part and alternative transactions or liquidation. The Corporation delegates to the Director of the Federal Home Loan Bank Board's ("Board") Office of the Federal Savings and Loan Insurance Corporation, or his designee, with the concurrence of the General Counsel, or his designee, the authority to determine whether an alternative is less costly than the Corporation's purchases of NWCs under the DIA authority.

(2) *Pending insolvency.* (i) The Corporation may refuse to purchase NWCs from an institution if it determines in its sole judgment that, after giving effect to the proposed purchase of NWCs by the Corporation, that institution would be "insolvent" within six months from the proposed date of purchase. For this purpose, "insolvent" means zero or less equity capital. The fact that the pending "insolvency" of an institution is determined by the FSLIC does not mean either that the FSLIC will or will not grant assistance to that institution under its traditional authority. The FSLIC will exercise its discretion as to such assistance in light of the existing circumstances. Similarly, the fact that an institution reaches a zero equity-capital level does not mandate that the FSLIC take immediate supervisory action. The FSLIC will evaluate its responsibilities at the time, particularly in light of its determination regarding the safety and soundness of the institution.

(ii) Prior to a determination by the Corporation that it will not purchase NWCs from an institution on the basis of the institution's pending insolvency within six months, the Director of the Board's Office of Examinations and Supervision ("OES") or his designee will make an initial determination of pending insolvency and in doing so may project future results of operations on the basis of the average of the results of operations from the institution's most recent three months required to be reported to the Corporation, or on the basis of other criteria deemed reasonable by the Corporation, and will issue to the institution of Preliminary Notice of Pending Insolvency. This Preliminary Notice becomes a final "determination of insolvency within six months" by the Corporation unless within 15 business days after the date of the Preliminary Notice the institution shall submit to the Corporation three copies of a detailed financial analysis, including plans and projections for the institution, which demonstrates that the institution will not be insolvent within six months. This analysis shall be submitted to OES.

(3) *Supervisory problem.* The Corporation may refuse to purchase NWCs from an institution which has failed to satisfy the Corporation concerning a significant supervisory problem, including the failure by an institution to (i) comply with an agreement with the Corporation, or a written request by its Supervisory Agent or the Corporation, or (ii) correct a matter cited as significant in the most recent examination report by OES, or the subject of a cease and desist order. The Corporation may consider that a supervisory problem is satisfactorily resolved if the institution is making adequate progress under a plan acceptable to the Corporation for the complete resolution of that supervisory problem.

(4) *Business plan.* The Corporation may refuse to purchase NWCs from an institution unless the institution adopts a business plan satisfactory to the Corporation which demonstrates a reasonable probability that the institution will be able to redeem the NWCs. The business plan shall be submitted as part of the application for Corporation purchases of NWCs required by § 572.3, but need not be submitted until the Corporation has issued a preliminary notice of intent to purchase NWCs.

(e) *Reduction of NWC purchases.* The maximum amount of NWCs which the Corporation may purchase from an institution will be reduced in the following manner.

(1) The amount of an institution's operating losses used to calculate the maximum amount of NWC purchases will be reduced by the amount of any losses determined by the Corporation to have been occasioned by mismanagement, by speculation in futures or forward contracts, or by management actions designed for the purpose of obtaining assistance. Mismanagement shall include, but not be limited to, any action which violates a previous agreement with the Corporation or a business plan previously submitted to the Corporation in connection with a purchase of NWCs.

(2) The maximum amount of NWC purchases calculated on the basis of actual operating losses will be reduced by 80 percent of the amount by which the institution's operating expenses exceed the amount that would have been the institution's operating expenses if such expenses, expressed as a percentage of total assets, equaled the mean operating expenses, similarly expressed, of its peer group plus 10 percent of that mean. This reduction will not be made by the FSLIC, however, if the institution demonstrates that its higher-than-peer-group operating expenses are justified in light of its particular circumstances.

(f) *Holding companies.* (1) The Corporation may purchase NWCs under the criteria of this Part from a qualified institution that is controlled by a holding company or majority stockholder who has entered into an agreement with the Corporation to maintain the net worth of the institution at a specified level. Under these circumstances, the holding company or majority stockholder will be required, as a condition to the Corporation purchase, to infuse sufficient capital in excess of the Corporation's NWC purchase to increase the institution's regulatory net worth to the agreed-upon level.

(2) Where a "qualified institution" is controlled by another savings and loan or savings bank institution, the Corporation may consider the purchase of NWCs on the basis the consolidated equity capital and operating results of the qualified institution together with its parent and any other institutions controlled by the parent.

(g) *Requests for Corporation purchase of NWCs.* (1) A qualified institution may request that the Corporation purchase NWCs from it by complying with the application procedure specified in § 572.3.

(2) A State-chartered institution shall file copies of its application with its State supervisory authority as required by § 572.3 and should request that that State supervisor submit to the Principal Supervisory Agent, within 15 days after the application is filed with the Corporation, a certification regarding whether or not (i) the State supervisor objects to the Corporation's purchase of NWCs from the institution, and (ii) the institution is a qualified institution. If the State supervisor formally objects, he may furnish the Principal Supervisory Agent a written explanation of the reasons for his objection. The Corporation will consider the views of the State supervisor submitted in a timely manner, but will not be bound by those views.

(3) All institutions requesting that the Corporation purchase NWCs must be validly authorized to issue those NWCs to the Corporation in exchange for FSLIC Notes. To ensure this valid authorization, the forms required by § 572.3 will require an appropriate certification by the board of directors of the institution. This certification may be filed by amendment after the Corporation has issued a preliminary notice of intent to purchase the institution's NWCs.

(4) Section 572.10 specifically authorizes a Federal mutual institution, upon appropriate resolution by its board of directors, to issue NWCs to the Federal agency that insures its deposits in exchange for appropriate consideration from that agency, which consideration may include a promissory note.

(5) The burden of validly authorizing the issuance of NWCs to the Corporation rests solely upon the institution and its counsel. Unless challenged or unless there is reason to question the validity of the proposed issuance of NWCs, the Corporation will rely upon the requisite certification by the institution's board of directors in this regard.

(h) *Stock institutions.* (1) The Corporation will not purchase NWCs issued by a stock institution, whether Federal or State chartered, unless the stockholders of that institution have approved the issuance of NWCs to the Corporation in exchange for FSLIC Notes. The certification required by paragraph (g)(3) of this section shall address whether appropriate stockholder approval has been given. Stockholder approval of any necessary charter amendment as discussed in paragraph (h)(2) of this section will constitute the requisite stockholder approval.

(2) Federal stock institutions are and State stock institutions may be, required to amend their charters to authorize the issuance of NWCs to the Corporation in exchange for FSLIC Notes. Such a charter amendment requires stockholder approval at a meeting, although the meeting would not necessarily have to be called solely for that purpose. However, stockholders must be given the requisite notice of the meeting and adequate information on which to base an informed vote on the questions presented. In particular, attention is directed to the Corporation's general anti-fraud provision regarding the solicitation of proxies, set forth at § 569.4 of this Subchapter.

(i) *Effect on regulatory net worth.* 12 U.S.C. § 406(f)(5)(J), as adopted by the DIA, states that "[n]otwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this paragraph shall be deemed to be net worth for statutory and regulatory purposes." Accordingly, NWCs when purchased by the Corporation under the DIA authority shall constitute an item of the issuing institution's regulatory net worth as defined in § 561.13 of this Subchapter. This permits their inclusion in the institution's calculation of its reserves and net worth for purposes of paragraphs (a) and (b) of § 563.13 of this Subchapter.

(j) *State-fund-insured institutions.* A savings and loan association the accounts of which are insured or guaranteed under State law rather than by the Corporation may be a "qualified institution" as that term is defined in § 572.3. Accordingly, it may request the Corporation to purchase NWCs pursuant to § 572.3 if arrangements satisfactory to the Corporation are made by the State-fund-insured institution and its State insurance fund (the "State Fund") to satisfy the following conditions:

(1) The State Fund agrees to indemnify the Corporation for any losses the Corporation may incur as a result of purchasing NWCs from a State-fund-insured institution, including any cash outlays for interest or principal on a FSLIC Note as they are made, and any lost opportunity costs. Such agreement must include a commitment by the State Fund to use its assessment authority over all institutions the accounts of which are insured or guaranteed by it for the purpose of funding this indemnification obligation.

(2) The State Fund (i) agrees to furnish collateral satisfactory to the Corporation to guarantee fulfillment of the indemnification obligation, (ii) obtains the separate agreement of each insured institution the accounts of which are insured by the State Fund to indemnify the Corporation in the event the State Fund does not fulfill the indemnification obligation, or (iii) obtains a guarantee of the indemnification obligation by a person satisfactory to the Corporation.

(3) The State Fund agrees that, during any period when a qualified institution the accounts of which it insures has outstanding NWCs purchased by the Corporation pursuant to this DIA authority, it will establish and maintain a level of assessment on all of its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by the Corporation's insured institutions during such period.

(4) The State Fund agrees not to impose requirements on State-fund-insured institutions with outstanding NWCs which are inconsistent with the terms and conditions established by the Corporation in connection with its purchase of NWCs from a State-fund-insured institution.

(5) The State Fund agrees to provide to the Corporation, upon its request, full and complete information regarding a State-fund-insured institution's management, financial condition and results of operations, business operations, and compliance with laws and regulations, to the extent such information is available to the State Fund.

(6) The State-fund-insured institution agrees that, during any period when it has outstanding NWCs purchased by the Corporation, it will be governed by all rules and regulations of the Board or other Federal regulatory authority, including examination authority and reporting requirements, which are applicable to insured institutions.

§ 572.2 Definitions.

This section defines the following terms for the purposes of this Part:

(a) "Applicable period" means a semiannual fiscal-year period of a qualified institution ended subsequent

to September 30, 1982, and prior to October 1, 1985.

(b) "Initial period" means the first applicable period upon the basis of which a qualified institution applies for the Corporation to and the Corporation does purchase NWCs from the institution.

(c) "Net worth certificate" means a certificate in the form acceptable to the Corporation issued by a qualified institution to the Corporation in accordance with the provisions of this Part, except that with regard to a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation (the "FDIC"), net worth certificate means a certificate issued by that institution to the FDIC in accordance with regulations, policies, or procedures of that agency pursuant to the authority granted by Title II of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469. Any net worth certificate issued by an FDIC-insured institution in accordance with those FDIC procedures shall be deemed to be issued in accordance with the provisions of this Part, unless otherwise stated by the Corporation in written form to the institution.

(d) "Equity capital" of an institution means regulatory net worth as defined in § 561.13 of this Subchapter D, including any amount of appraised equity capital, as defined in § 563.13(c), which the institution would be permitted to include in its regulatory net worth, plus savings accounts pledged pursuant to an agreement acceptable to the Corporation.

(e) "Operating losses" of an institution means (1) the total amount of the institution's operating income less the total amount of all of its operating expenses and interest (dividend) charges as reported to the Corporation in accordance with the "Instruction Book for the preparation of the Semiannual Financial Report of the Industry Condition Report System", (2) except that the operating losses determined in accordance with subsection (1) of this paragraph (e) shall be further reduced, for institutions which have outstanding net worth certificates, by expenses otherwise included in operating expenses which are attributable to the payment of, or provision for, State or local taxes which are determined on the basis of the amount of deposits held by the institution or the interest paid on such deposits.

(f) "Qualified institution" means an "insured institution" as that term is defined in § 561.1 of this Subchapter or a State-fund-insured institution which institution and its State Fund have entered into agreements satisfactory to the Corporation regarding indemnification of the Corporation, equivalent level of assessments, and equivalent regulatory standards, which institution as of the end of its most recent applicable period:

(1) Has equity capital of 3 percent or less of its total assets before giving effect to any purchase of net worth certificates by the Corporation;

(2) Has incurred operating losses for its most recent applicable period as determined from its Semiannual Report filed with the Corporation, net of losses which are the result of speculation in futures or forward contracts, management action designed solely for the purpose of qualifying for Corporation purchase of net worth certificates, or excessive operating expenses;

(3) Will have equity capital of at least 0.5 percent of its total assets, after giving effect to the Corporation's purchase of net worth certificates based on operating losses for the applicable period;

(4) Has investments in residential mortgage loans or securities backed by such mortgage loans aggregating not less than 20 percent of its total outstanding loans;

(5) Agrees to comply with all the terms and conditions established by the Corporation in connection with its purchase of net worth certificates.

(g) "Semiannual Report" means Forms 154, 248, 774, 775, 776, 777, 778 and 921 as specified in Section 500.31 of Subchapter A.

(h) "State-fund-insured institution" means an institution substantially equivalent to an "insured institution" as that term is defined in § 561.1 except that its accounts are insured or guaranteed under State law rather than by the Corporation. The State insurance or guarantee shall be termed the State Fund.

(i) "Subsequent period" means an applicable period other than the initial period.

(j) "Total assets" of an institution means the total amount of assets net of contra-asset accounts reported by the institution to the Corporation in accordance with the "Instruction Book for the preparation of the Semiannual Financial Report of the Industry Condition Report System."

§ 572.3 Application for Corporation purchases of net worth certificates.

(a) A qualified institution may request that the Corporation purchase net worth certificates issued by the institution by filing an application on Form 1286. Subsequent applications may be made by the filing of a Form 1287. The form and content of these applications shall be as prescribed by the Corporation.

(b) The qualified institution shall file two copies of either Form 1286 or Form 1287 with its Principal Supervisory Agent and one copy with the Office of Examinations and Supervision ("OES"), Federal Home Loan Bank Board, Washington, D.C. The application shall be deemed to be filed on the date received by the Principal Supervisory Agent, provided that the copy required to be filed with OES has been sent or given by that date. In addition, a State-chartered institution shall file three copies of its application with its State supervisory authority and request that State supervisor to submit to the Corporation, within 15 business days after the application is filed with the Corporation, a certification regarding whether or not (1) the State supervisor objects to the Corporation's purchase of net worth certificates in accordance with the provisions of this Part, and (2) the applicant is a qualified institution. The certification by the State supervisor is to assist the Corporation in its determination and is not binding on the Corporation.

(c) An application must request that the Corporation purchase net worth certificates from a qualified institution on the basis of that institution's operating losses for an applicable period and shall be filed no later than the later of February 1, 1983 or 30 days after the close of that applicable period.

(d) A qualified institution may request that the Corporation purchase net worth certificates in an amount less than the Corporation would be willing to purchase.

(e) If an application is acceptable to the Corporation, the Corporation will issue to the applicant a preliminary notice of an intent to purchase a specified amount of net worth certificates. Within 45 business days after the date of this preliminary notice, the institution shall amend its application to submit any items not previously included, *e.g.*, the certification by the board of directors regarding authority to issue NWCs, or a business plan, and shall submit executed copies of the NWC governing documents.

(f) The Corporation will notify the applicant regarding any change in the Corporation's preliminary decision, set forth in the preliminary notice, as a result of the additional information submitted by the applicant to complete its application.

(g) If the Corporation finds an application unacceptable, it will issue to the applicant a notice of determination not to purchase NWCs.

(h) The Corporation retains the right to waive, upon a showing of good cause, any of the requirements of this Part regarding the timeliness of submissions.

(i) Each application filed by an institution under this Part constitutes an offer for the sale of net worth certificates to be issued by the applicant to the Corporation. Each application will be separately considered.

(j) Purchase by the Corporation of net worth certificates from an institution as a result of operating losses during one applicable period does not create any right or entitlement in that institution to require the Corporation to purchase net worth certificates on the basis of operating losses for a different applicable period.

(k) A qualified institution that applies for Corporation purchase of net worth certificates does not become entitled to require any such purchases. All net worth certificate purchases are at the sole discretion of the Corporation.

§ 572.4 Delegations.

The Corporation delegates all of its authority regarding its actions under this Part, not specifically delegated to another member of its staff in its Policy Statement, § 572.1 of this Part, to the Director of the Office of Examinations and Supervision ("OES") of the Federal Home Loan Bank Board (the "Board"), or his designee, who may include the Principal Supervisory Agent; except that no alteration may be made in the standard form of net worth certificate or promissory note of the Corporation prescribed by the Board's General Counsel without the concurrence of the Board's General Counsel or his designee.

§ 572.5 Right to appeal.

(a) Within 15 business days after the date of a notice issued pursuant to delegated authority announcing the Corporation's intent regarding the purchase of net worth certificates from an institution, that institution may petition the Board for its consideration of the net worth certificate purchase request. The petition must explain in detail the reason(s) for the institution's belief that the decision made pursuant to delegated authority was inappropriate.

(b) Upon the filing of an appeal petition, as provided for in paragraph (a) of this section, regarding an action taken pursuant to delegated authority, the Director of OES shall either overrule the action and accede to the action requested by the appeal, or submit the matter to the Board for its consideration of the request on the basis of the petition, the application and related documents, including if applicable the institution's detailed financial analysis submitted in response to a Preliminary Notice of Pending Insolvency as described in § 572.1 of this Part, and any other information which OES or the Board's Office of General Counsel deems appropriate to submit. The Board will not entertain any oral arguments on behalf of the institution.

(c) Notwithstanding paragraph (a) of this section, an institution shall not petition the Board and the Board will not consider any appeal of a denial to purchase net worth certificates on the basis of a final determination of pending insolvency if the institution has failed to submit the requisite financial analysis in response to a Preliminary Notice of Pending Insolvency.

(d) No person other than an applicant under § 572.3 of this Part has a right to request Board consideration of Corporation action under this Part affecting that applicant, or otherwise to protest that Corporation action. In particular, no person other than the applicant shall have any right to protest a decision by the Corporation: (a) to purchase or decline to purchase net worth certificates, or (b) regarding the comparative cost of a purchase of net worth certificates as opposed to alternative remedies.

§ 572.6 Effect of Corporation purchase of net worth certificates.

Unless expressly provided for by contract, the purchase by the Corporation of net worth certificates from an institution under the provisions of this Part:

(a) Imposes no obligation whatsoever on the Coporation to provide any other form of financial assistance to the issuing institution;

(b) Does not release, alter, amend, or otherwise affect any outstanding agreement between the issuing institution and the Corporation;

(c) Does not limit, restrict, alter, restrain, or otherwise affect the supervisory and regulatory powers, duties, and responsibilities of the Corporation; and

(d) Does not waive or grant a forbearance from the enforcement of any provision of law or regulation.

§ 572.7 Dividends.

During any period in which an institution which is organized in stock form has outstanding net worth certificates issued in accordance with the provisions of this Part, such institution shall not pay dividends to its stockholders.

§ 572.8 Branching.

(a) No institution which has outstanding net worth certificates issued in accordance with the provisions of this Part shall establish a new branch office or, without the prior written approval of the Director of the Board's Office of Examinations and Supervision or his designee, who may include the Principal Supervisory Agent, relocate an existing branch office.

(b) Notwithstanding paragraph (a) of this section, the Corporation may in its discretion grant prior written approval for the opening of new offices by an institution which has net worth certificates outstanding if the existence of those outstanding certificates results from a business combination whereby the institution acquired another institution that has net worth certificates outstanding.

§ 572.9 Transactions with holding company.

No institution which has outstanding net worth certificates issued in accordance with the provisions of this Part shall enter into a new contract or modify an existing contract with its parent holding company or an affiliate thereof, without the prior written approval of the Director of the Board's Office of Examinations and Supervision or his designee, who may include the Principal Supervisory Agent.

§ 572.10 Authorization for Federal mutual institution to issue net worth certificates.

A Federal mutual savings and loan association or savings bank is authorized, upon appropriate resolution of its board of directors, to issue net worth certificates in accordance with the provisions of this Part to the Federal agency that insures its deposits.

§ 572.11 Board statutory authority.

(a) Notwithstanding the other provisions of this Part, the Board retains the right to authorize the Corporation to purchase net worth certificates from an institution in accordance with the authority granted by Title II of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469. A purchase effected pursuant to this section shall be subject only to such terms and conditions as are specified by the Board.

(b) The delegation of authority set out in § 572.4 of this Part is not applicable to a purchase of NWCs effected in accordance with this section.

(Secs. 2 and 5, 48 Stat. 128 and 132, as amended (12 U.S.C. §§ 1462 and 1464); secs.

401, 402, 403, 405, 406, and 407, 48 Stat. 1255, 1256, 1257, 1259, and 1260, as amended (12 U.S.C. §§ 1724, 1725, 1726, 1728, 1729, and 1730); Reorg. Plan No. of 1947, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-35326 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-91-AD; Amdt. 39-4524]

Airworthiness Directives; British Aerospace (Formerly Hawker Siddeley Aviation, Ltd.) HS/DH/BH 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) 80–12–10 applicable to British Aerospace (formerly Hawker Siddeley Aviation, Ltd.) HS/DH/BH 125 series airplanes, which requires disassembly, inspection for cracks, and reinforcement of the flap outboard hinge assemblies. This amendment makes two changes:

1. It corrects the applicability statement to include one additional airplane (Serial Number NA–0245), which was inadvertently omitted from the original applicability statement; and

2. It provides for an optional modification which, if incorporated, eliminates the requirement for repeat inspections. This aspect of the amendment is relieving in nature.

EFFECTIVE DATE: January 3, 1983.

ADDRESS: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (UK–CAA) has classified BAe Service Bulletin 57–55, Revision 1, dated October 22, 1980, as mandatory. AD 80–12–10 (45 FR 38350, June 9, 1980) makes reference to the BAe Service Bulletin 57–55 and was issued to require installation of a steel strap reinforcement around the aft lug on each flap outboard hinge arm assembly, repetitive inspections of the flap outboard hinge assemblies, replacement of cracked parts on British Aerospace DH/BH/HS 125 series airplanes, and trimming of the reinforcing on the flap lower skin on these airplanes, except Model 700 series. After inspection and modification, the inspections are to be repeated at one year intervals. Any cracked parts must be replaced with serviceable parts. BAe HS–125 Modification 252659, specified in Service Bulletin 57–55, Revision 1, dated October 22, 1980, replaces the original hinge arm assemblies with all-steel parts and any airplane incorporating this modification does not require the annual disassembly inspection. When this modification is incorporated on the airplanes affected by AD 80–12–10, the annual inspection requirement of AD 80–12–10 is terminated. The applicability statement in AD 80–12–10 did not include serial number NA–0245 which is listed in BAe Service Bulletin 57–55. Serial number NA–0245 was not constructed to include the modification and just be inspected until Modification 252659 is incorporated.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which amends AD 80–12–10 by adding one additional airplane to the effectivity and by adding BAe HS 125 Modification 252659 which, if an operator chooses to incorporate, terminates the inspections required by AD 80–12–10.

Since a situation existed and still exists for airplane serial number NA–0245 that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days. The aspect of this AD applicable to all other DH/BH/HS 125 airplanes is relieving.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 80–12–10, Amendment 39–3797 (45 FR 38350, June 9, 1980) as follows:

1. The applicability statement is amended to read: "Applies to Model DH/BH/HS 125 series airplanes except 700 series airplanes above Serial Number NA–0245, certificated in all categories."

2. A new paragraph (i) is added, reading as follows: "Accomplishment of BAe Modification 252659 constitutes terminating action for this AD."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective January 3, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on December 14, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-35157 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-94-AD; Amdt. 39-4525]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adds a new Airworthiness Directive (AD) applicable to McDonnell Douglas Model DC–8 series airplanes, fuselage numbers 520 through 556, and prior airplaines that have incorporated McDonnell Douglas DC–8 Service Bulletin 32–156 dated June 12, 1970. This AD requires modification of electrical circuitry necessary to ensure illumination of the anti-skid off/fail annunciator light when power to the anti-skid system is lost. A recent incident of an unannunciated inoperative anti-skid system resulted in excessive braking and five blown tires.

DATES: Effective January 3, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

FOR FURTHER INFORMATION CONTACT: Lonnie Tarver, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: One operator reported an unannunciated failure of the anti-skid system which resulted in excessive brake application on landing causing six blown or damaged tires. The failure of the anti-skid off/fail light to properly annunciate the inoperative anti-skid system was found to be the result of a design change incorporated into production beginning with fuselage number 520. This condition exists on all previously manufactured airplanes modified in accordance with DC–8 Service Bulletin 32–156, dated June 12, 1970. This design change resulted in the anti-skid system and its off/fail annunciator light both requiring power from the Number 1, 28 volt DC, bus. In the cited incident, after generator number 1 failed, the flight crew was unable to parallel the Number 1 bus with the operative buses; hence, both the anti-skid system and the off/fail annunciator light were inoperative. The terminology "off/fail" annunciator is used in a generic sense since specific labelling of the indicator is known to vary.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires the installation of an additional ground circuit for the annunciator light. This ground circuit, which is activated by the landing gear lever limit switch, will prevent the anti-skid off/fail annunciator light from being disabled by loss of power to the Number 1 DC bus. Prior to the installation of this ground circuit, this AD requires the installation of a placard advising the flight crew that anti-skid braking and the anti-skid off/fail annunciator light will be inoperative with the Number 1 DC bus unpowered.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–8 series airplanes, fuselage numbers 520 through 556, and prior airplanes modified in accordance with McDonnell Douglas DC–8 Service Bulletin 32–156, dated June 12, 1970, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To preclude excessive brake application on landing resulting from an unannunciated failure of the anti-skid system, accomplish the following:

A. Within 30 days from the effective date of this AD install a placard in clear view of the flight engineer as close as practicable to the Number 1 DC load meter which reads, "With DC Bus 1 unpowered, Anti-Skid system and annunciator are inoperative."

B. Within 6 months from the effective date of this AD, modify the anti-skid control system circuitry in accordance with the Accomplishment Instructions of McDonnell Douglas DC–8 Service Bulletin 32–175, dated July 2, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA Northwest Mountain Region.

Note.—The following procedure may be used as an alternative to the anti-skid checkout procedure specified in paragraph 2.D. of Service Bulletin 32–175:

Restore electrical power and functionally test anti-skid off/fail (INOP) light circuitry as follows:

1. Verify parking brake is released.

2. Place anti-skid switch S1–352 located on engine instrument panel to "ARM." Verify anti-skid off/fail (INOP) light on captain's instrument panel is not illuminated.

3. At EPC circuit breaker panel, 28 volt DC Bus 1 miscellaneous section, open circuit breaker B1–406, "LANDING GEAR WARN AND INTERLOCK" and at 28 VDC Bus 1 Heat, Vent, Ice Protection Section, open circuit breaker B1–820, Left, Right, and NLG and MAIN DOORS WARNING. Verify anti-skid off/fail (INOP) light is illuminated.

4. Close circuit breaker B1–406 and B1–820 to restore system to normal condition.

5. Return parking brake to original position.

6. Remove placard installed per paragraph A., above.

C. Alternative means of compliance providing an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Wash. 98168, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

This amendment becomes effective January 3, 1983.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportaton Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on December 14, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-35158 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-107-AD; Amdt. 39-4526]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series 70 Airplanes With Air Cycle Air Conditioning Systems Installed Per Camma Corp. STC SA1343NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) that requires installation of strip heaters on exposed pitot lines in the turbo compressor compartment of DC-8 Series 70 airplanes with air cycle air conditioning systems. This action is necessary to prevent moisture freezing in the pitot lines and causing loss of airspeed information to the pilots and required systems.

DATES: Effective January 3, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Wash. 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

FOR FURTHER INFORMATION CONTACT: Harry Wasinger, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, Calif. 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: Two operators of affected aircraft reported erratic airspeed indication in the captain's and first officer's airspeed indicators. A difference of 40 to 50 knots was indicated between the instruments. Investigation revealed that moisture in the pitot lines was freezing in the turbo compressor compartment forward of the forward pressure bulkhead. This condition has resulted from the loss of heat generated by the turbo compressor equipment, which was removed during the incorporation of STC SA1343NM. Incorporation of McDonnell Douglas DC-8 Alert Service Bulletin A30-39, Revision 1, dated October 21, 1982, which installs pitot line strip heaters, will prevent this condition from occurring.

Note.—For those operators affected, FAR 121.342 requires each transport category airplane equipped with a flight instrument pitot heating system to also be equipped with an operable pitot heat indication system that complies with FAR 25.1326. Parts necessary to complete the modification of the pitot heat indication system, after the strip heaters are installed, are not yet available, but are expected to be available by January 3, 1983, at which time this AD will be amended to include the installation of those parts. Based on these facts, the FAA Director of Flight Operations, in accordance with the provision of FAR 121.342(b), has extended the compliance date of that rule to correspond with the above referenced amendment to this AD, which will provide a pitot heat monitoring system.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires installation of strip heaters on exposed pitot lines in the turbo compressor compartment, on all DC-8 Series 70 airplanes with air cycle air conditioning systems installed per Camma Corp. STC SA1343NM.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subject in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8 Series 70 airplanes as modified by Camma Corp. STC SA1343NM which installs air cycle air conditioning systems.

Compliance required as indicated, unless previously accomplished.

To prevent moisture from freezing in the pitot lines in the turbocompressor compartment which may result in inaccurate airspeed information, accomplish the following:

A. Within 30 days after the effective date of this AD, install pitot line strip heaters in accordance with McDonnell Douglas DC-8 Alert Service Bulletin A30-39, Revision 1, dated October 21, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The FAA, Director of Flight Operations has authorized an extension to the pitot heat monitoring system requirements of FAR 121.342(b) to April 12, 1983, for these airplanes.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective January 3, 1983.

Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on December 14, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-35159 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-CEF-10-AD; Amdt. 39-4516]

Airworthiness Directives; SIAI-Marchetti Models S.205-18/F, S.205-18/R, S.205-20/F, S.205-20/R, S.205-22/R, S.208 and S.208A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, Revision of Existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 71-17-04, Amendment 39-1266, applicable to SIAI-Marchetti S.205 and S.208 series airplanes by adding the Model S.208A (all serial numbers) to the applicability statement. It also relaxes the requirements of AD 71-17-04 by increasing the time-in-service intervals between the specified repetitive inspections. The FAA has determined that the repetitive inspection intervals required by this AD can be increased without compromising safety of these airplanes. Accordingly, this AD is being revised to relieve the burden on the public.

EFFECTIVE DATE: December 27, 1982.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977, applicable to this AD may be obtained from SIAI-Marchetti, Sesto Calende, Italy. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, or P. Cormaci, Manager, Foreign FAR 23 Section, ACE-109, Central Region, FAA, 601 East 12th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: AD 71-17-04, Amendment 39-1266, applicable to SIAI-Marchetti S.205 and S.208 series airplanes, requires repetitive visual inspections at 50 hours time-in-service and repetitive dye penetrant inspections at 300 hours time-in-service for cracks in the main landing gear wheel axle-to-strut-tube fittings. After issuing AD 71-17-04, the FAA has determined from data in the FAA's Service Difficulty Program that the 50-hours repetitive visual inspections may be increased to 100 hours, and that the 300-hour repetitive dye penetrant inspections may be increased to 500 hours without compromising safety. In addition, the manufacturer has determined that the Model S.208A airplanes have design features which could result in similar cracks. Therefore, the FAA is revising AD 71-17-04 by increasing the repetitive visual inspection interval to 100 hours, the repetitive dye penetrant inspection interval to 500 hours and by revising the AD applicability list to include all Model S.208A airplanes. As of October 2, 1982, no Model S.208A airplanes were registered in the United States. Accordingly, no additional burden is imposed on the public by this revision.

Since this amendment is in part both clarifying and relieving in nature, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), AD 71-17-04, Amendment 39-1266, is hereby revised and reissued in its entirety to read as follows:

Siai-Marchetti: Applies to Models S.205-18/F, S.205-18/R, S.205-20/F, S.205-20/R, S.205-22/R, S.208, and S.208A airplanes (all serial numbers) certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent failure of the main landing gear, accomplish the following:

(a) Before further flight, unless already accomplished within the last 50 hours time-in-service, and thereafter at intervals not to exceed 100 hours time-in-service, from the last check, visually check, using a magnifying glass of at least 5 power, the main landing gear wheel axle-to-strut-tube fittings for cracks in accordance with "INSTRUCTIONS" paragraph (a), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977. If cracks are found, comply with paragraph (c) or (d) as appropriate. The checks required by this paragraph may be performed by the pilot, who must make the prescribed maintenance record entry indicating compliance with paragraph (a) of this AD.

(b) Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished within the last 450 hours time-in-service and thereafter at intervals not to exceed 500 hours time-in-service from last inspection, inspect the main gear wheel axle-to-strut-tube fittings for cracks, using a dye penetrant method, in accordance with "INSTRUCTIONS" paragraph (b), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977. If cracks are found, comply with paragraph (c) or (d) as appropriate.

(c) If cracks which do not extend to the lateral external surface of a fitting are found during a check required by paragraph (a) or during an inspection required by paragraph (b), within the next 50 hours time-in-service, and thereafter at intervals not to exceed 50 hours time-in-service from the last inspection, inspect the main landing gear wheel axle-to-strut tube fittings for cracks, using a dye penetrant method in accordance with "INSTRUCTIONS" paragraph (b), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977.

(d) If cracks are found on the lateral external area of a fitting during a check required by paragraph (a), or during an inspection required by paragraph (b) or (c), before further flight replace the cracked part with a new part of the same part number, in accordance with "INSTRUCTIONS" paragraph (d.1), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977, or FAA approved equivalent, and continue to check in accordance with paragraph (a) and continue to inspect in accordance with paragraph (b).

(e) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(f) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment revises AD 71-17-04 (Amendment 39-1266).

This amendment becomes effective December 27, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), because its effect on the economy is less than 20,000 annually, and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, sense it effects maintenance on aircraft owned by few small entities.

Issued in Kansas City, Missouri, on December 9, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-35373 Filed 12-27-82; 2:14 pm]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AWP-3]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of the Santa Barbara, Calif., Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Santa Barbara, CA, Additional Control Area to provide additional controlled airspace west of the Vandenberg Air Force Base (AFB). This action improves air traffic control service by increasing the amount of controlled airspace available for radar vectoring service.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On October 12, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to lower the floor of the Santa Barbara, Calif., Additional Control Area (47 FR 44746). This amendment designates additional controlled airspace west of Vandenberg AFB to provide for more efficient radar vectoring service to aircraft arriving or departing Vandenberg AFB. The additional controlled airspace will also be available to the Los Angeles Air Route Traffic Control Center (ARTCC) for civil use. The existing airspace is restricted by minimum vectoring altitudes which are too high for practical use in this area. 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 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Santa Barbara, CA, Additional Control Area to provide additional controlled airspace west of the Vandenberg AFB.

List of Subjects in 14 CFR Part 71

Additional control areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Santa Barbara, CA [Amended]

By deleting the period after the word "boundary" and adding the words ", except, that airspace extending upward from 2,000 feet MSL within the area bounded by a line beginning at lat. 34°57'30" N., long. 121°15'00" W.; to lat. 35°06'17" N., long. 120°54'55" W.; to lat. 34°56'30" N., long. 120°43'30" W.; thence via a line 3 nautical miles west of and parallel to the shoreline to lat. 34°24'00" N., long 120°30'00" W.; to lat. 34°23'00" N., long. 120°30'00" W.; to lat. 34°19'00" N., long. 120°45'00" W.; to lat. 34°50'00" N., long. 121°10'00" W.; thence to point of beginning."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Washington, D.C., on December 17, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-35162 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-22]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; Savanna, Ill.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to revoke the transition area currently designated for Savanna, Illinois, due to the decommissioning of the Savanna, Illinois, non-directional radio beacon.

The intended effect of this action is to return the associated airspace to a non-controlled status.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Tri-Township Municipal Airport Authority, Savanna, Illinois, has requested permission to decommission the Savanna, Illinois, non-directional radio beacon (SFY) due to economic and maintenance restraints. That decommissioning would operationally terminate all published instrument procedures for the Franklin U. Stransky Airport and, as such, negate the need for the designation of a transition area. Aeronautical maps and charts will reflect the change.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 49975 of the **Federal Register** dated November 4, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Savanna, Ill. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation

Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. February 17, 1983, as follows:

Savanna, Illinois [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

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

Issued in Des Plaines, Ill. on December 15, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-35164 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-24]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area; Lafayette, Ind.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a new controlled airspace area near Lafayette, Ind., to accommodate a new instrument approach into Aretz Airport, Lafayette, Ind., which was established on the basis of a request from the Aretz Airport officials to provide that facility with the instrument approach capability utilizing the Boiler, Ind., VORTAC facility.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure, which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 49977 of the Federal Register dated November 4, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a new 700-foot controlled airspace transition area near Lafayette, Ind. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Lafayette, Indiana (Aretz Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Aretz Airport (latitude 40°27'37"N, longitude 86°50'05"W), excluding the airspace within the Lafayette, Indiana, transition area (Purdue University Airport).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

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

Issued in Des Plaines, Ill., on December 15, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-35165 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-20]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; Watersmeet, Mich.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to modify and correct the Watersmeet, Michigan, transition area description by eliminating all references to the Boulder Junction transition area and Federal Airways V63, V91E and V430 while correcting a previous transposition of the directions east for west and west for east in that description.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: Due to the removal of the navigational aid serving Boulder Junction Airport and subsequent loss of instrument approach procedures, the Boulder Junction, Wisconsin, transition area is in the process of being cancelled. As such, the

exclusion to same as published in the current Watersmeet, Michigan, transition area description is no longer appropriate. The exclusion references to V63, V91E and V430 have also been determined inappropriate and are to be deleted.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate in order to comply with applicable visual flight rule requirements.

History

On page 49976 of the **Federal Register** dated November 4, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Watersmeet, Michigan. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Watersmeet, Michigan

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of the NRC Airport, Watersmeet, Michigan (lat. 46°17'15"N., long. 89°16'35"W.), excluding that portion which overlaps the Land-O-Lakes transition area; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 4.5 miles south of the 265° true bearing of the Watersmeet (RXW) NDB (lat. 46°17'18"N., long. 89°16'43"W.), extending 18.5 miles west of the NDB and 9.5 miles north and 4.5 miles south of the 100° true bearing of the RXW NDB extending 18.5 miles east, excluding that portion which overlaps the Land-O-Lakes transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Des Plaines, Ill. on December 15, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82–35163 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Revision to Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revising its Statement of Organization and Functions to reflect changes in addresses and organizational structure.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492–6980.

SUPPLEMENTARY INFORMATION: This rule amends 16 CFR Part 1000 to reflect recent changes in the Commission's addresses and organizational structure, as described below.

16 CFR 1000.4 is revised to reflect the relocation of the Commission's Office of Congressional Relations and Office of Public Affairs from the Commission's main headquarters to its Bethesda, Maryland offices.

16 CFR 1000.5 is revised to delete references to petitioning procedures under the Consumer Product Safety Act. Such procedures were based on section 10 of the Act, which was repealed by Pub. L. 97–35.

16 CFR 1000.7 is revised to correct the designation of the Directorate for Compliance and Administrative Litigation.

16 CFR 1000.17 is revised to delete reference to the Office of Public Affairs' administration of public participation activities, since that Office no longer engages in such activities.

Since this rule relates solely to internal agency organization and management, the Administrative Procedure Act (APA) (5 U.S.C. 553) does not require the Commission to apply the notice and comment provision of the APA.

Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 602–612, and thus is exempt from the provision of that Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (Government Agencies).

PART 1000—[AMENDED]

Accordingly, Part 1000 of Title 16 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Part 1000 reads as follows:

Authority: 5 U.S.C. 552(a).

2. In § 1000.4, paragraphs (b) and (c) are revised to read as follows:

§ 1000.4 Commission addresses.

* * * * *

(b) The main headquarters of the Commission are at 1111 18th Street, N.W., Washington, D.C. At this location are the Offices of the Chairman and Commissioners, a hearing room, and a public reading room maintained by the Office of the Secretary.

(c) The Office of the General Counsel, Office of the Secretary, Office of Congressional Relations, Office of Public Affairs, Office of Internal Audit, Office of Equal Employment Opportunity and Minority Enterprise, the Executive Director and the operating units under his or her authority, are located at 5401 Westbard Avenue, Bethesda, Maryland.

* * * * *

3. Section 1000.5 is revised to read as follows:

§ 1000.5 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

4. In § 1000.7, paragraph (b) is revised to read as follows:

§ 1000.7 Advisory opinions and interpretations of regulations.

* * * * *

(b) *Interpretations of regulations.* Upon written request, the Associate Executive Director for Compliance and Administrative Litigation will issue written interpretations of Commission regulations pertaining to the safety standards and the enforcement of those standards. Requests for such

interpretations should be sent to the Associate Executive Director for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207. Requests for interpretations of administrative regulations (e.g., Freedom of Information Act regulations) should be sent to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

5. Section 1000.17 is revised to read as follows:

§ 1000.17 Office of Public Affairs.

The Office of Public Affairs is responsible for the development, implementation, and evaluation of a comprehensive national public affairs program designed to promote product safety. The Office develops and maintains relations with a wide range of national groups, including: Consumer organizations; business groups; trade associations; state and local government associations; labor organizations; medical, legal, scientific, and other professional associations; national print and broadcast media; and other Federal health, safety, and consumer affairs agencies.

Dated: December 23, 1982.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc 82-35323 Filed 12-29-82; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 201, 230, 240, 250, 260, 270, and 275

[Release Nos. 33-6446; 34-19356; 35-22789; 39-787; IC-12913; IA-835]

Elimination of Legal Size Paper

AGENCY: The Securities and Exchange Commission.

ACTION: Amendments to rules.

SUMMARY: The Securities and Exchange Commission announces the adoption of amendments to its rules to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. The Commission's filing system was designed to accommodate both letter size (8½ x 11 inches) and legal size (8½ x 13 inches) papers. After the Commission adopted a micrographics filing program, however, it became apparent that attempting to accommodate both size papers increased the cost of microfiche because, in most instances, it is not possible to get the maximum number of images on each microfiche. Adopting a uniform size for all documents filed with the Commission will achieve maximum cost-efficiency in the commission's micrographics filing program.

EFFECTIVE DATE: January 30, 1983.

FOR FURTHER INFORMATION CONTACT: Questions should be directed to Douglas J. Scheidt, Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Telephone: (202) 272-2454.

SUPPLEMENTAL INFORMATION: The Commission announces the adoption of amendments to 17 CFR 201.22(e), 230.403(a), 240.12b-12(a) and (b), 250.22(d), 260.7a-17, 260.7a-18, 270.0-2(b), 270.8b-12(a) and (b), and 275.0-4(b) which eliminate the use of legal size paper and require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. This action parallels that of the Judicial Conference of the United States, which has adopted the 8½ x 11 inch paper size standard for use throughout the federal judiciary and eliminated the use of legal size paper, effective January 1, 1983 (46 FR 60864, December 14, 1981). In addition, many state courts have adopted the letter size paper requirement.

Discussion

On June 11, 1982, the Commission published for comment proposed amendments to 17 CFR 201.22(e), 230.403(a), 240.12(b)-12(a) and (b), 250.22(d), 260.7a-17, 260.7a-18, 270.0-2(b), 270.8(b)-12(a) and (b), and 275.0-4(b), which would eliminate, with minor exceptions, the use of legal size paper for all statements, documents, reports and amendments thereto filed with the Commission and require that all such filings be made on 8½ x 11 inch paper. After consideration of the comments received in response to the Proposing Release, the Commission has determined to adopt the proposed amendments with minor modification. The amendments are based on the Commission's assessment that the Commission's microfiche costs would be reduced by the adoption of 8½ x 11 inches as a uniform paper size, and that requiring the uniform use of that paper size will not create hardship for persons making filings with the Commission.

Six of the eleven commentators responding to the Commission's request for comments in the Proposing Release supported the amendments, one commentator suggested that the amendments only be adopted as a guideline, and four others expressed no view but requested certain clarifications. Some of the commentators also suggested modifications to the proposed amendments. One modification would have provided that the amendments not apply to documents, such as annual and quarterly shareholder reports, which are ordinarily prepared on paper smaller than 8½ x 11 inches, and which are not required to be filed with the Commission but which are often filed as exhibits to other documents filed with the Commission. Another modification would have provided that the proposed amendments not apply to certain documents which are prepared for filing with the Commission's but which, because of their special nature, e.g., computer-generated printouts, cannot be placed on 8½ x 11 inch paper.

The Commission has considered the suggested modifications and has determined to accept the first of the suggested modifications. Documents initially prepared on paper smaller than 8½ x 11 inches for purposes other than filing with the Commission need not be photostatically enlarged to 8½ x 11 inches, as the Commission microfiching expenses are not increased by the copying of documents smaller than that size. The Commission wishes to emphasize, however, that all documents that are prepared for filing with the Commission should be prepared on 8½ x 11 inch paper, except as provided below.

The Commission also has determined to revise the proposed amendments in light of the second of the suggested modifications. The proposed amendments permitted the filing of oversize documents "which were prepared for purposes other than for filing with the Commission" if the photostatic reduction of those documents rendered them illegible. Some oversize documents, however, such as computer-generated printouts, are prepared expressly for purposes of filing with the Commission. Photostatic reduction of such documents may be impracticable or render the print illegible. Thus, the Commission has determined to permit the filing of any document, whether prepared for purposes of filing with the Commission or not, if the document cannot initially be prepared on 8½ x 11 inch paper and reduction of the document would render it illegible. The Commission believes that this modification permits sufficient flexibility to those who may prepare certain exhibits expressly for filing with the Commission, such as computer printouts, the reduction of which is impracticable. The Commission expects, however, that persons filing documents

with the Commission will file oversize documents only under the limited circumstances permitted.

Similarly, the Commission expects that in most instances requiring registrants and others to use 8½ x 11 inch paper for all filings with the Commission will not create hardship. The Commission recognizes, however, that certain documents filed with the Commission, such as material contracts and leases, as well as computer-generated printouts, maps, plats and geological surveys, may commonly be prepared on paper larger than 8½ x 11 inches and often for purposes other than for filing with the Commission. In some instances, reducing such documents to the required size would be costly or would result in an illegible document. Under such circumstances in which it is not practicable to reduce documents to 8½ x 11 inch paper, the Commission would permit filings on larger paper.

Other persons responding to the Commission's request for comments indicated that the photostatic reduction of larger documents to 8½ x 11 inch paper may result in type size and margins that do not conform with the Commission's requirements. The Commission would accept such photostatically reduced copies so long as the type remains legible and the margins remain sufficiently wide so that, when the pages are bound, the reading matter is not obscured.

In light of the above, the Commission amends its rules relating to filing requirements to require the use of 8½ x 11 inch paper for all applications, statements, reports, documents, and amendments thereto filed with the Commission. The Commission finds, in accordance with the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(A), and 5 U.S.C. 553(d), that these amendments relate solely to agency organization, procedure or practice and do not relate to substantive rules.

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects

17 CFR Part 201

Administrative practice and procedure, Investigations, Securities.

17 CFR Parts 230, 240 and 260

Reporting requirements, Securities.

17 CFR Part 250

Accounting, Reporting requirements, Securities, Utilities.

17 CFR Part 270

Investment companies, Reporting requirements, Securities.

17 CFR Part 275

Investment advisers, Reporting requirements, Securities.

Text of Amendments

In consideration of the foregoing, the Commission hereby amends Parts 201, 230, 240, 250, 260, 270, and 275 of Chapter II, Title 17, Code of Federal Regulations, as follows:

PART 201—RULES OF PRACTICE

Authority: Secs. 19, 23, 48, Stat. 85, as amended, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11).

1. Paragraph (e) of § 201.22 is revised as follows:

§ 201.22 Filings; formalities; computation of time.

* * * * *

(e) *Paper, spacing, type.* All paper filed under this part shall be typewritten, mimeographed, lithographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for microfilming. All papers shall be plainly legible and shall be on one grade of good unglazed white paper measuring no larger than 8½ x 11 inches. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All papers should have lefthand margins at least 1½ inches wide, shall be bound on the lefthand side, and shall be double-spaced, except that quotations shall be single-spaced and indented. If printed, they shall be in either 10- or 12-point type with double-leaded text and single-leaded quotations.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Authority: Secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended (15 U.S.C. 77f, 77h, 77s).

2. Paragraph (a) of § 230.403 is revised as follows:

§ 230.403 Requirements as to paper, printing, language and pagination.

(a) Registration statements, applications and reports shall be filed on good quality, unglazed, white paper no larger than 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Authority: Secs. 4, 16, 19, 24, 48 Stat. 77, 896, 85, as amended, 901 (15 U.S.C. 77d, 78p, 77s, 78x).

3. Paragraphs (a) and (b) of § 240.12b-12 are revised as follows:

§ 240.12b-12 Requirements as to paper, printing and language.

(a) Statements and reports shall be filed on good quality, unglazed white paper, no larger than 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

* * * * *

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Authority: Sec. 19, 48 Stat. 85, as amended, secs. 13, 15, 23, 48 Stat. 894, 895, 901, as amended, sec. 15, 49 Stat. 828, secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173, as amended, secs. 36, 39, 54 Stat. 841 (15 U.S.C. 77s, 77m, 78o, 78w, 79o, 77eee, 77ggg, 77nnn, 77sss, 80a-37, 80a-38).

4. Paragraph (d) of § 250.22 is revised as follows:

§ 250.22 Applications and declarations.

* * * * *

(d) *Formal specifications.* All applications, declarations, certificates and statements, and any amendments thereto, shall be filed in triplicate. One

copy shall be signed but the other two copies may have facsimile or typed signatures. Applications and declarations, amendments thereto, and where practicable, all papers filed as a part thereof shall be on good quality, unglazed, white paper, no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All documents filed shall be bound on the left side in such manner as to leave the reading matter legible, and shall be printed, lithographed, mimeographed, typewritten, or prepared by any process which, in the opinion of the Commission, produces copies suitable for permanent records and microfilming. Irrespective of the process used, all copies of such material shall be clear, easily readable and suitable for repeated photocopying. Debits and credits in financial statements shall be clearly distinguishable as such on photocopies.

* * * * *

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

Authority: Secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173 (15 U.S.C. 77eee, 77ggg, 77nnn, 77sss).

5. § 260.7a–17 is revised as follows:

§ 260.7a–17 Quality, color and size of paper.

The application, statement or report, including all amendments and, where practicable, all papers and documents filed as a part thereof, shall be on good quality, unglazed, white paper, no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

6. Paragraph (a) § 260.7a–18 is revised as follows:

§ 260.7a–18 Legibility.

(a) The application, statement or report, including all amendments and, where practicable, all papers and documents filed as a part thereof, shall be clear, easily readable and shall be typewritten, mimeographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for repeated photocopying and microfilming.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Authority: Secs. 38, 40, 54 Stat. 841, 842 (15 U.S.C. 80a–37, 80c–89).

7. Paragraph (b) of § 270.0–2 is revised as follows:

* * * * *

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant but the other four copies may have facsimile or typed signatures. Such applications should be on paper no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. The application must be typed, printed, copied or prepared by any process which, in the opinion of the commission, produces copies suitable for microfilming. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying.

* * * * *

8. Paragraphs (a) and (b) of § 270.8b–12 are revised as follows:

§ 270.8b–12 Requirements as to paper, printing and language.

(a) Registration statements and reports shall be filed on good quality, unglazed, white paper, no larger than 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The registration statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the registration statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debits categories shall be designated so as to be clearly distinguishable as such on photocopies.

* * * * *

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Authority: Secs. 203, 204, 211, 54 Stat. 850, as amended, 852, as amended, 855, as amended (15 U.S.C. 80b–3, 80b–4, 80b–11).

9. Paragraph (b) of § 275.0–4 is revised as follows:

§ 275.0–4 General requirements of papers and applications.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application, shall be filed in quintuplicate. One copy shall be signed by the applicant, but the other four copies may have facsimile or typed signatures. Such applications shall be on paper no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, those documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying and microfilming.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

December 21, 1982.

[FR Doc. 82–35482 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79–14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is

issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

SUPPLEMENTARY INFORMATION: Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of January 1983 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Issued December 23, 1982.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar year 1980:												
Incremental pricing threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.786	1.799	1.812	1.825	1.839	1.653	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar year 1981:												
Incremental pricing threshold	1.891	1.908	1.925	1.942	1.954	1.967	1.980	1.990	2.000	2.010	2.025	2.041
NGPA section 102 threshold	2.667	2.698	2.729	2.761	2.767	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA section 109 threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 percent of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar year 1982:												
Incremental pricing threshold	2.057	2.071	2.085	2.099	2.106	2.113	2.120	2.129	2.139	2.149	2.159	2.169
NGPA section 102 threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.249	3.274
NGPA section 109 threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130 percent of .No. 2 fuel oil in New York City threshold	9.160	9.340	9.470	9.340	9.280	8.000	8.170	8.670	8.660	8.950	8.640	8.890
Calendar year 1983:												
Incremental pricing threshold	2.179											
NGPA section 102 threshold	3.299											
NGPA section 109 threshold	2.254											
130 percent of No. 2 fuel oil in New York City threshold	9.420											

[FR Doc. 82-35180 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 82-239]

Customs Regulations Amendment Relating to the Customs Field Organization

Correction

In FR Doc. 82-33925 beginning on page 55913 in the issue for Tuesday, December 14, 1982, the third column of that page, the **EFFECTIVE DATE** should read "January 13, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-82-970]

Property Improvement Loans

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule will require that all Title I Property Improvement loans in excess of $2,500 be secured by a recorded lien upon the improved property. In addition, a lien on the improved property, for loans of less than $2,500, will also be required in the event the total obligation of class 1 and class 2 loans exceeds $2,500, exclusive of financing charges. The requirement will be applicable to a borrower, co-maker or co-signer.

The reduction of the loan amount on which security is required from $7,500 to $2,500 is necessary because of the significant increase in personal bankruptcy filings and the adverse treatment afforded unsecured property improvement loans in such proceedings. Lien security will also enhance the collectibility of loans and reduce credit insurance claims by insured lenders.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9160, 451 Seventh Street, S.W., Washington, D.C., 20410, (202) 755–6680. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This final rule amends 24 CFR 201.2(f) to require that all Title I Property Improvement loans in excess of $2,500 be secured by a recorded lien upon the improved property. In addition, a lien on the improved property, for loans of less than $2,500, will also be required in the event the total obligation of class 1 and class 2 loans exceeds $2,500, exclusive of financing charges. This requirement will be applicable to a borrower, co-maker or co-signer.

The reduction of the loan amount on which security is required from $7,500 to $2,500 is necessary because of the significant increase in personal bankruptcy filings and the adverse treatment afforded unsecured property improvement loans in such proceedings. Lien security will also enhance the collectibility of loans and reduce credit insurance claims by insured lenders.

The Department published this amendment as a proposed rule in the Federal Register at 47 FR 14712 on April 6, 1982. The Department received a total of sixty-one comments on the proposed rule. The majority of the comments were by thrift institutions, credit unions, commercial banks and savings and loan associations. Comments were also received from trade associations representing the thrift and housing industries, home improvement contractors, local government and public housing agencies and the AFL–CIO. After considering all of the comments, the Department has decided to adopt the rule as proposed. A summary and discussion of the public comments follows.

1. The principal criticism by those who oppose the reduction of the loan amount for which security would be required from $7,500 to $2,500 is the increased costs, in time and expenses, associated with having to file liens for a greater number of loans. The comments argue that, because the expense of recording a lien is essentially fixed, the required recordation may render smaller loans cost ineffective and disqualify moderate- and low-income borrowers. Others suggest that $2,500 is too low a threshold and recommend that the reduction, if any, allow loans of less than $5,000 to remain unsecured.

These related considerations were important in the Department's formulation of the proposed, now final, rule. In making its decision, the Department had to balance its need to protect its interests as insurer against the potential imposition on lenders and borrowers. After due deliberation, the Department believes that it is appropriate to require liens on property improvement loans in excess of $2,500.

2. Some of the commenters pointed out that lenders already have the discretion to require a mortage for a loan of less than $7,500 if their underwriting indicates that a lien should be recorded. The amendment is therefore, in their opinion, unnecessary. However, the lenders' discretion to determine the need for a recorded lien exacts a corresponding lack of uniformity in application. More importantly, it is HUD which is ultimately at risk on an insured loan. It is therefore imperative that the Department assess the protection it needs.

3. The supplementary information to the proposed rule explained that the Department deemed the reduction of the loan amount on which security is required to $2,500 necessary because of the significant increase in personal bankruptcy filings and the adverse treatment of unsecured Property Improvement loans in bankruptcy proceedings. A number of credit unions commented that the proposed rule failed to address the true cause of HUD's concern, the easy availability of relief under the bankruptcy code. The commenters recommend the Department lobby for bankruptcy reform to, as an example, exempt Title I loans from the discharge in bankruptcy.

The Department does not believe that amendment of the bankruptcy code is essential to the protection of its interests. Lien recordation will bring property improvement loans within the protection that the bankruptcy code already provides secured loans. Finally, lien security will also enhance the collectibility of loans and will reduce credit insurance claims by insured lenders. This final rule will therefore protect the Department whether or not the borrower has initiated a bankruptcy proceeding.

4. Four commenters questioned the amendment's ability to "enhance the collectibility of loans" as small as $2,500. The Department believes that the mortgage lien will be an effective collection tool because the recipients of these property improvement loans generally do have equity in their properties. The availability of collateral to satisfy the debt greatly increases the probability of collection. The Department will use this collection tool wherever feasible.

A Finding of No Significant Impact with respect to the environment was made for the proposed rule in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. That Finding of No Significant Impact is also applicable to this final rule. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C., 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulations. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, federal, state and local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The Department does not believe that the cost of lien recordation will be significant for most lenders and borrowers.

This rule was listed as Item H–21–81 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.142, Property Improvement Loan Insurance for Improving All Existing Structures and Building of New Nonresidential Structures.

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Mobile homes, Manufactured homes and lots.

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Accordingly, the Department amends 24 CFR Part 201 by revising 24 CFR 201.2(f) to read as follows:

§ 201.2 Eligible notes.

* * * * *

(f) *Secured notes.* A loan in excess of $2,500, exclusive of financing charges, shall be secured by a recorded lien upon the improved property. A recorded lien upon the improved property, for loans of

less than $2,500, is required if the total amount of all class 1 and class 2 loans of the borrower, co-maker or co-signer exceeds $2,500, exclusive of financing charges.

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 2 of the National Housing Act, 12 U.S.C. 1703)

Dated: December 21, 1982.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-35434 Filed 12-29-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Permanent State Regulatory Program of North Dakota; Modification of Deadline

AGENCY: The Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is modifying the deadline for North Dakota to meet one of the conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Secretary is extending the deadline for the State to resolve the condition until July 1, 1983.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-5351.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on its regulatory and administrative schedules.

The North Dakota program was conditionally approved on December 15, 1980 (45 FR 82241–82248). The Secretary's approval was conditioned on the State's correction of 13 minor deficiencies in its program by July 1, 1981. That deadline was later extended, upon the State's request, to January 1, 1983 (46 FR 54070–54071). A further extension of the deadline to July 1, 1983, was granted North Dakota to meet condition "e" as listed at 30 CFR 934.11(e) (September 27, 1982, FR 42347–42348).

In a letter to the Director dated September 28, 1982, the North Dakota Public Service Commission requested that the deadline for the State to meet condition "m" be extended from January 1, 1983, to July 1, 1983.

In accordance with the State's request the Secretary issued a notice in the **Federal Register** proposing such an extension and inviting public comment on the proposal until December 2, 1982 (47 FR 49666–49667, November 2, 1982).

Condition "m" stipulates that the Secretary's approval of the North Dakota program will terminate on January 1, 1983, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations revising the date for establishment of valid existing rights under NDCC 38-14.1-07(i) and NDAC 69-05.2-01-02(126) to be consistent with SMCRA Section 522(e) and 30 CFR 761.5 or otherwise amends its program to accomplish the same result.

The State indicated that satisfaction of condition "e" will require a statutory change in the North Dakota Century Code. The Commission indicated that it would draft the required change for consideration by the Legislative Assembly when it convenes in January 1983. Since statutory changes normally become effective on the first of July following legislative action, the State requested an extension to July 1, 1983, to meet condition "m" to allow time for the statutory change to take effect. In order for the change to become effective earlier, both Houses of the State Legislature would have to pass emergency legislation by a two-thirds vote. In light of the restraints imposed by the State's legislative schedule, the Secretary has decided to grant North Dakota an extension to July 1, 1983, to meet condition "m".

Given the small number of permit applications expected to be reviewed and issued during the additional time the Secretary is allowing the State to meet condition "m", the Secretary believes that extension of the deadline will not adversely affect the State's implementation of its approved regulatory program.

Public Comment: Although public comment was invited on the proposed extension, none was received.

Additional Determinations

1. *Compliance with the National Environment Policy Act.* The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 CFR 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic effect on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this program amendment.

List of Subjects in 30 CFR Part 934

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

Accordingly, Part 934 of Title 30 is amended as set forth below.

Dated: December 22, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 934—NORTH DAKOTA

§ 934.11 [Amended]

30 CFR 934.11(m) is amended by substituting July 1, 1983 for January 1, 1983 in that paragraph.

[FR Doc. 82-35485 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 82-15]

Drawbridge Operation Regulations; Myakka River and Gasparilla Sound, Florida.

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the old railroad drawbridge across the Myakka River, mile 3.1, near Charlotte Beach and the old railroad drawbridge (South Bridge) across Gasparilla Sound, mile 1.3, at Gasparilla Island because rail traffic has been discontinued and the bridges are maintained in the open position. Notice and public procedure have been omitted from this action due to the lack of use of the bridges concerned.

EFFECTIVE DATE: This rule becomes effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Seventh Coast Guard District, telephone (305) 350–4108.

Drafting information: The drafters of this rule are James R. Kretschmer, Project Officer, and Lieutenant Dave L. Brannon, Project Attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that remain open to navigation. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

§§ 117.245 [Amended]

In consideration of the foregoing, Part 117 of Title 33 Code of Federal Regulations, is amended by removing §117.245(i)(3) and § 117.245(i)(3a).

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 10, 1982.

A. D. Breed,

Acting District Commander.

[FR Doc. 82-35487 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 164

[CGD 81-081]

Electronic Position Fixing Devices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule eliminates the requirement for the complementary system to satellite navigation receivers required on vessels 1600 gross tons (GRT) or more, and allows the carriage of a "stand alone" satellite navigation receiver to meet the requirements for an electronic position fixing device. This action has been taken based on a review of 176 vessel groundings from 1977 to 1979 that shows negligible benefits accruing from the complementary system. This rule also makes several minor editorial and organizational changes. Eliminating the requirement for a complementary system is expected to save up to $24 million in installation costs for both U.S. and foreign vessel owners.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Falvey, Office of Marine Environment and Systems (G–WWM), U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593, (202) 426–4958, between the hours of 7:00 A.M. and 3:30 P.M., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking containing requirements for carriage of electronic position fixing equipment was published on November 14, 1977 (42 FR 59012). A supplemental notice of proposed rulemaking was published on January 25, 1979 (44 FR 5312) to propose a more detailed performance standard for LORAN–C receivers, which had not been available when the original notice was published. The present rule was published as an interim final rule in the May 31, 1979 issue of the **Federal Register** (44 FR 31562) to consider an expansion of the area of applicability. A Final Rule was published without change in the January 10, 1980 issue of the **Federal Register** (45 FR 2027). The Final Rule required vessels with "stand alone" satellite systems installed before June 1, 1982, to install a complementary system by June 1, 1985. Vessels installing satellite systems on or after June 1, 1982 were required to have the complementary system installed concurrently. In the February 11, 1982 issue of the **Federal Register** (47 FR 6269), the requirement for installation of a complementary system to satellite navigation receivers was delayed for 2 years. In that rulemaking, those vessels having systems installed before June 1, 1984 did not have to install a complementary system until June 1, 1987, while those installing systems on or after June 1, 1984 had to have the complementary system installed concurrently. In the August 16, 1982 **Federal Register** (47 FR 35531), a proposed rulemaking was published that would eliminate the requirement for the complementary system to satellite navigation receivers.

Drafting Information: The principal persons involved in drafting this rule are Mr. Tom Falvey, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

Discussion: The requirements for the carriage of electronic position fixing devices became effective for all vessels 10,000 GRT or more on June 1, 1980. Vessels 1600 GRT but less than 10,000 GRT are required to carry this equipment on and after June 1, 1982. Acceptable electronic position fixing devices include LORAN C (Type I or II as defined in the Radio Technical Commission for Marine Services' (RTCM) Paper 12–78/DO–100, "Minimum Performance Standards (MPS) Marine LORAN C Receiving Equipment"), or a satellite navigation receiver integrated with a continual tracking, complementary system, such as satellite-OMEGA, satellite-LORAN C, satellite-doppler, and satellite-inertial.

In response to the initial notice of proposed rulemaking for carriage of electronic position fixing equipment, forty-seven comments were received. Of those forty-seven, three contended that a satellite navigation receiver interfaced with speed and gyro inputs is normally as accurate as a satellite-OMEGA hybrid, especially at times of atmospheric disturbance, such as at dawn and dusk. The Coast Guard, in the preamble to the interim final rule, contended that in the absence of set and drift, that statement would be correct; however, in the presence of significant set and drift, a considerable error in position might develop between usable satellite passes. Acting on the assumption that a prudent navigator would not rely on a single positioning source, and in consideration of the 3000 "stand alone" satellite navigation receivers in use in 1977, a decision was made to review the incidence of groundings of vessels equipped with satellite navigation receivers through 1981, and to then make a final determination on the acceptability of "stand alone" satellite navigation receivers. Therefore only an interim rule was published.

A review of Coast Guard files for groundings involving vessels from 1977 to 1979 was subsequently undertaken. No 1980 data has been reviewed since it has not been compiled in usable form. In the 1977 to 1979 period, some 176 groundings of vessels 1000 GRT or more were evaluated, and none involved a grounding of a vessel using a satellite receiver. With the absence of any facts showing that navigational safety could be significantly enhanced by the requirement for a complementary system, and with the fact that this requirement may cost up to 3000 vessel owners up to $24 million in installation costs, the Coast Guard considered it appropriate to propose that the requirement for a complementary system be eliminated.

As the requirement for the complementary system was to be implemented on June 1, 1982 for new installations, prompt action was necessary to avoid vessel owners implementing a requirement that may later be eliminated. A final rule was therefore published on February 11, 1982 (47 FR 6269) that delayed the complementary system requirements for two years. This action provided the necessary time to consider elimination of the requirements for a complementary system, and allowed use of a "stand alone" satellite navigation receiver. The proposed rulemaking that would eliminate the required complementary system to satellite navigation receivers was published on pages 35531–35532 of the **Federal Register** of August 16, 1982, and invited comments for 45 days, ending September 30, 1982. One comment, from a manufacturer of satellite navigation receivers, was received. The commenter supported the proposal, stating that the use of Omega with a satellite navigation receiver provides little benefit under the best of conditions, and could be hazardous under certain conditions, such as during periods of ionospheric disturbances and during sunrise and sunset. The commenter suggested an addition to the receiver characteristic requirements, for receivers to perform automatic calculations of speed vector corrections in order to provide set and drift between satellite passes. While this proposal has considerable merit, it is felt to be premature until a requirement for a speed log is included in the regulations. The speed log will be the subject of a future rulemaking that will propose requirements consistent with those adopted in 1981 by the International Maritime Organization (IMO, formerly IMCO) in the Safety of Life at Sea Convention (SOLAS).

The Federal Radionavigation Plan

The existing regulations allow the use of an electronic position fixing system, in lieu of LORAN C or a satellite navigation system, that meets the requirements of the U.S. "Department of Transportation (DOT) National Plan for Navigation". This report was replaced in July, 1980 with the Federal Radionavigation Plan. Section 164.41(c) changes the reference from the DOT National Plan for Navigation to the new Federal Radionavigation Plan. (Report No. DOD-No. 4650. 4–P, I or No. DOT–TSC–RSPA–80–16,I). The government accession numbers for the plan have been corrected in this rulemaking from those published in the proposed rule to reflect the numbers of the most recently published edition of the plan (second edition, March, 1982). Since this correction was merely an editorial change, no further rulemaking procedures are considered necessary.

Evaluation and Certification

This revision affects a minimum of 3000 vessels carrying "stand alone" satellite navigation receivers. These vessels will not have to install a complementary system, such as OMEGA. At a minimum cost of about $8000 per installation, this would result in a $24 million savings. This regulation has been evaluated under Executive Order 12291 and DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for Simplification, Analysis, and Review of Regulations", and has been determined to be neither major nor significant. There are no demonstrable benefits that would be obtained by requiring the installation of complementary systems. For this reason a full regulatory evaluation has not been prepared. This equipment is principally manufactured by entities other than small businesses. To the potential user of the equipment the savings resulting from not being required to install the equipment is usually less than one day's operating costs and would not be significant. For these reasons, in accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 164

Marine safety, Navigation (water), Waterways.

PART 164—[AMENDED]

In consideration of the foregoing, 33 CFR Part 164 is amended by adding § 164.03 and revising § 164.41 to read as follows:

§ 164.03 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this part where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and at Room 4402, U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, D.C.

(b) The materials approved for incorporation by reference in this part are: Radio Technical Commission For Marine Services (RTCM) Paper 12–78/DO–100 dated 12/20/77.

§164.41 Electronic position fixing devices.

(a) Each vessel calling at a port in the continental United States, including Alaska south of Cape Prince of Wales, except each vessel owned or bareboat chartered and operated by the United States, or by a state or its political subdivision, or by a foreign nation, and not engaged in commerce, must have one of the following:

(1) A Type I or II LORAN C receiver as defined in Section 1.2(e), meeting Part 2 (Minimum Performance Standards) of the Radio Technical Commission for Marine Services (RTCM) Paper 12–78/DO–100 dated December 20, 1977, entitled "Minimum Performance Standards (MPS) Marine Loran–C Receiving Equipment". Each receiver installed on or after June 1, 1982, must have a label with the information required under paragraph (b) of this section. If the receiver is installed before June 1, 1982, the receiver must have the label with the information required under paragraph (b) by June 1, 1985.

(2) A satellite navigation receiver with:

(i) Automatic acquisition of satellite signals after initial operator settings have been entered; and

(ii) Position updates derived from satellite information during each usable satellite pass.

(3) A system that is found by the Commandant to meet the intent of the statements of availability, coverage, and accuracy for the U.S. Coastal

Confluence Zone (CCZ) contained in the U.S. "Federal Radionavigation Plan" (Report No. DOD–NO 4650.4–P, I or No. DOT–TSC–RSPA–80–16, I). A person desiring a finding by the Commandant under this subparagraph must submit a written application describing the device to: Commandant (G–WWM), U.S. Coast Guard, Washington, D.C. 20593. After reviewing the application, the Commandant may request additional information to establish whether or not the device meets the intent of the Federal Radionavigation Plan.

Note.—The Federal Radionavigation Plan is available from the National Technical Information Service, Springfield, Va. 22161, with the following Government Accession Numbers:
Vol 1, ADA 116468
Vol 2, ADA 116469
Vol 3, ADA 116470
Vol 4, ADA 116471

(b) Each label required under paragraph (a)(1) of this section must show the following:

(1) The name and address of the manufacturer.

(2) The following statement by the manufacturer:

This receiver was designed and manufactured to meet Part 2 (Minimum Performance Standards) of the RTCM MPS for Marine Loran–C Receiving Equipment.

(Sec. 12, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4))

November 29, 1982.

B. F. Hollingsworth,

Rear Admiral, Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82–35486 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Amendments

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) is making miscellaneous amendments to its medical series of regulations (38 CFR Part 17). The reason for these changes is to incorporate various amendments made by public law and simultaneously to bring these regulations up to date. Amendments to regulations concerning the following subjects are included: non-VA care in private facilities; medical benefits to Commonwealth Army Veterans and New Philippine Scouts in the Philippines and the United States; recovery of health care costs from other compensation programs, emergencies at non-VA facilities; eligibility and benefits under CHAMPVA; readjustment counseling; outpatient services for veterans of the Mexican Border Period and World War I and former POW's; emergency care at national conventions; drugs and medicine to pensioners; priority status on outpatient medical services; rates for State Veterans Homes payments; and additional resources for sharing agreements.

DATES: These amendments are effective November 24, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein, Chief, Policies and Procedures Division (136F), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–3785.

SUPPLEMENTARY INFORMATION: Public Laws 95–520, 95–588, 96–22, 96–151, 96–330, 97–37, and 97–72 amended various sections of Title 38, United States Code as described below:

(1) Pub. L. 95–520, Veterans' Administration Programs Extension Act of 1978, and Pub. L. 96–151, Veterans Health Programs Extension and Improvement Act of 1979, expanded the VA's authority to provide hospital care and medical services on a reimbursement basis in private facilities, when government facilities are unable to do so, to include (a) medical services for veterans of the Mexican Border Period or World War I or those in receipt of aid and attendance or housebound allowance, (b) hospital care and medical services for any veteran who, while receiving medical services at a VA health care facility or other government facilities for which the VA contracts, develops a need for emergency care which cannot be furnished by the facility, (c) hospital care and medical services that will obviate the need for hospital admission of veterans in a State, territory, commonwealth or possession of the United States not contiguous to the 48 contiguous states, (d) diagnostic services necessary at an independent outpatient clinic for the determination of eligibility for medical services or the determination of the appropriate course of treatment to be carried out, to obviate the need for hospital admission in connection with a nonservice-connected disability.

(2) Pub. L. 97–72, Veterans Health Care, Training, and Small Business Loan Act of 1981, provides authority for the Administrator to contract for care and treatment of United States veterans in the Veterans Memorial Medical Center (VMMC) during the period October 1, 1981, through September 30, 1986. The law also provides grant authority of $500,000 per year beginning October 1, 1981, and ending September 30, 1986, for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and rehabilitating the physical plant of the VMMC. The previous authority for providing hospital or nursing home care and medical services including transportation expenses, in the Philippines either by contract or in the VMMC at VA expense to Commonwealth Army Veterans (CAV) or New Philippine Scouts (NPS) for either service-connected or nonservice-connected disabilities, expired September 30, 1981. The annual grant for such medical care and the grant for training of health service personnel assigned to the VMMC also expired at the same time. Only United States veterans, including those Filipinos who served on active duty with the United States Armed Forces are now eligible for care and treatment in the Philippines.

(3) Pub. L. 96–22, Veterans' Health Care Amendments of 1979, authorized the VA to provide hospital and nursing home care and outpatient medical services to CAV and NPS in facilities in the United States over which the Administrator has direct judisdiction and in other government facilities with which the Administrator contracts, for their service-connected disabilities only. VA health care eligibility for nonservice-connected veterans under the age of 65. Section 5 of Pub. L. 97–37, Former Prisoner of War Benefits Act of 1981, exempted former prisoners of war from the requirement to certify their inability to defray medical expenses.

(4) Pub. L. 96–151 amended § 613(a) and established § 613(c) of title 38, U.S.C. and provides eligibility for medical care under CHAMPVA (Civilian Health and Medical Program of the Veterans Administration) for the surviving spouse or child of a person who died while on active duty and for children between the ages of 18 and 23 who are pursuing a full-time course of education approved by the VA and who incur a disability resulting in their inability to continue their program of education.

(5) Section 105 of Pub. L. 97–72 amended § 613(b) of title 38, U.S.C. and provides the beneficiaries of CHAMPVA receiving medical care in VA medical facilities which are equipped to provide the required treatment if they are not being used to provide treatment to eligible veterans. Previous laws

provided for specialized treatment in uniquely equipped VA facilities.

(6) Section 104(a)(1) of Pub. L. 97–72 extends to September 30, 1984, the expiration date for Vietnam veterans to apply for readjustment counseling.

(7) Pub. L. 96–151 amended § 612(g) and Pub. L. 97–37 amended § 612(f), of title 38, U.S.C. extending outpatient services for any disability to veterans of the Mexican Border Period or World War I, and former prisoners of war.

(8) Pub. L. 96–22, section 202, authorized the VA to provide emergency outpatient services to persons attending national conventions of VA-recognized service organizations, if the service organization agrees, by contract to pay the VA for treatment provided to those who are not eligible as veterans.

(9) Aid and attendance pensioners who had their pensions discontinued were permitted to continue to receive drugs and medicines from the VA so long as their income did not exceed the maximum permissible income limitation by more than $500. Pub. L. 95–588, Veterans' and Survivors' Pension and Improvement Act of 1978, increased the maximum permissible income limitation to $1,000.

(10) Section 101, Pub. L. 96–22, section 5(c), Pub. L. 96–37, Former Prisoner of War Benefits Act of 1981, and section 102(b), Pub. L. 97–72, provide for priority processing for outpatient medical services to those veterans who are being examined for purposes of determining entitlement or adjustment of compensation benefits as well as to veterans who are former prisoners of war and to veterans who are receiving medical services for conditions which may have resulted from exposure to dioxin or toxic substances or ionizing radiation.

(11) Pub. L. 96–151 increased per diem rates for payments by the VA to State Veterans Homes for hospital, nursing home and domiciliary care.

(12) Pub. L. 96–151 authorized VA medical centers to enter into contracts with organ banks, blood banks or similar institutions for mutual use or exchange of use of specialized medical resources.

The Administrator has determined that these amendments to VA regulations are considered nonmajor under the criteria of Executive Order 12291 on Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase in costs or prices, and will not otherwise have any significant adverse economic effects. The VA finds that advance publication of these amendments for public notice and comment is unnecessary and not required. These changes are primarily technical amendments to conform VA regulations to substantive changes previously made by several public laws. They will not have independent effect. Therefore, the changes come within exceptions to the general VA policy of prior publication for public notice and comment, contained in 38 CFR 1.12. Accordingly, the changes are now published as final regulations. No notice of proposed rulemaking will be published for these regulations, therefore they do not come with the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601, thereby excepting these amendments from the review requirements of §§ 603 and 604 of that Act.

The Catalog of Federal Domestic Assistance Program numbers are 64.008, 64.009, 64.010, 64.011, 64.014, 64.015, 64.016, and 64.018.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs, Health care, Health facilities, Medical devices, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: November 24, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

1. In § 17.30(w)(3), subdivisions (ii), (iii) and (v) are revised and a new (vi) added so that the new and revised material reads as follows:

§ 17.30 Definitions.

* * * * *

(w) *VA Facilities.* The term "Veterans Administration facilities" means:

* * * * *

(3) Private facilities for which the Administrator contracts when Government facilities are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide:

* * * * *

(ii) Medical services for veterans released from inpatient care to outpatient treatment status and medical services for any disability of a veteran who has a service-connected disability rated at 50 percent or more or, a veteran of the Mexican Border Period or of World War I or who is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound or who, but for the receipt of retired pay would be in receipt of such pension, compensation or allowance, if the Veterans Administration has determined that their medical condition is such that it precludes appropriate treatment in a Veterans Administration or other Federal government facility, or

(iii) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a facility for which the Administrator has direct jurisdiction or a Government facility for which the Administrator contracts, until such time as the veteran can be safely transferred to any such facility, or

* * * * *

(v) Hospital care or medical services that will obviate the need for hospital admission for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous States, or

(vi) Diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, the provision of medical services at independent Veterans Administration outpatient clinics to obviate the need for hospital admission. (38 U.S.C. 601(4), as amended by Pub. L. 90–612, sec. 2; Pub. L. 93–82, sec. 101(a); Pub. L. 94–581, sec. 202(b); Pub. L. 95–520, sec. 5; Pub. L. 96–22, sec. 102(c)(1), 201(a); Pub. L. 96–151, sec. 202)

2. Section 17.37 is revised to read as follows:

§ 17.37 Hospital or nursing home care in the Philippines in facilities other than Veterans Memorial Medical Center.

Hospital or nursing home care may be authorized in the Republic of the Philippines in facilities other than the Veterans Memorial Medical Center for any United States veteran and is eligible for hospital or nursing home care under § 17.47 (a) or (b), or a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and hospital care has been determined necessary for any of the reasons enumerated in § 17.36(b). (38 U.S.C. 624, Pub. L. 87–815)

3. Section 17.38 is revised to read as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Medical Center, Philippines.

Hospital nursing home care at the Veterans Memorial Medical Center, Quezon City, Republic of the Philippines, may be authorized by the

United States Veterans Administration pursuant to the terms and conditions set forth in §§ 17.350–17.370 for United States veterans for: (38 U.S.C. 624, Pub. L. 97–72, sec. 107)

(a) Any service-connected disability of a veteran of service in the Armed Forces of the United States (including veterans of service in the Philippine Scouts under laws in effect prior to the enactment of section 14 of the Armed Forces Voluntary Recruitment Act of 1945), who is eligible for hospital care under § 17.47 (a) or (b).

(b) A nonservice-connected disability of a veteran if such veteran is unable to defray the expenses of necessary hospital care. (38 U.S.C. 624(c), as amended by Pub. L. 89–358, sec. 8; Pub. L. 94–581, sec. 202(1); 210(a)(11); Pub. L. 95–520, sec. 3(a))

(c) *Transfers for nursing home care.* Transfer of any United States veteran hospitalized in the Philippines at Veterans Administration expense to a nursing home facility may be authorized subject to the following:

(1) The nursing home care facility is determined to meet the physical and professional standards prescribed by the Chief Medical Director, and

(2) The cost of the nursing home care will not exceed the rates specified in § 17.51(b)(3).

(3) The nursing home care will not be for more than 6 months in the aggregate in connection with any one transfer, except in the case of a veteran whose hospitalization was primarily for a service-connected disability. In such case entitlement to nursing home care under this subparagraph is not subject to any limitation.

(38 U.S.C. 624; Pub. L. 93–82, sec. 108(a); Pub. L. 97–72, sec. 107(a))

(d) Extensions of community nursing home care beyond 6 months. The Chief Medical Director or designee may authorize, for any veteran whose hospitalization was not primarily for a service-connected disability, an extension of nursing care in a contract nursing care facility at Veterans Administration expense beyond 6 months for circumstances of an unusual nature such as when a medical and economic need continues to exist, additional time is required to complete other arrangements for care or when readmission to a hospital is not deemed professionally advisable despite terminal deterioration of the veteran's medical condition.

(38 U.S.C. 624; Pub. L. 93–82, sec. 108(a); Pub. L. 97–72, sec. 107(a))

§§ 17.40 and 17.41 [Removed]

4. Sections 17.40 and 17.41 are removed.

§ 17.42 [Amended]

5. Section 17.42 is amended by replacing the word "Hospital" with the word "Medical Center" where it appears in that section.

§ 17.43 [Removed]

6. Section 17.43 is removed.

7. Section 17.46a is revised to read as follows:

§ 17.46a Hospital and nursing home care for Commonwealth Army Veterans and New Philippine Scouts.

Hospital and nursing home care may be furnished to Commonwealth Army Veterans and New Philippine Scouts within the limits of facilities in the United States over which the Administrator has direct jurisdiction or other Government facilities with which the Administrator contracts, for service-connected disabilities.

(38 U.S.C. 634; Pub. L. 96–22, sec. 106(a))

§ 17.46b [Amended]

8. In § 17.46b, paragraph (b) is amended to revise the title "Department of Health, Education and Welfare" to "Department of Health and Human Services" where it appears in that paragraph.

9. Section 17.48 is amended by adding the words "and (e)" after the word "(d)" where it appears in the introductory line of paragraph (c); and by revising paragraph (d) to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(d) Persons hospitalized pursuant to paragraph (c)(1), (d) or (e) of § 17.47, who it is believed may be entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by reason of any one or more of the following:

(1)(i) Membership in a union, fraternal or other organization; (ii) rights under a group hospitalization plan, or under any of the prepay medical care or insurance contracts or plans which provide for payment or reimbursement in whole or in part, for the cost of medical or hospital care, and conditions the obligation of the insurer to pay upon payment or incurrence of liability by the person covered; (iii) "Workers' Compensation" or "employer's liability" statutes, State or Federal; and (iv) right to maintenance and cure in admiralty; or

(2) By reason of statutory or other relationships with third parties, including those liable for damages because of negligence or other legal wrong; or

(3) By reason of a statute in a State, or political subdivision of a State, (i) which requires automobile accident reparations insurance or (ii) which provides compensation or payment for medical care to victims suffering personal injuries as the result of a crime of personal violence; will not be furnished hospital care, medical or surgical treatment, without charge therefor to the extent of the amount for which such parties, referred to in paragraph (d)(1) or (2) of this section, are, or will become liable. Such patients will be required to execute an appropriate assignment as prescribed herein. Patients who, it is believed, may be entitled to care under any one of the plans in paragraph (d)(1) of this section will be required to execute Veterans Administration Form 10–2381, Power of Attorney and Agreement. Those patients who, it is believed, may be entitled to hospital care under the circumstances prescribed in paragraph (d)(2) of this section will be required to complete Veterans Administration Form 2–4763, Power of Attorney and Assignment. Notice of this assignment will be mailed promptly to the party or parties believed to be liable. When the amount of charges is ascertained, a bill therefore will be mailed such party or parties.

(38 U.S.C. 629, Pub. L. 97–72)

* * * * *

10. In § 17.49, paragraph (a)(3)(iii) and the note following paragraph (c) are revised to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* Eligible persons will be admitted or transferred to a Veterans Administration facility in the following order:

* * * * *

(3) *Priority groups.*

* * * * *

(iii) Group III includes:

(A) Veterans receiving hospital, nursing home or domiciliary care from the Veterans Administration pursuant to § 17.47 (c), (d) or (e), as applicable, whose transfer to a Veterans Administration medical center has been requested for medical reasons except as follows: Veterans eligible under § 17.47 (d) or (e), admitted to medical centers who subsequently are determined to require psychiatric care for more than 6 months will not be *accorded priority for transfer under this group. (See group V.)*

(B) Patients eligible under § 17.47 (a) or (b) who are in Veterans Administration medical centers which are not the nearest appropriate facility to the point of application, may be transferred to the appropriate medical center nearest the point of application provided the clinical findings indicate they will require 90 days or more of inpatient care in the latter facility.

* * * * *

Note.—The provisions of § 17.48(b) will apply in determining whether the veteran has $415 income available for his or her own use.

11. Section 17.50b is amended by revising paragraphs (e) and (f), removing paragraph (h) and revising and redesignating paragraphs (i) and (j) as paragraphs (h) and (i) so that the revised material reads as follows:

§ 17.50b Use of public or private hospitals for veterans.

* * * * *

(e) *For veterans in Puerto Rico and other possessions.* The veteran is a veteran in need of hospital care or medical services necessary to obviate the need for hospital admission in the Commonwealth of Puerto Rico or other Territory, Commonwealth or Possession of the United States (except the authority under this paragraph expires September 30, 1982.)

(38 U.S.C. 624, Pub. L. 97-72)

(f) *For veterans in Alaska or Hawaii.* The veteran is a veteran in need of hospital care or medical services necessary to obviate the need for hospital admission in Alaska or Hawaii whose public or private hospital admission can be accommodated within an average daily patient load per thousand veteran population at Veterans Administration expense in Federal, public or private hospital facilities in Alaska or Hawaii not exceeding the average daily patient load per thousand veteran population hospitalized by the Veterans Administration within the 48 contiguous States.

(38 U.S.C. 624, Pub. L. 95-520)

* * * * *

(h) *For emergent conditions arising during care in a Veterans Administration medical center or Government facility.* The veteran, while receiving hospital care or medical services in a facility over which the Administrator has direct jurisdiction or Government facility with which the Administrator contracts, who develops a need for emergency treatment of a condition which poses a serious threat to the veteran's life or health; and for which the facility is not staffed or equipped to perform, and transfer to a public or private hospital which has the necessary staff or equipment is the only feasible means of providing the necessary treatment, or—

(38 U.S.C. 601(4) as amended by Pub. L. 94-581, sec. 202(b); Pub. L. 96-511, sec. 202)

(i) *For any disability of a veteran totally and permanently disabled from a service-connected disability.* The veteran has a total disability permanent in nature resulting from a service-connected disability and has been medically determined to require hospital care or medical services for a nonservice-connected condition, if the Veterans Administration has determined that the medical condition is such that it precludes appropriate treatment in a Veterans Administration or other Federal Government facility.

(38 U.S.C. 612, Pub. L. 96-22)

§ 17.50c [Amended]

12. Section 17.50c is amended by removing the words "Veterans Administration hospital" and inserting the words Veterans Administration medical center" where they appear in that section.

13. Section 17.50e is revised to read as follows:

§ 17.50e Use of hospitals under sharing agreements.

Hospital care in a Federal, State or local, public or private hospital facility may be authorized for any veteran entitled to hospital care under § 17.47 when such care requires the use of a specialized medical resource made available by that facility pursuant to an agreement for sharing specialized medical resources.

(38 U.S.C. 624, Pub. L. 94-581)

§ 17.51 [Amended]

14. In § 17.51, paragraph (b)(3) is amended by removing the word "hospital" and inserting the words "medical center" where it appears in that paragraph.

15. In § 17.54, paragraphs (a) and (c) are revised to read as follows:

§ 17.54 Medical care for survivors and dependents of certain veterans.

(a) Medical care may be provided for—

(1) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and

(2) The surviving spouse or child of a veteran who—

(i) Died as a result of a service-connected disability, or

(ii) At the time of death has a total disability, permanent in nature resulting from a service-connected disability—

who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS) and—

(38 U.S.C. 613 added by Pub. L. 93-82, sec. 103(b), amended by Pub. L. 94-581, sec. 104)

(3) The surviving spouse or child of a person who died in the active military, naval or air service in the line of duty and not due to such person's own misconduct.

(38 U.S.C. 613(a), as amended by Pub. L. 96-151, sec. 205(a)(1))

(4) An eligible child who is pursuing a full-time course of instruction approved under title 38, U.S.C., chapter 36, and who incurs a disabling illness or injury while pursuing such course; between terms, semesters or quarters; or during a vacation or holiday period; which is not the result of his or her own willful misconduct and which results in the inability to continue or resume the chosen program of education shall remain eligible for medical care until:

(i) The end of the six-month period beginning on the date the disability is removed; or

(ii) The end of the two-year period beginning on the date of the onset of the disability; or

(iii) The twenty-third birthday of the child,

whichever occurs first.

(38 U.S.C. 613(c), added by Pub. L. 96-151, sec. 205(a)(2))

* * * * *

(c) In limited situations, the Chief Medical Director or designee may authorize care and treatment to the class of beneficiaries covered by this section in Veterans Administration medical facilities which are equipped to provide the care and treatment, and which are not otherwise being utilized for the care of veterans. Such medical care may be furnished on either an inpatient or outpatient basis and may be furnished in either Veterans Administration medical centers or Veterans Administration outpatient clinics.

(38 U.S.C. 613(b), added by Pub. L. 97-72, sec. 105)

§ 17.57 [Amended]

16. In § 17.57, paragraph (a)(2) is amended by changing the date "September 30, 1981" to "September 30, 1984" and by adding the cite "(38 U.S.C. 612A, Pub. L. 97-72)" at the end of that sentence.

§ 17.58 [Amended]

17. Section 17.58 is amended by adding the following cite after paragraph (d)(iv): (38 U.S.C. 612A, added Pub. L. 96–22, sec. 103; amended by Pub. L. 97–72, sec. 104).

18. Section 17.60 is amended as follows: by removing the word "care" in the title and inserting the words "medical services"; by removing the words "as defined in" in the introductory paragraph and inserting the word "under"; by removing the words "outpatient treatment" where they appear in paragraphs (b) and (d) and inserting the words "outpatient medical services"; by removing the words "medical care is" in paragraph (f) and inserting the words "medical services are"; by removing the word "care" in paragraph (g) and inserting the words "medical services"; and by revising paragraphs (h), (i), and (j)(2) and adding new paragraphs (k) and (l) so that the revised and added material reads as follows:

§ 17.60 Outpatient medical services for eligible persons.

Medical services may be furnished, within the limits of Veterans Administration facilities, to the following applicants under the conditions stated, except that applicants for dental treatment, under paragraphs (a) to (d) inclusive of this section must also meet the applicable provisions of § 17.123:

* * * * *

(h) *For veterans 50 percent or more disabled from a service-connected disability.* Outpatient medical services may be authorized to treat any nonservice-connected disability of a veteran who has a service-connected disability rated at 50 percent or more.

(38 U.S.C. 612 as amended by Pub. L. 91–102; Pub. L. 93–82, sec. 103(a); Pub. L. 94–581, sec. 103)

(i) *For veterans who are housebound or in need of aid and attendance.* Any veteran who is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation or allowance, or veterans or World War I or the Mexican Border Period.

(38 U.S.C. 612(g); Pub. L. 91–500, sec. 2; Pub. L. 96–151, sec. 204)

(j) *Home health services.* * * *

* * * * *

(2) Will not exceed $600 for veterans being treated for a nonservice-connected disability and then only to (i) Veterans receiving authorized post-hospital care under the authority of § 17.60(f); (ii) Veterans rated at 50 percent or more service-connected; and (iii) Veterans of the Mexican Border Period or World War I. (38 U.S.C. 612(f); Pub. L. 93–82, sec. 101(c); Pub. L. 94–581, secs. 101(2), 103(7))

(k) *For former prisoners of war.* Outpatient medical services may be authorized to treat any nonservice-connected disability of a veteran who is a former prisoner of war. (Pub. L. 97–37, sec. 5(b))

(l) *For Commonwealth Army Veterans and New Philippine Scouts.* Outpatient medical services may be furnished to Commonwealth Army Veterans and New Philippine Scouts within the limits of facilities in the United States over which the Administrator has direct jurisdiction or other Government facilities with which the Administrator contracts, for service-connected disabilities. (38 U.S.C. 634, Pub. L. 96–22, sec, 106(a))

§ 17.60 [Amended]

19. Section 17.60a is amended by removing the word "care" where it appears in the title and in the paragraph, and by inserting the words "medical services".

20. Section 17.60b is revised to read as follows:

§ 17.60b Outpatient medical services for Veterans Administration employees and others in emergencies.

(a) Outpatient medical services for which charges shall be made as required by § 17.62 may be authorized for employees of the Veterans Administration, their families, and the general public in emergencies, subject to conditions stipulated by the Administrator of Veterans Affairs.

(b) Emergency outpatient medical services may be authorized for individuals attending national conventions of Veterans Administration recognized services organizations, if the service organization has contracted with the Veterans Administration to reimburse the Veterans Administration for the cost of such emergency medical services. Reimbursement is not required for individuals eligible for such services under other provisions of this part. (38 U.S.C. 611(c)(1); Pub. L. 96–22, sec. 202; Pub. L. 96–128, sec. 501(a))

21. Section 17.60d is amended by revising paragraph (a) to read as follows:

§17.60d Prescriptions filled.

* * * * *

(a) The prescription is for:

(1) A veteran who by reason of being permanently housebound or in need of regular aid and attendance is in receipt of increased compensation under 38 U.S.C. chapter 11, or increased pension under § 3.1(u) (Section 306 Pension) or § 3.1(w) (Improved Pension), of this title, as a veteran of the Mexican Border Period, World War I, World War II, the Korean Conflict, or the Vietnam Era (or, although eligible for such pension, is in receipt of compensation as the greater benefit), or

(2) A veteran in need of regular aid and attendance who was formerly in receipt of increased pension as described in paragraph (a)(1) of this section whose pension has been discontinued solely by reason of excess income, but only so long as such veteran's annual income does not exceed the maximum annual income limitation by more than $1,000 and, (Pub. L. 95–588)

* * * * *

§ 17.60f [Amended]

22. Section 17.60f is amended by inserting "17.57" after "17.54" where that number appears in the paragraph.

23. Section 17.60g is revised to read as follows:

§ 17.60g Priorities for medical services.

Unless compelling medical reasons indicate otherwise, eligible veterans shall be furnished outpatient medical services on a priority basis in the following order:

(a) To any veteran for a service-connected disability;

(b) To any veteran with a service-connected disability, rated at 50 percent or more;

(c) To any veteran with a disability rated as service-connected, including any veteran being examined to determine the existence or rating of a service-connected disability. (Pub. L. 96–22, sec. 101)

(d) To any veteran who is a former prisoner of war or to any veteran eligible for treatment for conditions which may have resulted from exposure to dioxin or toxic substances or ionizing radiation. (Pub. L., 97–37, sec. 5(c); Pub. L. 97–72, sec. 102(b))

(e) To any veteran eligible under the provisions of § 17.60(i). (38 U.S.C. 612 (i); added Pub. L. 94–581, sec. 103(a)(8))

24. In § 17.62, paragraph (b)(1) is amended aby adding "or § 17.60b" after "§ 17.46(c)(1)"; and a new paragraph (i) is added to read as follows:

§ 17.62 Charges for care or services.

* * * * *

(i) *Furnished at national conventions.* Charges specified in contractual agreements with Veterans Administration recognized service organizations shall be made for emergency medical services furnished at national conventions of such organizations to individuals not eligible for such services under other provisions of this part. (38 U.S.C. 611(c); Pub. L. 96–22, sec. 202 as amended by Pub. L. 96–128, sec. 501(a))

§ 817.64 [Amended]

25. In § 17.64, paragraph (b) is amended by removing the title "Chief Attorneys" in the title, and "Chief Attorney" in the paragraph and inserting in those places the title "District Counsel"; and by removing the word "workmen's" and inserting the word "workers' ".

26. Section 17.166c is revised to read as follows:

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates of $6.35 for domiciliary care, $12.10 for nursing home care, and $13.25 for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home. (38 U.S.C. 641, as amended; Pub. L. 96–151, sec. 101(b)(1))

27. In § 17.210, the introductory paragraph and paragraph (d) are revised to read as follows:

§ 17.210 Sharing specialized medical resources.

Subject to such terms and conditions as the Chief Medical Director shall prescribe, agreements may be entered into for sharing medical resources with other hospitals, including State or local, public or private hospitals or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions, or medical schools or clinics in a medical community with geographical limitations determined by the Chief Medical Director, provided:

* * * * *

(d) Reimbursement for medical care rendered to an individual who is entitled to hospital or medical services (Medicare) under subchapter XVIII of chapter 7 of title 42, United States Code, and who has no entitlement to medical care from the Veterans Administration, will be made to such facility, or if the contract or agreement so provides, to the community health care facility which is party to the agreement, in accordance with:

(1) Rates prescribed by the Secretary of Health and Human Services, after consultation with the Administrator, and

(2) Procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and service and efficient and economical utilization of resources. (38 U.S.C. 5053 as amended by Pub. L. 94–581, sec. 115(a)(1); Pub. L. 96–151, sec. 304)

§ 17.211 [Amended]

28. Section 17.211 is amended by removing the words "Veterans Administration hospitals" and inserting the words "Veterans Administration medical centers" in paragraphs (a), (c), (d), and (e); and by removing the words "Veterans Administration hospital" and inserting the words "Veterans Administration medical center" in paragraph (b).

§ 17.220 [Amended]

29. Section 17.220 is amended by removing the words "Education and Welfare" and inserting the words "and Human Services".

§ 17.350 [Amended]

30. Section 17.350 is amended by removing the words "Veterans Memorial Hospital" and inserting the words "Veterans Memorial Medical Center".

§ 17.351 [Amended]

31. Section 17.351 is amended by removing the words "Veterans Memorial Hospital" where they appear in the title and in the paragraph and inserting the words "Veterans Memorial Medical Center"; and by adding the following citation to the end of the paragraph: (38 U.S.C. 632, as amended by Pub. L. 97–72, sec. 107(c)(1)

32. Section 17.352 is revised to read as follows:

§ 17.352 Amounts and use of grant funds for the replacement and upgrading of equipment.

Grants awarded under § 17.351 shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for the purpose. Funds appropriated for the upgrading and replacement of equipment at the Veterans Memorial Medical Center, or for rehabilitating its equipment, shall remain available in consecutive fiscal years until expanded, but in no event shall exceed the amount of $500,000 per year. It is not intended that such funds will be utilized to expand the medical center facilities. Upgrading of equipment, however, would permit purchase of new and additional equipment not now possessed by the medical center. (38 U.S.C. 632, as amended by Pub. L. 97–72, sec. 107(c)(1))

§ 17.353 [Removed]

33. Section 17.353 is removed.

34. Section 17.355 is revised to read as follows:

§ 17.355 Awards procedures.

All applications for grants to the Republic of the Philippines under the provisions of § 17.351 shall be submitted to the Chief Medical Director or a designee for consideration. (38 U.S.C. 632, as amended by Pub. L. 89–612, sec. 2(3); Pub. L. 93–82, sec. 107(a); Pub. L. 95–520, sec. 3(b); Pub. L. 97–72, sec. 107(e)(1))

§§ 17.360 and 17.361 [Removed]

35. Sections 17.360 and 17.361 are removed.

36. Section 17.362 is revised to read as follows:

§ 17.362 Acceptance of medical supplies as payment.

Upon request of the Government of the Republic of the Philippines, payment for medical and nursing home services provided to eligible United States veterans may consist in whole or in part, of available medicines, medical supplies, or equipment furnished by the Veterans Administration to the Veterans Memorial Medical Center at valuations determined by the Administrator. Such valuations shall not be less than the cost of the items and shall include the cost of transportation, arrastre, brokerage, shipping and handling charges. (38 U.S.C. 632(a)(2); Pub. L. 97–72, sec. 107(c)(1))

37. Section 17.363 is revised to read as follows:

§ 17.363 Length of stay.

In computing the length of stay for which payment will be made, the day of admission will be counted, but not the day of discharge, death, or transfer. Where a veteran for whom hospitalization has been authorized in Veterans Memorial Medical Center or a contract facility, is absent from the hospital for a period longer than 24 hours, no payment will be made for hospital care during that absence. (38 U.S.C. 632, Pub. L. 95–520)

38. Section 17.364 is revised to read as follows:

§ 17.364 Eligibility determinations.

Determinations of legal eligibility and medical need for hospitalization of

United States veterans for treatment rest exclusively with the United States Veterans Administration.
Determinations as to various factors upon which eligibility may depend shall be made as follows:

(a) *Determinations of service connection.* For the purpose of meeting any requirement in §§ 17.37 through 17.39 for service-connected disability, the United States Veterans Administration shall determine that under laws it administers the disability in question was incurred in or aggravated by service, and

(b) *Determinations of valid service.* For the purpose of determining the necessary prerequisite service, determinations by the Department of Defense of the United States as to military service shall be accepted. In those cases in which the United States Veterans Administration shall have information which it deems reliable and in conflict with the information upon which the Department of Defense determination was made, the conflicting information shall be referred to the Department of Defense for reconsideration and redetermination. Such determinations and redeterminations as to military service shall be conclusive. (38 U.S.C. 612, Pub. L. 97–72)

39. Section 17.365 is revised to read as follows:

§ 17.635 Admission priorities.

Appropriate provisions of § 17.49 apply. (38 U.S.C. 612, Pub. L. 97–72)

§ 17.366 [Amended]

40. Section 17.366 is amended by removing the words "he determines" and inserting the words "it is determined that the".

§ 17.368 [Removed]

41. Section 17.368 is removed.

§ 17.369 [Amended]

42. Section 17.369 is amended by removing the word "Hospital" and inserting the words "Medical Center".

§ 17.370 [Amended]

43. Section 17.370 is amended by removing the word "Hospital" where it appears in that paragraph and inserting the words "Medical Center"; and by adding the following citation to the end of the paragraph: (38 U.S.C. 632, as amended by Pub. L. 97–72, sec. 107(c)(1))

[FR Doc. 82–35210 Filed 12–29–82; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL 2245–8; Docket No. NH–496]

Approval and Promulgation of Implementation Plans; New Hampshire Revisions; Group I and Group II VOC Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving, in part, State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions will reduce the formation of ozone in the ambient air through control of volatile organic compound (VOC) emissions from stationary sources. The intended effect of this action is to apply Reasonably Available Control Technology (RACT) to VOC sources as required under Section 172(b)(2) of the Clean Air Act.

EFFECTIVE DATE: January 31, 1983.

ADDRESSES: Copies of the submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408 and Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH, 03301.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On May 26, 1982 (47 FR 22978), EPA published a Notice of Proposed Rulemaking (NPR) for revisions to the ozone control portion of the New Hampshire SIP. These revisions consist of new regulations for VOC sources covered under the second group of Control Technique Guidelines (CTGS) published between January 1978 and January 1979, and changes to existing regulations from the first group of CTGs. The Clean Air Act requires states which have not attained the National Ambient Air Quality Standard for ozone to issue regulations that apply Reasonably Available Control Technology (RACT) to major stationary sources. EPA has written CTG's to assist the states in determining RACT for VOC sources. The CTG's represent a presumptive norm. The revisions and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

Adverse comments were received on the NPR from the Conservation Law Foundation (CLF). Those comments, and EPA's complete response to them, are contained in a Technical Support Document (TSD) available at the locations listed in the **ADDRESSES** section of this notice.

A summary of CLF's comments appears below:

(1) Against Agency policy, EPA approved New Hampshire's omission of several VOC control regulations.

(2) EPA allowed revisions to the State's regulation covering limits to applicability without sufficient analysis of consequences.

(3) EPA approved a regulation controlling leaks from petroleum refineries, even though this regulation is inadequate.

(4) EPA approved an emulsified asphalt regulation which allows solvent concentrations much greater than those recommended by the Agency.

(5) EPA failed to require New Hampshire to submit explicit compliance testing methods.

EPA's responses to CLF's comments are contained in the TSD mentioned above. Due to their length, they will not be fully restated here. Briefly summarized, our responses are:

(1) There is no EPA requirement for states to promulgate regulations for categories for which they have no sources. Furthermore, in rural nonattainment states, sources which emit less than 100 tons per year (TPY) of VOCs are likewise exempt. With regard to leaks from tank trucks, EPA had hoped that New Hampshire would adopt a regulation which was RACT for the New England states, even though no tank truck emits 100 TPY. However, since no such regulation has been forthcoming, EPA will take no action at this time, although we will encourage the state to adopt such a regulation in the future in order to further regional consistency in this control strategy.

(2) EPA's basis for approving these exemptions to other categories is derived from its policy of exempting sources that emit less than 100 TPY and are located in rural nonattainment areas. One other category, miscellaneous metal parts coaters, was added to the Limits to Applicability section, but was left out of this portion of the May 26, 1982 NPR. EPA had determined that the miscellaneous metal parts coating regulation was not RACT because of the means the State uses to determine compliance. However, New Hampshire has assured EPA that it will revise its method of determining compliance, and also that it has no

miscellaneous metal parts coaters which emit over 100 TPY. Therefore, EPA is taking no action on the coating of miscellaneous metal parts. Should any such sources in New Hampshire exceed 100 TPY emissions, the state must apply the EPA-approved method of determining compliance with this regulation.

(3) There are no petroleum refineries presently operating in New Hampshire. Therefore, the lack of a proper test method is not relevant.

(4) EPA estimates that this regulation is within 5% of the emission controls recommended by RACT, and is therefore approvable under Agency policy.

(5) New Hampshire has agreed to require that EPA-approved test methods are applied to its regulations. Until the State makes these revisions, EPA will apply the federally-approved test methods in 40 CFR Part 60 for enforcement purposes. This requirement also applies to test procedures under Regulation 1204.10(b) governing gasoline transfer. Since EPA failed to reference 1204.10(b) in the NPR, we will consider this revision in a later action.

EPA is also requiring that any compliance extensions under Air 1204.21 which exceed December 31, 1982 be submitted to us for approval as individual SIP revisions.

Action: EPA is approving regulations Section: Air 1204.03 for Limits to Applicability, Air 1204.11(d) controlling petroleum refinery leaks, Air 1204.12 and 1204.13 on control of cutback and emulsified asphalts, Air 1204.18 controlling printing operations, and Air 1204.21 on compliance schedules.

EPA is taking no action on regulations Section: Air 1204.01(b) regarding VOC bubbles, Air 1204.17 on miscellaneous metal part coaters, and all test methods. The reasons we are taking no action are fully explained in the TSD discussed previously and available at the locations listed in the ADDRESSES section.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at Room 2111, JFK Federal Building, Boston, MA.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

Dated: December 16, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

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

Subpart EE—New Hampshire

1. Section 52.1520 is amended by adding paragraph (c)(20) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(20) Revisions to meet ozone attainment requirements of Part D (VOC Control Regulations) were submitted on August 17, 1981 and are approved as follows: Regulations Air 1204.03, 1204.11(d), 1204.12, 1204.13, 1204.18 and 1204.21.

2. Section 52.1527 is amended by adding paragraph (c) as follows:

§ 52.1527 Rules and regulations.

* * * * *

(c) Part D—No Action—EPA is neither approving nor disapproving the following elements of the revisions:

(1) Air 1204.01(b) concerning VOC bubbles.

(2) Air 1204.17 governing miscellaneous metal parts coaters.

(3) VOC compliance test methods.

[FR Doc. 82-35371 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Health Care Prepayment Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: Prepaid health care organizations that furnish or arrange to furnish medical and other health services under Medicare Part B may elect to receive Medicare reimbursement on either a reasonable cost or a reasonable charge basis. These regulations amend the rules governing payment under both methods. The regulations provide that reasonable cost reimbursement to such plans will be based on reimbursement principles similar, to the extent possible, to those for Health maintenance Organizations (HMOs) reimbursed on a reasonable cost basis. Previously, the reimbursement rules for the two types of prepayment organizations were substantially different. The regulations require that prepayment organizations that elect to be paid on a reasonable charge basis be paid on the same basis as other suppliers, non-hospital clinics and physicians. Previously, prepayment plans were permitted a number of alternative methodologies for calculating reasonable charges (such as charges related to cost, reasonable charge payment on a non-bill basis, and so forth), which will be eliminated under these regulations. The purpose of these regulations is to clarify and simplify payment policy, and to assure consistent treatment of prepayment plans and other organizations and suppliers of services under Medicare.

EFFECTIVE DATE: All requirements of the regulations are effective on January 31, 1983, except 42 CFR 405.2097 and 405.2098(b). See Supplementary Information for further explanation on the effective date and on those sections that are not effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT:

Mendel Kaufman 301-597-6718

Bernadette Schumaker 301-597-1048

SUPPLEMENTARY INFORMATION:

I. Background

In general terms, a prepayment organization may be defined as one that furnishes, or arranges for furnishing, comprehensive health services to its enrollees in return for a predetermined periodic payment. Under Medicare, there are basically three ways in which prepayment organizations may be reimbursed for services to enrollees who are Medicare beneficiaries. These are the Health Maintenance Organization (HMO) options, the reasonable charge option, and the reasonable cost option. HMOs may be reimbursed on either a reasonable cost or incentive basis (section 1876 of the Social Security Act and 42 CFR Part 405, Subpart T). Other prepayment organizations, referred to as

Group Practice Prepayment Plans (GPPPs), are generally paid on the basis of reasonable charges; however, they may elect to be paid on a reasonable cost basis for most of the services they furnish. Both payment methods for GPPPs are currently governed by administrative guidelines as specified in the GPPP Manual, HIM–8.

Reasonable cost is defined in section 1861(v)(1)(A) of the Act, which also requires the Secretary to issue regulations establishing methods of reimbursement to be used for the various entities receiving reimbursement on a reasonable cost basis. The basic rules on reimbursement for services on a reasonable charge basis are set forth in section 1842(b) of the Act.

During the course of our experience in reimbursing GPPPs under both reasonable cost and reasonable charge methods, we found that some of the guideline provisions (such as reasonable charge reimbursement "on a non-bill basis", which is discussed below under Reimbursement of Other Prepayment Organizations) are inappropriate and should be modified. In addition, in light of the strong emphasis placed by the Department on developing HMOs as a more efficient and effective method of providing health services than the traditional fee-for-service system, we determined that the requirements relating to cost-basis GPPPs should be as consistent as possible with those for HMOs, and that we should encourage the transition of these GPPPs to HMOs. To achieve this, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 31, 1980. (45 FR 72538) for public comment. The provisions of the proposed regulations, a summary of the final regulations, and a discussion of the major comments are presented below.

In developing the final regulations, we have considered carefully both the need to publish regulations and, if needed, their scope and extent. The current administrative guidelines, which were adopted early in the program, contain provisions with respect to both cost and charge reimbursements that we now believe are not appropriate in determining reimbursement. (As explained more fully below, these provisions include payment for long-range capital needs and charge reimbursement methods not subject to the usual payment limits.) We do not believe we should continue those provisions, particularly when they result in a substantial amount of uneeded Federal expenditures.

Additionally, because the administrative guidelines are not clear in several respects, they are not applied consistently by Medicare contractors in making payments. This creates inequities among prepayment plans providing essentially the same services.

Therefore, we are publishing regulations that contain a consistent, appropriate and enforceable set of standards that can be used with little difficulty by both contractors and the prepayment plans. In developing the final rules, we have considered public comments, as well as results of our own further analysis, and made major changes to keep the requirements to a minimum. These changes include:

1. Elimination of the majority of the definitions that were contained in the NPRM (the three retained are discussed below later in this preamble);

2. Elimination of the qualifying conditions that were proposed in the NPRM, except for the requirement for an agreement with HCFA, and except for requirements relating to the furnishing of physicians' services and the qualification of all entities that furnish these services; and

3. Incorporation of the reimbursement provisions in the NPRM that are being retained into the existing HMO regulations at 42 CFR Part 405, Subpart T. This will clarify, without unnecessary repetition, which principles apply to both types of organizations.

We believe these final rules provide the minimum standards needed for clarity, consistency and program cost controls, and allow the greatest possible flexibility so that a broader range of organizations can qualify as prepaid health plans.

II. Provisions of Proposed Rules

A. Change in Terminology And Qualifying Conditions

1. *Terminology.* We proposed changing the term "Group Practice Prepayment Plan" (GPPP) to "Health Care Prepayment Plan" (HCPP). This term would be used to describe prepayment organizations that elect to receive payment on a reasonable cost basis under section 1833(a)(1)(A) of the Act for medical and other health services. The term HCPP also would distinguish these organizations from HMOs, since there are several major differences between the two types of organizations. For example, HMOs may be reimbursed for hospital, physician and other covered Part A and Part B services, while HCPPs may be reimbursed only for medical (including physician) and other health services covered under Part B. Another important difference is that HMOs, unlike HCPPs, can qualify for incentive payments (i.e., HMOs can retain a certain portion of savings resulting from efficient operation). In addition, under section 1876 of the Act, HMOs have to meet a more comprehensive set of qualification requirements.

2. *Qualifying Conditions.* The NPRM proposed requirements in five basic areas as conditions the HCPP would have to meet to qualify for Medicare reimbursement on a cost basis. In addition, the HCPP would have to execute an agreement with HCFA. The five areas were: required range of services offered, qualifications of those providing them, adequate access to services by beneficiaries, organization and operation, and acceptable arrangements for furnishing physician services.

B. Reimbursement of HCPPs Based on Reasonable Cost

The major reimbursement provisions of the NPRM for reimbursement of HCPPs were:

- The proposed regulations, in general, followed those for cost-basis HMOs which, in turn, are based on the reasonable cost reimbursement principles applied to Medicare providers of services (hospitals, skilled nursing facilities and home health agencies). (See 42 CFR Part 405, Subpart D, for these principles.) For example, these regulations require that the HCPPs weight statistics in apportioning the costs of direct professional services of physicians and other health care personnel using the same Medicare principles as HMOs. This adjustment reflects differences in the time and complexity of services furnished to Medicare enrollees, since these factors vary from patient to patient, and the variations may be particularly significant with respect to patients over age 65. Previously, we permitted GPPPs to weight a significantly broader range of costs than HMOs. However, the regulations would permit payment to HCPPs of certain costs unique to prepayment organizations, such as marketing costs, which have not been reimbursable under the GPPP guidelines.

- The proposal set forth specific methods for allocating allowable costs among different departments or cost centers of the HCPP, and for apportioning costs among its Medicare enrollees, other enrollees and nonenrolled patients. It required allocation on a departmental basis (for example, laboratory or X-ray) unless the HCPP submitted, and HCFA approved, a more appropriate method.

- The proposal also provided that:

(1) Hospital and other Medicare provider services furnished by an HCPP

to its Medicare enrollees would not be reimbursable to the HCPP. Instead, HCFA would make payment for these services through the provider's fiscal intermediary.

(2) Covered Part B services furnished to Medicare beneficiaries who are not enrollees of the HCPP would be reimbursed on a charge, rather than cost, basis under the generally applicable Medicare rules on payments for Part B services.

C. Reimbursement of Other Prepayment Organizations

The NPRM proposed a change in current policy on reimbursement of GPPPs paid on a reasonable charge basis. Under the administrative guidelines now in use, payments to these plans are made through a variety of methods (for example, a prospective composite fee schedule, or charges related to the premiums paid or reasonable charges on a non-bill basis). Not all of these methods have been subject to the general limits on payments set forth in the current regulations on reasonable charges, 42 CFR Part 405, Subpart E. For example, under one of these methods, reasonable charge reimbursement on a non-bill basis, we base charge payment on an amount equivalent to a GPPP's reasonable costs plus an "equalization factor", which is a payment for long-range capital needs, based on an amount charged by the GPPP to its non-Medicare enrollees. The proposed regulations would have eliminated all the reasonable charge methods on the administrative guidelines, including reasonable charge payment on a non-bill basis, and would have amended current regulations to apply the Subpart E rules to all prepayment plans that elect reasonable charge reimbursement, since we believe it is no longer appropriate to have special reasonable charge rules for prepayment plans.

III. Provisions of Final Regulations

Following is a summary of the provisions of the final regulations; additional detail is contained in the discussion of comments in section IV.

A. Definitions

As stated earlier, we have eliminated the majority of the definitions contained in the NPRM, except for definitions of an HCPP, covered Part B services and Medicare enrollee. The other definitions were needed both because we proposed a number of qualifying conditions requiring definitions, and because we intended to establish a new self-contained Part 418 setting forth all the rules applicable to HCPPs. Since we are eliminating the qualifying conditions and we are not establishing a new part, those definitions are no longer needed.

B. Qualifying Conditions

We have decided to eliminate the majority of the qualifying conditions that were contained in the NPRM. We believe that we should provide, instead, a general definition of an HCPP that does not impose conditions that could prove to be unnecessarily burdensome and that may allow a broader range of organizations to qualify as HCPPs. Since there are now a relatively small number (25) of prepayment organizations reimbursed on a reasonable cost basis, we think that we can encourage their movement toward HMO status through means other than imposing additional qualifying conditions, and that we can use monitoring methods to ensure that an appropriate quality of services is furnished. We also believe that the less strict definition, rather than the more detailed qualifying conditions, may foster development of prepaid health plans in general, and that this can be an important step toward increasing the number of Federally-qualified HMOs.

Although we have omitted most of the other qualifying conditions, we have retained three of the proposed requirements. The first requires a written agreement between the HCPP and HCFA. The agreement is essential as the basis for participating and receiving payment as an HCPP under the Medicare program. We have, however, reduced the requirements from those specified in the NPRM, in order to lessen the burden of complying with the detailed provisions. We have also retained the requirements for furnishing physicians' services through employees or through formal arrangements with a medical group, independent practice association, or individual physicians, and the requirement for furnishing Medicare covered services through entities that meet the applicable Medicare qualifications. We believe these are minimal requirements that are necessary to assure availability and appropriate delivery of services and to protect against program abuse.

In addition, in response to comments, we have included a provision that allows existing GPPPs that do not otherwise meet the requirements to qualify as HCPPs for purposes of these regulations. This provision is intended to apply only to those GPPPs that are participating in the Medicare program at the time these regulations become effective and have participated in the program for some time. We do not intend it to apply to organizations that apply for participation after the regulations are issued. Those organizations, which are not now serving beneficiaries, have the opportunity to learn about the requirements and develop their organization and procedures as necessary to meet them. However, there are a few organizations already participating that are not likely to meet the requirements but have been a valuable source of health care for some years to Medicare beneficiaries. Their elimination from the program could result in disruption of care and perhaps great confusion and anxiety for these individuals. Therefore, we think that these organizations should be permitted to continue on the current basis without the need for a new determination of qualifications.

C. Reimbursement of HCPPs

We have retained the basic approach of the NPRM which patterned reimbursement for prepayment plans that elect reasonable cost reimbursement as HCPPs, to the extent possible, on the reimbursement principles for cost-basis HMOs. To this end, we have incorporated the reimbursement provisions for HCPPs into the HMO regulations at 42 CFR Part 405, Subpart T. We have cross-referenced those principles for HCPPs that are the same for both HCPPs and HMOs, and we have added other provisions that apply only to HCPPs. The HMO provisions that do not apply to HCPP reimbursement generally pertain to services for which HCFA does not make payment to HCPPs (for example, Part A services or Part B services furnished by a hospital, skilled nursing facility or home health agency). For instance, 42 CFR 405.2042(b)(14) and (h), which apply to provider services furnished, or arranged by, an HMO, will not apply to HCPPs because HCPPs are not reimbursed by HCFA for provider services. Also, 42 CFR 405.2042(b)(12), which provides for the review of capital expenditures of health care facilities by health planning agencies, will not apply to the services furnished by HCPPs because HCPPs are not among the organizations subject to review.

Although we have incorporated the HCPP reimbursement principles into Subpart T, we have made some changes from the provisions contained in the NPRM. For example, we no longer require HCPPs to report costs on a departmental basis, as is the case for HMOs, for purposes of allocating and apportioning costs. (See discussion in section (IV)(3) below for definition of allocation and apportionment.) Rather, the HCPP can use a HCFA-approved

method of reporting costs that is justifiable from an administrative and cost efficiency standpoint. Although we orginally believed that reporting costs by departments would be appropriate because it might produce the most precise cost data and establish uniformity with respect to cost allocation and apportionment methodology, we do not believe there is sufficient justification at this time to impose the requirement.

D. Reimbursement of Other Prepayment Organizations

We have adopted in these final regulations the proposed change in current policy that would make payments to GPPPs subject to the usual principles, including limits, governing reasonable charge reimbursement for covered Part B services, in the same manner as payments to physicians, suppliers and non-hospital clinics. Payment to these prepayment plans will be made through the area Medicare carrier, as is done for physicians and suppliers.

IV. Discussion of Major Comments

A. Comments on HCPP Qualifying Conditions

1. *Comment:* There seems to be no statutory basis for the qualification conditions contained in the NPRM.

Response: We believe that we have the statutory authority, under section 1833(a) of the Act (provisions relating to prepayment organizations), and under section 1871 (the Secretary's rulemaking authority with respect to Medicare), to specify the requirements that must be met in order to qualify for Medicare reimbursement. However, as we indicated earlier, we have decided to eliminate the majority of the proposed qualifying conditions to avoid the possibility of imposing unnecessarily burdensome requirements.

2. *Comment:* Existing GPPPs that cannot meet the qualifying conditions should be allowed to continue as HCPPs under the regulations.

Response: We agree with this comment and have provided a "grandfather" provision.

3. *Comment:* More flexibility in the HCPP and other Medicare regulations should be allowed so that services furnished by nurse practitioners and physician assistants could be covered and reimbursed under Medicare, when such services are not performed under the direct supervision of a physician.

Response: Section 1861(s) of the Act permits coverage of nonphysician services performed "incident to a physician's professional service". As we pointed out in the preamble of the NPRM, current policy provides for this coverage only when a physician is actually present and immediately available to provide assistance and direction. We are continuing to review our policy on this issue and plan to solicit public comments on our policy. In making a determination of whether to change our current policy, we will also take into consideration the comments made on the proposed HCPP regulations. Certain other revisions in the regulations that were suggested in the comments on this issue would require a change in the law. For example, there is no provision in the law pertaining to GPPPs that would permit coverage of services furnished by independently practicing nurse practitioners and physician assistants.

4. *Comment:* Revise the regulation's language to allow for coverage of services furnished by psychiatrists and psychologists.

Response: We have not accepted this comment because mental health services (including psychiatric and psychological) are already covered, to the extent permitted by the statute, if the HCPP furnishes such sevices. Therefore, we do not believe coverage needs to be specifically mentioned in the regulations, since we are not listing all of the possible services that an HCPP may furnish.

B. Comments on HCPP Reimbursement Principles

1. *Comment:* The "equalization factor" (see explanation in section II–B above) should be recognized as an allowable cost.

Response: Although the administrative guidelines allow the "equalization factor" to be recognized for reimbursement purposes for GPPPs receiving reasonable charge reimbursement on a non-bill basis, it is not and has never been considered an incurred cost, and thus it is not an element in the reasonable cost of furnishing services. (Such payments were previously permitted only under a reasonable charge method of GPPP reimbursement which we are eliminating under these regulations.) Because section 1861(v)(1)(A) of the Act bases reasonable cost on those incurred in service delivery, the general Medicare principles of reimbursement do not recognize the cost of long-range capital financing (which was the purpose of the "equalization factor") as an allowable cost to the Medicare program. Medicare does pay its proportionate share of allowable current operating expenses actually incurred in acquiring buildings and equipment used to provide covered services to Medicare beneficiaries, and these expenses (such as depreciation and mortgage interest) are recognized as allowable costs under these regulations. Therefore, this final rule does not recognize an allowance for payment of an "equalization factor".

2. *Comment:* Reimbursement principles for HCPPs should not follow the reimbursement principles for cost-basis HMOs because the applicable statutory provisions allow payment to be made to HMOs for both Part A and Part B services and there is no overriding or compelling reason why reimbursement principles must be "uniform" for HCPPs and HMOs. Rather, existing GPPP rules should be used.

Response: We did not use the existing GPPP instructions because they contain certain inconsistencies with respect to current cost reimbursement principles. For instance, as we have described above, some of the reimbursement methods permitted under the GPPP instructions result in HCFA making payments for some costs that are not allowable for HMOs (for example, the use of weighted statistics in apportioning certain administrative costs) and not making payment for other costs that are allowable (such as marketing costs). Since cost-basis HMOs are similar in organization to HCPPs and the reimbursement basis specified in the law for cost-basis HOMs and HCPPs is the same (reasonable cost), we believe we are being consistent with legislative intent by applying the principles of reimbursement for cost-basis HMOs to HCPPs. We also believe that this policy will encourage the transition of HCPPs to HMO status, which the Department considers a desirable goal.

3. *Comment:* In apprortioning the costs of covered Part B services between Medicare enrollees and others for Medicare cost reimbursement purposes, reporting costs on a depertmental basis requires an unnecessary and elaborate recordkeeping system, and therefore, certain HCPPs, especially small plans, may be unable to supply the required information on a depertmental basis. The commenters suggested that an HCPP be allowed to apportion costs on the basis of total physician encounters with Medicare enrollees to total physician encounters with all patients.

Response: For Medicare reimbursement purposes, cost allocation refers to the distribution of indirect costs to various direct cost functions or activities. Cost apportionment is the process of determining Medicare's share of total costs using a ratio of the costs of

furnishing services to Medicare beneficiaries to the costs for non-Medicare patients. We are dropping the requirement that costs and statistical data be reported by department both for allocating allowable costs and for the apportionment of costs to Medicare enrollees. Therefore, we will approve an organization's plan to allocate or apportion costs on other than a departmental basis (e.g., a ratio involving medical services) if the method ensures the accurate and equitable allocation and apportionment of allowable costs, and is justifiable from an administrative and cost efficiency standpoint.

4. *Comment:* "Weighting" (see explanation in section II–B above) should be allowed for overhead costs of an HCPP department (for example, laboratory or X-ray), as is done for HMOs.

Response: We believe that the commenter has misinterpreted 42 CFR 405.2043(d), which is the regulation that provides for "weighting" of certain HMO costs. This regulation specifies that weighting is permitted only for the apportionment of costs of direct professional services of physicians and other health care personnel. The regulations do not permit (nor have they ever permitted) weighting for the apportionment of overhead costs for HMOs, and we have provided for the application of consistent rules for HCPPs.

We do not believe it reasonable to use weighted statistics to apportion overhead costs in prepayment plans. While weighting reflects the differences in time and complexity of services furnished to Medicare enrollees, and permits the costs of direct professional services of health care personnel to be apportioned in recognition of these differences, it does not follow that all costs incurred by a prepayment plan need be apportioned on the basis of the weighted statistics. Overhead costs, medical records costs and other indirect costs would not seem to be affected by the time and complexity differential and apportionment of such costs on the basis of weighted statistics would overstate the proportion of costs applicable to services furnished to Medicare enrollees.

5. *Comment:* Change the due date for submittal of the HCPP's cost report to the Medicare intermediary from 90 days to 120 days after the end of a reporting period.

Response: We have accepted this suggestion.

C. Comment on Reasonable Charge Reimbursement

1. *Comment:* Retain the current GPPP reasonable charge rules. They represent the only reasonable option available to prepayment plans that have a significant number of enrollees dually entitled under Medicare Part B and the Federal Employee Health Benefits (FEHB) program. (The plan submitting this comment is now reimbursed by Medicare under the guidelines on a prospective composite fee (charge) basis that is developed each year based on budgeted costs of the plan and the number of visits made by its enrollees.) If the payment limits in 42 CFR Part 405, Subpart E, are imposed as set forth in the NPRM, the plan would be required to come into compliance with the generally applicable Medicare rules on reasonable charge reimbursement. The commenter also states that it would have to establish a more elaborate and detailed fee schedule system for its FEHB enrollees. The plan urged us to maintain the various reasonable charge methods allowed under the GPPP guidelines that were unique to plans in similar conditions.

Response: As we indicated in the NPRM, our experience with the variety of payment methods now allowed has revealed a wide range of unjustifiable differences in several reimbursement areas, such as in average costs per service and per capita costs. There are also indications that some plans receive payments in excess of the reasonable charge payment limitations in Subpart E. While special procedures for determining a prepayment plan's reasonable charges may have been necessary in the early days of the Medicare program, we believe there no longer is justification to continue to allow these special procedures, especially since they result in payments in excess of amounts that fee-for-service physicians and clinics receive for the same services. In addition, we no longer believe it appropriate to pay an equalization factor for long-range capital needs, as we have under reasonable charge reimbursement on a non-bill basis. Therefore, we believe that we are justified in applying, through publication of these regulations, the same reasonable charge reimbursement rules as are generally provided for Part B services. Plans that do not wish to be reimbursed under the Subpart E rules may convert to reasonable cost reimbursement as an HCPP or, in some cases, to HMO reimbursement. We will provide information and assistance to plans in this situation.

D. General Comments

1. *Comment*: Many of the existing GPPPs that would qualify as HCPPs under these regulations participate in the FEHB program and are required by the Office of Personnel Management (OPM) to submit rates they expect to charge their enrollees in the next calendar year by July 31 of the current year. Therefore, the effective date of the final regulations should be as follows, to accommodate the submittal of the HCPP's budget: (a) First full calendar year after publication, if published before 6/1/81; or (b) second full calendar year after publication, if published after 6/1/81.

Response: Because we reimburse organizations under section 1833(a)(1)(A) on a retrospective basis at the end of a reporting period, based on the reasonable cost of furnishing services to Medicare beneficiaries, and the rates OPM set represent revenue to be collected by the HCPP on a prospective basis, we do not believe that the effective date of these final regulations would have any effect on the FEHB rates submitted for approval to OPM by these organizations. We have, therefore, not accepted this comment.

2. *Comment*: A separate HCPP Manual should be issued.

Response: We agree with this comment. After these regulations have been published in final form, we plan to replace the existing GPPP Manual (HIM-8) with a new HCPP Manual.

Impact Analyses

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this final rule does not constitute a "major rule" because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions; or have 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.

This regulation would primarily affect approximately 53 GPPPs currently receiving Medicare reimbursement. We assume that approximately 25 cost basis GPPPs will convert to participation as HCPPs. In addition, the change in the reasonable charge rules will affect about 28 other prepayment plans. We expect that the program may save approximately $13 million in FY 83 by

implementing these revisions. Therefore, we do not believe that a regulatory analysis is necessary.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires each Federal agency prepare a regulatory flexibility analysis for each rule proposed after January 1, 1981, and determined to have a significant economic impact on a substantial number of small entities. Since the NPRM for this rule was published on October 31, 1980, the provisions of the Regulatory Flexibility Act do not apply.

Paperwork Reduction Act

This regulation contains no specific information collection requirements that would require Office of Management and Budget approval under the Paperwork Reduction Act of 1980, Pub. L. 96–511. There are, however, specific information requirements that will be derived from this regulation. To the extent possible, HCFA will use existing GPPP and HMO forms which OMB has already approved. If HCFA develops any new forms or revises existing forms as a result of this regulation, it will obtain OMB approval before implementing them.

Some of the reports and recordkeeping requirements in these sections have already been implemented through forms approved by OMB for group practice prepayment plans, which will continue to be used. They are HCFA forms 1929 (OMB approval number 0938–0161), 2017 (OMB approval number 0938–0038) and 238, 239 and 240 (OMB approval number 0938–0164). New versions of these reports and new reports required by sections 405.2097 and 405.2098 will be submitted to OMB for approval at a later date.

Effective Date

As indicated in the "SUMMARY" portion of these regulations, the requirements of the regulations are effective January 31, 1983. This effective date will apply in the following manner:

1. For those group practice prepayment plans currently receiving Medicare reimbursement on a reasonable cost basis, and that will continue as health care prepayment plans, the requirements of the regulations will be effective for cost reporting periods beginning on or after January 31, 1983; and

2. For the remaining group practice prepayment plans that are currently reimbursed on a reasonable charge basis, the requirements of the regulations are effective January 31, 1983. However, plans that have been paid reasonable charges on a non-bill basis may elect to convert to reasonable charge reimbursement, or continue with the reasonable cost portion of their current reimbursement, through their current cost reporting period.

3. HCFA will no longer reimburse a group practice prepayment plan for an equalization factor after January 31, 1983. (As explained above, an equalization factor is an amount in excess of budgeted costs, and was previously included in payments to certain plans.)

List of Subjects in 42 CFR Part 405

Covered Part B services, Health care prepayment plan (HCPP), Medicare enrollee, Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—[AMENDED]

42 CFR Part 405 is amended as set forth below:

1. The table of contents for Part 405 is amended by adding an entry for § 405.692 under Subpart F, revising the title to Subpart T, and adding a new center heading and §§ 405.2093 through 405.2098 under Subpart T to read as follows:

Subpart F—Notice, Election and Agreements

Sec.

* * * * *

405.692 Agreements with health care prepayment plans.

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Subpart T—Health Maintenance Organizations and Health Care Prepayment Plans

* * * * *

Principles of Reimbursement for Health Care Prepayment Plans Under Title XVIII

405.2093 Reimbursement of cost—basis health care prepayment plans; introduction.
405.2094 Allowable costs.
405.2095 Cost apportionment.
405.2096 Financial records, statistical data, and cost finding.
405.2097 Interim per capita payments.
405.2098 Final settlement.

* * * * *

2. Subpart B, Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment, is amended as follows:

The authority citation is revised to read as follows:

Authority: Sections 1102, 1831–1843, 1861, 1862, 1866, 1871, 1874, 49 Stat. 647, as amended, 79 stat. 301–312, 313, 325, 327, 331; 42 U.S.C. 1302, 1395j–1395v, 1395x, 1395y, 1395cc, 1395hh, 1395kk.

a. Section 405.241 is revised to read as follows:

§ 405.241 Payment of supplementary medical insurance benefits to prepayment organizations.

A prepayment organization that has not qualified as a health care prepayment plan (HCPP) or health maintenance organization (HMO) will be paid through its Medicare carrier, for Part B services furnished to its Medicare enrollees, on the basis of reasonable charges in accordance with § 405.240 and § 405.251. These organizations will be paid 80 percent of reasonable charges after subtracting their enrollees' deductible amounts and taking the other limitations under Part B into consideration. [See 42 CFR Part 405, Subpart T for definition and reimbursement of HCPPs and HMOs.]

3. Subpart F, Notice, Election and Agreements, is amended as follows:

The authority citation for Part 405, Subpart F reads as follows:

Authority: Secs. 1102, 1816, 1842, 1861(u), 1864, 1866, 1871, 49 Stat. 647 as amended, 79 Stat. 297–299, 79 Stat. 309–312, 79 Stat. 322; 79 Stat. 326; 79 Stat. 327–329; 79 Stat. 331; 80 Stat. 849; 81 Stat. 852; 81 Stat. 863; 81 Stat. 942; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

a. A new § 405.692 is added to read as follows:

§ 405.692 Agreements with health care prepayment plans.

(a) *General requirement.* (1) In order to participate and receive payment under the Medicare program as a health care prepayment plan (HCPP), as defined in § 405.2093, an organization must enter into a written agreement with HCFA.

(2) An existing group practice prepayment plan (GPPP) that will continue as a HCPP under the regulations in Subpart T of this part must enter into a written agreement with HCFA within 60 days of January 31, 1983.

(b) *Terms.* The agreement must provide that the HCPP agrees to:

(1) Maintain compliance with the requirements for participation and

reimbursement on a reasonable cost basis of HCPPs as specified in § 405.2093;

(2) Not charge the Medicare enrollee, as defined in § 405.2093, a beneficiary, or any other person for items or services for which that individual is entitled to have payment made under the provisions of this part, except for any deductible or coinsurance amounts for which the individual is liable;

(3) Refund, as promptly as possible, any money incorrectly collected as charges or premiums, or in any other way from Medicare enrollees in the HCPP in accordance with the requirements specified in § 405.2033(b);

(4) Not impose any limitations on the acceptance of Medicare enrollees or beneficiaries for care and treatment that it does not impose on all other individuals; and

(5) Consider any additional requirements that HCFA finds necessary or desirable for efficient and effective program administration.

(c) *Duration of agreement.* Except for the term of the initial agreement, the agreement will be for a term of one year and may be renewed annually by mutual consent. The term of the initial agreement will be set by HCFA.

(d) *Termination or nonrenewal of agreement by HCFA.* (1) HCFA may terminate or not renew an agreement if it determines that:

(i) The HCPP no longer meets the requirements for participation and reimbursement as an HCPP as specified in § 405.2093; or

(ii) The HCPP is not in substantial compliance with the provisions of the agreement, applicable HCFA regulations, or applicable provisions of the Medicare law; or

(iii) The HCPP undergoes a change in ownership as specified in § 405.2039.

(2) HCFA will give notice of termination or nonrenewal to the HCPP at least 90 days before the effective date stated in the notice.

(e) *Termination or nonrenewal of agreement by HCPP.* (1) If the HCPP does not wish to renew its agreement at the end of the term, it must give written notice to HCFA at least 90 days before the end of the term of the agreement. If the HCPP wishes to terminate its agreement before the end of the term, it must file a written notice with HCFA stating the intended effective date of termination.

(2) HCFA may approve the termination date proposed by the HCPP, or set a different date no later than 6 months after that date. HCFA will make this decision based on a finding that termination on a specific date would not:

(i) Unduly disrupt the furnishing of services to the community serviced by the HCPP; or

(ii) Otherwise interfere with the efficient administration of the medicare program.

4. Subpart T, Health Maintenance Organizations, is amended as follows:

The authority citation for Part 405, Subpart T reads as follows:

Authority: Sections 1102, 1833(a)(1)(A), 1871, 1874, and 1876, 49 Stat. 647, as amended, 79 Stat. 331, 86 Stat. 1396; (42 U.S.C. 1302, 1395l(a)(1)(A), 1395hh, 1395kk, and 1395mm).

a. The title of Subpart T is amended to read as follows:

Subpart T—Health Maintenance Organizations and Health Care Prepayment Plans

b. Section 405.2042 is amended by revising paragraph (g) to read as follows:

§ 405.2042 Allowable costs.

* * * * *

(g) *Physicians' services under arrangements.* (1) The amount paid by an HMO to a physician group (organized on a group-practice or individual-practice basis) for physicians' services, and for other covered Part B services, furnished under arrangements (as described in § 405.2006), is an allowable expense to the extent it is reasonable. (2) The amount paid by an HMO on a-fee-for-service basis to physicians and other suppliers and to a physician group organized on an individual-practice basis for physicians' services and other covered Part B services furnished under arrangements (as described in § 405.2006) is an allowable expense to the extent it is not in excess of the reasonable charges, as defined in Subpart E of this part. Therefore, payment is limited to the amount that would otherwise be paid if the services were furnished by the physician group (or by similar physicians, practitioners, or suppliers) to Medicare beneficiaries who are not enrolled in the HMO. The same limitation also applies to the amount paid by the HMO for such covered services furnished under arrangements with a physician, physician-directed clinic, or a supplier of services.

* * * * *

b. New §§ 405.2093 through 405.2098 and a new center heading immediately preceding them are added to read as follows:

Principles of Reimbursement for Health Care Prepayment Plans Under Title XVIII

§ 405.2093 Reimbursement of health care prepayment plans; definitions and basic rule.

(a) *Definitions.* As used in §§ 405.2093–405.2098, unless the context indicates otherwise:

"Covered Part B services" means physicians' services, diagnostic X-ray tests, laboratory, other diagnostic tests, and any additional medical and other health services that the HCPP furnishes to its Medicare enrollees.

"Health care prepayment plan" means an organization that:

(1) Is responsible for the organization, financing and delivery of covered Part B services to a defined population on a prepayment basis;

(2) Meets the conditions specified in paragraph (b) of this section; and

(3) Elects to be reimbursed on a reasonable cost basis.

"Medicare enrollee" means a beneficiary under Part B of Medicare who has been identified on HCFA records as an enrollee of the HCPP.

"Reporting period" means the period specified by HCFA for which an HCPP must report its costs and utilization.

(b) *Qualifying conditions.*

(1) Except as provided in paragraph (b)(2) of this section, an organization wishing to participate as an HCPP must:

(i) Enter into a written agreement with HCFA as specified in § 405.692;

(ii) Furnish physicians' services through its employees or under a formal arrangement with a medical group, independent practice association or individual physicians; and

(iii) Furnish covered Part B services to its Medicare enrollees through institutions, entities, and persons that have qualified under the applicable requirements of Title XVIII of the Social Security Act.

(2) An organization that, as of [effective date of these regulations], was being reimbursed on a reasonable cost basis under section 1833(a)(1)(A) of the Act, and that would not otherwise meet the conditions specified in paragraph (b)(1), may receive reimbursement on a reasonable cost basis as an HCPP, provided it files an agreement with HCFA as required by § 405.692.

(c) *Payment of reasonable cost.* (1) Except as otherwise provided in §§ 405.2094 through 405.2098, HCFA will pay a health care prepayment plan (HCPP) on the basis of the reasonable cost it incurs, as specified in §§ 405.2040–405.2047, for the covered

Part B services furnished to its Medicare enrollees.

(2) In determining the amount due an HCPP for covered Part B services furnished its Medicare enrollees, HCFA will deduct from the reasonable cost actually incurred by the HCPP an amount equal to the actuarial value of the deductible and coinsurance amount that would otherwise be applicable to those services if the Medicare enrollees who received the services had not been enrolled in the HCPP.

(d) *Covered services not reimbursed, to an HCPP.*

(1) Services reimbursed under Part A are not reimbursable to an HCPP. HCFA will make payment for these services directly to the hospital, or other provider of services, on a reasonable cost basis through the provider's Medicare fiscal intermediary (for more details, see subpart D of this part.

(2) Covered Part B services furnished by a provider of services to an HCPP's Medicare enrollees are not payable to the HCPP. HCFA will make payment for these services to the provider on behalf of the Medicare enrollee through the provider's Medicare fiscal intermediary. This requirement does not affect Medicare payment to the HCPP for physicians' services furnished to its Medicare enrollees for which the physicians are compensated by the HCPP.

(e) *Payment for services to nonenrollees.* HCFA will make payment to an HCPP for covered Part B services furnished by the HCPP to a Medicare beneficiary who is not enrolled in the HCPP if the beneficiary assigns his rights to payment in accordance with § 405.1675 of this subchapter. Payment will be made on a reasonable charge basis through the HCPP's Medicare carrier.

§ 405.2094 Allowable costs.

The costs that will be considered allowable for HCPP reimbursement are the same as those for cost-basis HMOs specified in § 405.2042, except those in paragraphs (b)(12), (b)(13), (b)(14), (d), (h) and (i) (1)(ii) of that section.
§ 405.2095 Cost apportionment.

§ 405.2095 Cost apportionment.

(a) The HCPP will follow the cost apportionment principles specified in § 405.2043, except for provisions on provider costs and the provisions of paragraph (b) of that section on departmental apportionment.

(b) The HCPP may use a method for reporting costs that is approved by HCFA. HCFA will base its approval on a finding that the method—

(1) Results in an accurate and equitable allocation of allowable costs; and

(2) Is justifiable from an administrative and cost efficiency standpoint.

§ 405.2096 Financial records, statistical data, and cost finding.

(a) The principles specified in § 405.2044 will apply to HCPPs, except those in paragraphs (c) and (d) of that section.

(b) The HCPP may use a method for reporting costs that is approved by HCFA. HCFA will base its approval on a finding that the method—

(1) Results in an accurate and equitable allocation of allowable costs; and

(2) Is justifiable from an administrative and cost efficiency standpoint.

(c) An HCPP must permit the Department of Health and Human Services sand Comptroller General to audit or inspect any books and records of the HCPP and of any related organization that pertain to the determination of amounts payable for covered Part B services furnished its Medicare enrollees. For purposes of this requirement, the principles specified in § 405.2036 will apply to HCPPs.

§ 405.2097 Interim per capita payments.

The HCPP will follow the principles specified in paragraphs (a) through (e) of § 405.2045 on interim per capita payments, except that:

(a) When applying the principles in § 405.2045 (a) through (e) to HCPPs, the term "reporting period" should be used instead of the term "contract period" contained in that section.

(b) An HCPP must submit to HCFA an annual operating budget and enrollment forecast, in the form and detail specified by HCFA, at least 60 days before the beginning of each reporting period. A reporting period shall be 12 consecutive months, except that the HCPP's initial reporting period for participating in Medicare may be as short as 6 months or as long as 18 months.

(c) An HCPP must submit to HCFA an interim cost report and enrollment data applicable to the first 6-month period of the HCPP's reporting period in the form and detail specified by HCFA. The interim cost report shall be submitted not later than 45 days after the close of the first 6-month period of the HCPP's reporting period.

(d) In lieu of an interim payment based on the actual monthly enrollment in an HCPP, HCFA and the HCPP may agree to a uniform monthly interim reimbursement rate for a reporting period. This interim rate will be based on the HCPP's budget and enrollment forecast, if HCFA is satisfied that the rate is consistent with efficiency and economy, and will not result in excessive adjustment at the end of the reporting period.

§ 405.2098 Final settlement.

(a) *General requirement.* HCFA and an HCPP must make a final settlement, and payment of amounts due either to the HCPP or to HCFA, following the submission and review of the HCPP's annual cost report and the supporting documents specified in paragraph (b) of this section.

(b) *Annual cost report as basis for final settlment.*

(1) *Form and due date.* An HCPP must submit to HCFA a cost report and supporting documents in the form and detail specified by HCFA, no later than 120 days following the close of a reporting period.

(2) *Contents.* The report must include:

(i) The HCPP's per capita incurred costs of providing covered Part B services to its Medicare enrollees during the reporting period, including any costs incurred by another organization related to the HCPP by common ownership or control;

(ii) The HCPP's methods of apportioning costs among its Medicare enrollees, enrollees who are not Medicare beneficiaries, and other non-enrollees, including Medicare beneficiaries receiving health care services on a fee-for-service or other basis; and

(iii) Information on enrollment and other data as specified by HCFA.

(3) *Extension of time to submit cost report.* HCFA may grant an HCPP an extension of time to submit a cost report for good cause shown.

(4) *Failure to report required financial information.* If an HCPP does not submit the required cost report and supporting documents within the time specified in paragraph (b)(1) of this section, and has not requested and received an extension of time for good cause shown, HCFA may:

(i) Regard the failure to report this information as evidence of likely overpayment and reduce or suspend interim payments to the HCPP; and

(ii) Determine that amounts previously paid are overpayments, and make appropriate recovery.

(c) *Determination of final settlement.* Following the HCPP's submission of the reports specified in paragraph (b) of this section in acceptable form, HCFA will make a determination of the total reimbursement due the HCPP for the reporting period and the difference, if any, between this amount and the total interim payments made to the HCPP.

HCFA will send to the HCPP a notice of the amount of reimbursement by the Medicare program. This notice will:

(1) Explain HCFA's determination of total reimbursement due the HCPP for the reporting period; and

(2) Inform the HCPP of its right to have the determination reviewed at a hearing as provided in Part 405, Subpart R of this subchapter.

(d) *Payment of amounts due.*

(1) Within 30 days of HCFA's determination, HCFA or the HCPP, as appropriate, will make payment of any difference between the total amount due and the total interim payments made to the HCPP by HCFA.

(2) If the HCPP does not pay HCFA within 30 days of HCFA's determination of any amounts the HCPP owes HCFA. HCFA may offset further payments to the HCPP to recover, or to aid in the recovery of, any overpayment identified in its determination.

(3) Any offset of payments HCFA makes under paragraph (d)(2) of this section shall remain in effect even if the HCPP has requested a hearing on the determination under the provisions of Part 405, Subpart R.

(e) *Tentative settlement.*

(1) If a final settlement cannot be made within 90 days after the HCPP submits the report specified in paragraph (b) of this section, HCFA will make an interim settlement by estimating the amount payable to the HCPP.

(2) HCFA or the HCPP will make payment within 30 days of HCFA's determination under the tentative settlement of any estimated amounts due.

(3) The tentative settlement is subject to adjustment at the time of a final settlement.

(Catalog of Federal Domestic Assistance Programs No. 13.774—Medicare—Supplementary Medical Insurance)

Dated: September 2, 1982.

Carolyne K. Davis,

Administrator, Health Care, Financing Administration.

Approved: November 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-35354 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

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42 CFR Part 420

Medicare Program: Access to Books, Documents, and Records of Subcontractors

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These regulations implement section 952 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), which conditions Medicare reimbursement for the cost of services performed under certain contracts upon compliance with prescribed criteria. If a contract between a provider and a subcontractor covers services valued at or costing $10,000 or more over a 12-month period, Medicare reimbursement cannot be made for the services unless the contract includes a clause allowing the Secretary of Health and Human Services and the Comptroller General access to the contract and to the subcontractor's books, documents, and records necessary to verify the costs of the contract. The clause in the contract must also permit similar access to any subcontract between the subcontractor and a related organization of the subcontractor when the subcontract is worth or costs $10,000 or more over a 12-month period. These regulations specify the criteria and procedures that the Department will use to obtain access to affected books, documents, and records.

The purpose of the legislation and these proposed regulations is to permit the Secretary and Comptroller General to make an accurate determination of the reasonable costs under these contracts.

DATES: Effective date: January 31, 1983. Although these regulations are final, comments may be submitted as described below.

Comment Date: To assure consideration, comments must be received by January 31, 1983.

ADDRESS: Address comments in writing to:

Health Care Financing Administration, U.S. Department of Health and Human Serices, Attention: BQC-14-FC, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BQC-14-FC.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Ron Galler (301) 594-8833.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, the amount paid to a provider of services is the reasonable cost of items and services furnished to beneficiaries. While section 1815(a) of the Social Security Act requires a provider to make available to its intermediary financial and other books and records so that the reasonable cost of services it has provided may be determined, we did not have the same access to the records of a provider's subcontractors until December 6, 1980.

Section 952 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) enacted December 5, 1980, amended section 1861(v)(1) of the Social Security Act by adding a new subparagraph (I). That provision requires that, in order for the costs of services furnished under a contract between a provider and subcontractor to be included as reasonable costs for Medicare reimbursement purposes, the contract (if its cost or value over a 12-month period is $10,000 or more) must contain a clause allowing the Secretary and the Comptroller General to have access, upon request, to the contract, and to the books, documents, and records of the subcontractor that are necessary to verify the nature and extent of costs of services furnished under the contract. The contract must provide for the access until the expiration of four years after the services are furnished under the contract. In addition, the contract must allow access to contracts of a similar nature, costs or value, between subcontractors and related organizations of the subcontractor, and to their books, documents, and records. The statute requires that the Secretary's request for books, documents, and records must be in writing and that the Secretary must specify in regulations the criteria and procedures the Secretary will use in obtaining that access. This section became effective on December 6, 1980.

The statute contains no requirement for the Comptroller General to publish regulations in order to gain access to the subcontractor's contract, books, documents, and records and those of its related organizations. Therefore, these regulations address only that part of the provision for which the Secretary is responsible, except that they require the access clauses to provide also for access by the Comptroller General and his or her authorized representatives.

Section 127 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) requires us to publish final regulations, following a 60 day comment period on proposed regulations, by January 1, 1983, if the provisions are to be applicable back to December 5, 1980 (the date of enactment of Pub. L. 96-499). If the final rule is not published by that date, then these regulations will be applied only to books, documents, and records relating to services furnished on or after the date of publication.

II. Provisions of the Proposd Regulations

We published a notice of proposed rulemaking (NPRM) on October 12, 1982 (47 FR 44750) to set forth the procedures we proposed to use to implement the statute.

The proposed regulations added a new Subpart D, Access to Books, Documents, and Records of Subcontractors, to 42 CFR Part 420, Program Integrity. The provisions proposed in the NPRM are discussed below:

Note.—The words "we" and "HHS" refer to HHS, HCFA, HCFA's intermediaries and carriers, and to the Inspector General for HHS.

A. *Definitions.* 1. "Books, documents, and records": We proposed to include within this definition all writings, recordings, transcriptions, and tapes of any form in the concept of books, documents, and records.

2. "Provider": We proposed to use the current Medicare definition of "provider": a hospital, skilled nursing facility, home health agency, or comprehensive outpatient rehabilitation facility. This definition is consistent with that of section 1861(u) of the Act and includes most entities that are reimbursed on a cost basis and that submit annual cost reports. In addition, this definition, for purposes of these regulations, included "related organizations" of providers, as defined by 42 CFR 405.427.

3. "Subcontractor": In our proposal, we defined a subcontractor as any entity, including an individual, that contracts with a provider to supply a service or services to the provider or directly to a beneficiary, for which Medicare may pay the provider the cost of the services. The term "subcontractor" included organizations related to the subcontractor that have contracts with the subcontractor that are subject to the statute.

"Related to the subcontractor" was defined to mean that the subcontactor is related to an organization by common ownership or control; the subcontractor, to a significant extent, is associated or affiliated with, owns or is owned by, or has control of or is controlled by, the organization furnishing the services, facilities, or supplies.

"Common ownership" was defined to mean that an individual or individuals possess significant ownership or equity in the subcontractor and the entity providing the services under the contract.

"Control" was defined to mean that an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution.

The definitions of "related to the subcontractor," "common ownership," and "control" parallel the definitions of "related to the provider," "common ownership," and "control" in current regulations at 42 CFR 405.427.

4. "Contract for services": Contracts for services were defined as those through which a provider obtains the performance of an act or acts, as distinguished from supplies or equipment. That is, the proposed regulations would not have applied to contracts that purchase only tangible materials, but rather applied to contracts that purchase services such as consultations, management, and medical care provided by physician groups (for which we may reimburse the provider on a cost basis). Contracts for services such as linen services (rental of linens), the furnishing of meals (as opposed to the direct purchase of food), and services supplied through contracts with law firms and accounting firms were also examples of contracts for services that were included. We also included contracts for services furnished by provider management companies and provider management information systems companies.

Subcontracts for public utility services at rates established for uniform applicability to the general public were not subject to these regulations because the rates are already a matter of public record and are not negotiable.

Services provide incidental to the purchase of a product were not considered services for purposes of the proposed regulations. For example, contracts concerning construction of buildings were not covered by the regulations, as the sole purpose of these contracts is to produce tangible material items (that is, buildings).

5. "Contracts for goods and services": In those contracts for goods that also contain a significant service component (that is, the cost or value of the services is at least $10,000 over a 12-month period), the access provision applied but access was directed to verification only of the nature and extent of the costs of the services and not of the costs of the goods.

B. *Application.* 1. *Contract provisions.* The proposed regulations required any contract for services, the value of which is $10,000 or more in a 12-month period, to provide the Secretary, upon written request, and the Comptroller General access to the contract and to the subcontractor's books, documents, and records necessary to verify the costs of the contract. They also required the contract to provide for the access to the contract, books, documents, and records until the expiration of four years after the services are furnished under the contract.

Under the proposed regulations, the contract must have also provided that if the subcontractor carries out any duties of the contract through a subcontract, with a value or cost of $10,000 or more over a 12-month period, with a related organization, the subcontract must contain a clause to the effect that the related organization must make available, upon written request, to the Secretary, or upon request to the Comptroller General, or their duly authorized representatives, the subcontract and the books, documents, and records of the related organization that are necessary to verify the nature and extent of the costs. The provision in the contract must also provide for the access until four years have expired after the services have been furnished.

In practice, we believed it would usually be the provider's intermediary (or carrier), acting on behalf of HCFA, that would request and gain access to the contracts, books, documents, and records. The intermediary is ordinarily in the best position to know whether costs need verifying and what information will be necessary to verify them. We stated that there may be occasions, however, when the request for records would be made by the Office of the Inspector General or by HCFA on behalf of the Secretary.

We assumed that contracts for services cost or are valued at $10,000 or more in a 12-month period even if the contract does not specify 12 months as its duration or if its cost or worth is less than $10,000 in a period of less than 12 months but there is more than one such contract so that the total cost is $10,000 or more in 12 months. For example, we proposed that a contract that costs $12,000 for services that are completed in two months or a contract for $18,000 that covers an 18-month period would be subject to the regulations, as would a series of contracts for $1,000 each for 10 months (that is, each of these contracts

would amount to $12,000 in a 12-month period and thus would be subject to the statute). In order to implement the statutory intent, amounts incurred under contracts made for less than a full year would be recalculated to determine their cost for a full year to determine if the statutory requirement applies.

2. *Written contracts.* The proposed regulations required that a contract subject to the provisions of this section of the statute must be in writing in order for the services performed under the contract to be reimbursable by the Medicare program. Oral contracts entered into before December 6, 1980, that are renewed after that date were required to be reduced to writing to conform with the law and the regulations.

3. *Value of services.* Under the proposed regulations, if a contract was for both goods and services, the provider and subcontractor would have to evaluate the worth of the services and determine whether the service component is $10,000 or more. If an allocation were made between depreciation base and service components on books, the allocation would have to be consistent with the principle used to determine the value of the service component.

If the contract did not specify the cost or value of the services or service component involved, the provider would be expected to anticipate whether the services' value would be $10,000 or more. If the contract did not contain the cost or value of the services and did not include the access clause, and if we further determined that the contract would be subject to the statute, the provider would risk not being reimbursed for the reasonable cost of the services under Medicare unless a good faith showing could be made that would allow modification of the contract.

We proposed that when a provider contracts to purchase a product that includes a warranty of the product in the price, the contract would not be subject to these regulations since there is no way to determine the cost of the service component. However, a separately purchased warranty, or a "service-maintenance" contract would have to have contained the access clause, if it were for $10,000 or more for a 12-month period.

4. *Implementation date.* Under section 1861(v)(1) (I) of the Act, HCFA cannot request or require access to a subcontractor's books, documents, and records until the regulations implementing the statute become final. (The Comptroller General has had the authority to request or require access since December 6, 1980.) However, providers and their subcontractors have had the responsibility of including the access clause in any contract subject to the statute since December 6, 1980.

In our proposed regulations, we stated that contracts in existence before December 6, 1980, that are automatically renewed on or after that date would have to be amended to incorporate the acess clause at least by the renewal date. We realized that there are providers that have been or will be unable to obtain their subcontractor's agreement to include the clause in their contracts before the regulations are final. We stated that, in such instances, the providers would have to review their contracts after the regulations became effective and amend any that did not contain the access clause. We stated that failure to amend the contracts could mean that intermediaries would be unable to reimburse the providers the cost of services furnished under the unamended contracts. We urged that a provider that has any doubt as to whether the access clause should be inserted into a specific contract should include the clause in the contract.

C. *Criteria for requesting records.* The statute requires the Secretary to prescribe by regulation the criteria and procedures to be used in obtaining access to books, documents, and records. We proposed to limit our request to books, documents, and records that we determine are germane to the cost items in question.

The basic question that we proposed to consider before requesting a subcontractor's document, book, or record is: Is there any other more efficient, more practical, or more economical method of obtaining the necessary information, or are there any other books, records, or documents available that could be used for judging the costs under the subcontract? We stated that, if so, we would ordinarily attempt to obtain the information by those means before seeking to gain access to the records of the subcontractor.

D. *Procedures for requesting books, documents, and records.* Under the proposed regulations, if we decided to verify the nature and extent of the costs under the subcontract by examining the subcontractor's books, documents, and records, we would request those materials from the subcontractor in writing. The request would contain at least the following elements:

(a) Reasonable identification of the books, documents, or records to which access is being requested;

(b) Identification of the contract whose costs are being questioned as excessive or inappropriate;

(c) The reason that the appropriateness of the costs of the services of the subcontractor in question cannot be decided without access to the subcontractor's books, documents, and records;

(d) The statutory and regulatory authority for the access requested;

(e) To the extent possible, the identification of those individuals who will be visiting the subcontractor to review the books, documents, and records;

(f) The proposed time and date of the scheduled visit; and,

(g) The name of the duly authorized representative of HHS to contact if there are any questions.

E. *Response to access request.* Under the proposed regulations, when a subcontractor received a written request for records, the subcontractor would have 30 days for making the requested books, documents, and records available. If the subcontractor believed that the request did not contain in sufficient detail the required elements listed in paragraph D above, the subcontractor would have 20 days from the date of the request to advise us in writing of the additional information needed. If necessary, we would perfect the request to the extent that it properly contains the elements contained in paragraph D. The subcontractor would them have 20 days after we respond to make the books, documents, and records available.

We stated that we would ordinarily require the subcontractor to make the requested books, documents, and records available for inspection, audit, or reproduction at regular business hours at the office of the subcontractor. All contracts, books, documents, and records, whether requested or not, must be available until four years after the services are furnished under the contract. We proposed to pay the cost of records duplicated at our request upon inspection; if the subcontractor chooses to comply with a request by furnishing duplicate copies not individually requested by us, the subcontractor would assume the cost.

When the subcontractor's books, documents, and records are not readily available (for example, they are at a home office or in storage), and there will be a delay in retrieving them, the subcontractor would have to advise the requesting organization in writing. If no date can be mutually agreed upon for making the books, documents, and records available, the requesting

organization could initiate a delay or denial of reimbursement of the cost of the services.

F. *Refusal by subcontractor to furnish access to records.* Under the proposed regulations, if the subcontractor failed to honor the access clause in the contract in accordance with the provisions of the statute and these regulations, we would initiate legal action against the subcontractor.

Concurrently, we would advise the provider of the failure of the subcontractor to make available the requested materials so that the providers may take whatever action (for example, withholding of any balances due the subcontractor under the contract) it considers necessary for its financial protection.

G. *Access provision not included in contract.* We proposed that if we found that a contract subject to the access requirement did not contain the necessary provision, we would consider the intent of Congress in enacting this provision before deciding on remedial action. It is clear from the statute that we are precluded from reimbursing costs incurred under a contract subject to the statute unless the contract contains the access clause. However, we believe that Congress intended that the provision should be used to provide access to contracts, books, documents, and records when necessary and not to penalize providers that inadvertently omit the required provision from a covered contract, but which nevertheless permit access of the required materials in a timely and otherwise satisfactory manner.

Therefore, we proposed that when we discover that a contract subject to the requirements lacks the access provision, we would not automatically deny reimbursement of the costs of the subject contract. Rather, we would request the provider to furnish the reason for its omission. If the reply were to indicate good cause on the provider's part, the provider would be given the opportunity to amend the contract to include the required access clause so that any contracts, books, documents, and records that are required may be obtained. Also, if we found good cause exists, we would advise the provider that to be reimbursed for the services, it must amend its contract within 60 days.

If the provider failed to amend the contract within 60 days, and if we could find no good cause for the omission, we would deny reimbursement to the provider for the cost of the services provided under the contract.

III. Refusal by Subcontractor to Insert Clause

We also stated in the proposed regulations that there may be situations in which an individual subcontractor might refuse to enter into a contract containing the required access clause. However, we believed that the provider would ordinarily have little difficulty in finding another organization that would agree to the clause and that offers the services needed by the provider at a cost that is at least as competitive as that of the noncooperative organization.

However, if the provider believed that the original proposed subcontractor was the only one that could supply the service needed, or supply it at the lowest cost, the provider could contact the HCFA Regional Administrator for the State in which the provider is located for assistance. The Regional Administrator would assist the provider by explaining to the subcontractor the need for and purpose of the access clause and attempt to obtain agreement. (A provider that does not notify the Regional Administrator but instead, on its own initiative, contracts with a more expensive subcontrator or omits the access clause, would risk not being reimbursed for the full cost of the services furnished under the contract.)

If the Regional Administrator's effort to persuade the potential subcontractor to include the required access clause is unsuccessful, and no other subcontractor is available who can furnish the services at a competitive price and who will agree to the access provision, the provider may find it necessary to contract with another organization willing to accept the access clause, even though the cost of the services may be greater. In this case, the provider could obtain the approval of the intermediary before entering into the contract, in order to assure that the greater cost incurred by the provider will be considered by the intermediary during the cost report settlement process.

IV. Confidentiality of Records

Under the proposed regulations, we stated that any contract, books, documents, or records requested from a subcontractor under the regulations would be furnished directly to HCFA (to the intermediary in most cases), and not the provider. However, the materials we receive may be subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), if requested by a member of the public.

The access clause also applies to contracts for services between providers and their law firms and accounting firms. In any case in which access of these firms' contracts, books, documents, and records is sought, any examination of records by HCFA will be for the sole purpose of determining that payments made under the Medicare program are proper. The examination will normally not include those records considered privileged under any existing attorney- or accountant-client privilege.

V. Analysis and Response to Comments

We have received many comments regarding the proposed regulations. The major comments which we received follow:

A. *Written contracts. Comment:* Several commentors objected to the requirement that all contracts affected by these regulations must be written contracts. These commentors believe that reducing all contracts for services equal to or in excess of $10,000 to writing will force providers to incur unnecessary expenses in the form of personnel time and legal fees. They stated that, as a practical matter, it would be difficult to draft a meaningful contract between a provider and an entity such as a law or accounting firm, the nature and volume of whose services vary and are dependent upon forces outside the control of either party to the contract. In addition, they question the statutory basis of this requirement. Many of those who commented on this provision recommended that in the cases where oral agreements exist between provider and subcontractor, there be only a written agreement by the subcontractor to grant the designated Federal representatives access to its records rather than a written contract of the entire agreement between the provider and subcontractor.

Response: We agree with the commentors and, therefore, will allow providers to obtain a written agreement in the form of a letter of understanding between the parties of the oral contract that allows for access of the pertinent books, documents, and records.

B. *Retrospective application of access provision requirement. Comments:* Commentors protested the regulatory requirement for amending any contracts entered into or renewed after December 5, 1980. They believe that this requirement is unfair, costly, and not within the intent of Congress.

Response: Section 1861(v)(1)(I) of the Act specifically states that the access clause must be included in any contract, the value or cost of which is $10,000 or more over a 12-month period, entered into after the date of the enactment of that section. Since the date of enactment

was December 5, 1980, these regulations apply to any contracts entered into or renewed after that date.

However, we realize that there are providers that have been unable to obtain their subcontractor's agreement to include the access clause in their contracts before these regulations were final. Because of this, we are allowing a period of 180 days after the effective date of these regulations for providers to amend preexisting contracts by inserting the access clause or to obtain a letter of understanding regarding the access provision from their contractors with whom they have oral agreements.

C. *Criteria for access request. Comment*: We received numerous comments on this section of the regulations. The commentors believe that the specified criteria are vague, imprecise, and allow the Secretary and the Comptroller General too much discretion. Specifically, the commentors expressed dissatisfaction with the criteria included at § 420.303 (a) and (b). These sections allow HHS to request access to books, documents, and records of a subcontractor when there is " . . . reason to believe that the costs claimed for services . . . are excessive or inappropriate . . . " and when there is " . . . insufficient information to judge the appropriateness of the costs. . . . " The commentors fear that such broad language could be used to justify almost any request.

Response: We believe that the regulations must be written in such a way to allow us some degree of flexibility in determining when we will access a subcontractor's records. As we mentioned in the NPRM, we do not intend to subject subcontractors to "fishing expeditions" or other unnecessarily burdensome or overly intrusive demands. Examples of situations that would lead to our requesting access include those in which the question of the nature and extent of costs under the contract cannot be resolved without access to books, documents, and records, such as the following situations: the provider is unable to furnish any substantiation for the cost of services; there is potential involvement of kickbacks, bribes, rebates, or other illegal activity; there is an indication of a possible nondisclosure of a related organization; there is a question of whether the services furnished under the contract were excessive or inappropriate; or there is insufficient information to judge the appropriateness of the costs of the services involved.

Comment: One commentor was also concerned that the Secretary and the Comptroller General use the same criteria for access.

Response: While we have no authority to compel the Comptroller General to adopt the HHS criteria for access, we will work with the Comptroller General to encourage such consistency.

Comment: A commentor sought clarification as to whether the accusation that may lead to a request for access under § 420.303(c) is an accusation by HHS or by any complaining party.

Response: The accusation referred to in § 420.303(c) includes accusations by non-HHS parties. The safeguard against unsupported charges, which was the concern of the commentor, is the provision in § 420.303(c) that the accusation be accompanied by "suitable evidence."

D. *Violation of confidentiality privilege. Comments*: Several law firms, as well as providers and provider associations, requested that provider-attorney and provider-accountant records be excepted from access under these regulations. These commentors believe that these relationships, including any records kept thereof, are, and have been historically recognized as being, strictly confidential. They are afraid that these regulations, as proposed, subject all privileged information that is part of these special relationships to scrutiny by HHS.

Response: We believe that we have a legitimate interest in any records kept by law firms or accountants that are necessary to certify the nature and extent of the costs that are in question. We do not foresee any occasion where it would be necessary for us to examine the records kept by attorneys or accountants that detail the actual work performed for the provider. We also do not foresee any occasion where we would seek any privileged communications that pass between a provider and its attorney or accountant. Our intent in accessing records would only be to verify cost data, not to examine private records maintained by the subcontractor. Because of this, we do not believe that these regulations will impinge on the attorney-client or accountant-client privileges to the extent that these privileges traditionally are recognized.

E. *Definitions.* 1. *Books, documents, and records. Comment:* Many commentors object to the definition of books, documents, and records contained in the proposed regulations. They believe that the definition is too broad and could conceivably include any and all business records maintained by the subcontractor. A few of these commentors also expressed uneasiness concerning the fact that any materials received by us under these regulations may be subject to disclosure under FOIA. They would prefer a stricter definition of books, documents, and records to limit public access to their business papers.

Response: We agree that our proposed definition was overly broad and, therefore, have amended it in these final regulations to include the phrase ". . . necessary to verify the nature and extent of the costs of the services provided by the subcontractor."

With regard to FOIA requests, the only records subject to disclosure will be those records in the possession of HCFA or its intermediaries. If HCFA examines records without duplicating them, then there are no records subject to FOIA. If there are records in our possession, we will apply the same criteria to determine the disclosability of a subcontractor's records that we currently apply when someone requests copies of a provider's records in our possession. In general, we can claim exemption from disclosure of those records that are determined to be trade secrets, or commercial or financial information that is privileged or confidential. The FOIA also allows exemption of personal information, the disclosure of which would be a clearly unwarranted invasion of privacy. We expect to use these exceptions to seek to prevent disclosure of appropriate portions of the subcontractor's materials in our possession, if we receive any requests under the FOIA.

2. *Contracts for services. Comment:* One commentor requested further clarification of what constitutes a contract for services. In the NPRM, we stated that contracts for services provided incidental to the purchase of a product would not be services for purposes of these regulations. For example, contracts concerning construction of buildings would not be covered by the regulations, as the sole purpose of these contracts is to produce a tangible material item (that is, the building). The commentor wanted to know if, in the case of building construction, contracts to "service" professions (for example, architects, painters, interior decorators) would have to contain the access clause as opposed to contracts for general construction services (for example, masonry, carpentry, concrete work) which would not require the clause.

Response: We will consider any contract entered into for the purpose of construction of the building and the preparation of the building for

occupancy as a contract for goods. This will include contracts for actual construction as well as contracts for the services of architects, painters, and others. We believe that each of these contracts is incidental to the purchase of the product (that is, the building). However, if a provider contracts with an interior decorator, a painter, or other individual or company to perform work on a building that is already in existence, we will consider that to be a contract for services subject to these regulations if the contract is $10,000 or more for a 12-month period.

Comment: One commentor recommended limiting access provisions to service arrangements which directly benefit Medicare patients.

Response: We do not believe that scrutiny of Medicare costs should be limited to those that "directly" benefit patients. In order for costs to be reimbursable under Medicare, they must be related to services that benefit Medicare patients. All service arrangements benefiting Medicare beneficiaries to an extent sufficient to qualify for Medicare reimbursement are therefore appropriately subject to these access provisions.

3. *Subcontractor. Comment:* Commentors objected to our definition of subcontractor. They believe that the term should be confined to entities that furnish to patients the fundamental services usually performed by hospital employees and medical staff (for example, physicians, linen rental services, and agencies that furnish temporary nurses). However, the proposed definition includes any entity from which a provider obtains any type of service, without regard to whether the services are related to the provider's primary contact with the patient.

Response: Section 1861(v)(1)(I) of the Act specifically states that this provision applies to ". . . any services furnished in connection with matters for which payment may be made under this title. . . ." There is no basis in the law for limiting the definition in the way the commentors have proposed.

4. *Provider. Comment:* One intermediary requested that we amend the definition of provider to include all organizations that file a cost report. This would permit access to the records of all types of entities reimbursed by Medicare on a cost basis.

Response: Since section 1861(v)(1)(I) of the Act specifically refers to contracts between providers and their subcontractors, and since section 1861(u) of the Act defines a provider as a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, or home health agency, we believe that our definition in these regulations should mirror that of the Act. Therefore, we will not include entities other than these, even if they file cost reports.

F. *Waivers. Comment:* Several commentors requested that the regulations provide for waiver of the access clause under certain circumstances. These circumstances included: contracts for services between a religious hospital and its motherhouse for the sister's services; contracts with subcontractors whose services are unique and essential to the operation of the provider, and the subcontractor refuses to agree to the access clause; and contracts for services entered into by providers that are reimbursed under Medicare demonstration projects.

Response: We believe Congress intended that this provision apply to all contracts for services entered into by providers that cost $10,000 or more over a 12-month period. Neither the literal language of the statute nor any of the legislative history offers any rationale for or indication of intent by Congress to exempt any group or class of subcontractors from the access clause requirements.

G. *Value of contract. Comment:* Several commentors objected to the $10,000 limit. They believe that $10,000 is too low a threshold and that virtually every contract for services the provider has will exceed this limit. One commentor suggested that we increase this threshold to the greater of ½ percent of a provider's operating budget or $100,000.

Response: The $10,000 limit is statutory and cannot be changed in these regulations.

Comment: Several commentors were confused about how we will calculate the worth of a contract that runs for less or more than a 12-month period.

Response: If a contract specifies 12 months as its duration, then it will be simple to determine if it is subject to these regulations. If its value is $10,000 or more, the access clause must be included in the contract. However, if a contract runs for more or less than one year, then it becomes more difficult to determine its worth. The following are examples of contracts that must contain the access clause:

1. Any contract for service for 12 months or less that is valued at $10,000 or more.

2. Any series of contracts with a subcontractor for a service that add up to $10,000 or more over a 12-month period, for example, two contracts for 6 months each that are valued at $8,000 each or 12 contracts for one month each valued at $1,000 each.

3. Any contract that runs for more than 12 months whose apportioned value is $10,000 or more for a 12-month period, for example, a contract for 18 months valued at $18,000 (the 12-month value would be $12,000) or a contract for 24 months valued at $20,000 (the 12-month value would be $10,000).

Comment: A law firm asked us to clarify how the $10,000 limit applies to an established and continuing relationship between themselves and a provider. They state that seldom does any one task performed for the provider reach $10,000 in fees; however, over the course of a year, these separate tasks will often exceed the $10,000 level.

Response: We will consider the total value of services performed by a law firm (or any other subcontractor) for a provider over a 12-month period to be the value of the contract for services, since Medicare reimbursement is computed on the basis of its proper share of the provider's total costs for legal expenses.

H. *Refusal by subcontractor to insert clause. Comment:* Some commentors objected to consulting the HCFA Regional Administrator when a subcontractor refuses to agree to the access clause. Also, the commentors objected to our suggestion that they obtain the approval of the intermediary before entering into a contract with a more expensive subcontractor. The commentors believe this process is too time consuming and administratively burdensome. They would prefer to proceed and contract with the next lowest cost subcontractor when the lowest cost subcontractor does not agree to the access clause.

Response: We believe that contacting the Regional Administrator may prevent the provider from having to contract with a more expensive subcontractor in some cases. It is possible that the Regional Administrator will be able to explain the need for and purpose of the access clause and succeed in persuading the subcontractor to include it in the contract. We suggested that the provider contact the intermediary before entering into a more expensive contract so that the intermediary will be aware of the situation and will have the information on hand when it receives the provider's cost report and attempts to settle that report. This contact with the intermediary should not be considered as a preapproval requirement.

Comment: Several commentors did not agree with our statement in the NPRM that providers ". . . will ordinarily have little difficulty in finding another organization that will agree to the clause . . . " in cases where a

subcontractor refuses to agree to the access clause. They believe that the majority of subcontractors will refuse to include the access clause and that it will be almost impossible to obtain a contract for a reasonable amount of money.

Response: We believe that the subcontractors who contract to furnish services to Medicare providers are eager to continue their relationship. Although they may not be pleased initially to add the access clause to their contracts, we believe that in most cases they will agree to the clause so that they can continue providing their services to the provider.

I. *Miscellaneous and general comment. Comment:* A law firm agreed with our proposal that a subcontractor who elects to make copies of its books and records for examination by HHS should be solely responsible for bearing the cost of reproduction. However, the commentor believes that HHS should pay for any copies it removes from the possession of the subcontractor.

Response: We do not intend to remove any original records from the subcontractor's premises. If reproduction is requested by us, we will either bring in our own reproduction equipment or pay the subcontractor for the reasonable cost of reproduction. If the subcontractor elects to make copies of its records for our examination and we remove any of those copies from the subcontractor's possession, we will pay for the reasonable cost of the reproduction done by the subcontractor.

Comment: Commentors requested that the cost of renegotiations with subcontractors to include the access clause be considered an allowable cost under Medicare for some period of time after these regulations become effective.

Response: We do not view the addition of the access clause to be an allowable renegotiation cost. Section 1861(v)(1)(I) of the Act, which has been in effect since December 5, 1980, specifically states that every contract for services valued at $10,000 or more for a 12-month period should contain the access clause. If it is necessary for a provider to renegotiate with a subcontractor to include the clause because it failed to do so when the entire contract was originally negotiated, that is a cost that the provider must bear. We do not believe that it is an allowable cost since the contract should already, by law, have contained the access clause.

Comment: A provider wanted to know if these regulations apply to contracts with hospital-based physicians.

Response: Yes, these regulations apply to any contract for services between a provider and a physician that meets the monetary limitation and includes costs that the provider will seek to recover on a cost basis.

Comment: A provider organization recommended that providers be notified and be given an opportunity to respond to any request for access to their subcontractors' books and records.

Response: We do not believe that such notice and opportunity for comment was intended by the statute, although providers may, of course, arrange with their subcontractors to receive notice from them. We will, however, continue to consider the administrative implications of setting up such a process. Should we decide to make any modifications in this area, we will publish those changes in the **Federal Register.**

Comment: A provider organization rcommended that providers and subcontractors be provided an opportunity to object to and seek reconsideration of a request for access if they believe the request to be improper.

Response: We believe that the procedures for requesting books, documents, and records in writing will ensure that improper requests are not made, and we are concerned that any administrative reconsideration process could unduly delay access to the records involved. However, we would welcome more specific comments about how such an appeal process might be administered. Should we decide to make any modifications in this area, we will publish those changes in the **Federal Register.**

Comment: A provider protested the necessity of the requirement that records relating to the applicable contracts be retained for four years after the delivery of the services.

Response: The four-year time period is specified in the statute at section 1861(v)(1)(I)(ii) of the Act and must be contained in these regulations.

Comment: Commentors believe that there should be no penalty taken if contracts are missing the access clause, but the subcontractor agrees to provide access.

Response: We believe that in these cases, there should be no problem in obtaining the subcontractor's written agreement to provide access. Also, since we are allowing 180 days from the effective date of these final regulations for the provider to amend its contracts to contain the access clause, the provider will be allowed ample time to meet the requirements of these regulations before we deny payments made for the services under the contract. In any event, the statute requires the access clause if costs claimed under the contract are to be reimbursed by Medicare.

Comment: Several commentors objected to the regulations as a whole on the basis that they are bureaucratic, lack demonstrated cost savings, result in a clear increase in costs to providers and vendors, and are otherwise unnecessary.

Response: These regulations cannot be withdrawn because the provisions are required by section 1861(v)(1)(I) of the Act.

Comment: One commentor believes that these regulations clearly constitute a "major" rule as defined by section 1(b) of Executive Order 12291 (that is, they will have an annual effect of $100 million or more) and, therefore, require a regulatory impact analysis which was not provided in the NPRM.

Response: As we mentioned in the NPRM, we do not foresee these regulations resulting in significant new costs. The new costs involved will be those required for litigation in the rare case that a subcontractor refused us access to its records, as well as the more frequent costs involved in our actual inspection of records. In addition, there will be costs associated with the addition of the access clause to written contracts and in the preparation of a written agreement for oral contracts. Also, in the cases where the lowest-price subcontractor refuses to agree to the access clause, there will be some increased cost involved in contracting with a higher-price subcontractor. As mentioned above in H. *Refusal by subcontractor to insert clause,* we do not expect this to be a common occurrence. We have estimated that the total of these costs will not meet the $100 million amount.

VI. Analysis and Response to Other Comments

We also received many comments on other less critical, technical matters. However, since there is a limited amount of time available between the end of the comment period (December 13, 1982) and January 1, 1983 (the date by which Congress has mandated that these regulations must be published in order to apply back to the statute's effective date), we have addressed only the major comments in the preceding section. We will continue to consider these requests for clarification and technical changes and, if we determine revisions are necessary, we will publish additional changes.

VII. Summary of Changes

After analyzing the comments, we have decided to adopt the regulations as

proposed, except for the following changes:

A. *Written contracts.* The final rule does not require that a contract subject to the provisions of section 1861(v)(i)(I) of the Act must be in writing. If a contract for services is in writing, we will require that the access clause be made a part of the written contract. However, if the contract for services is an oral contract, we will consider that contract to conform to these regulations if there is a written agreement (or letter of understanding) signed by the parties to the contract allowing the Comptroller General of the United States, HHS, and their duly authorized representatives access to the subcontractor's books, documents, and records until the expiration of four years after the services are furnished under the contract or subcontract.

B. *Definition of books, documents, and records.* The definition of books, documents, and records contained in the proposed regulations is amended by adding the words ". . . necessary to verify the nature and extent of the costs of the services provided by the subcontractor."

C. *Retrospective application of the access provision requirement.* In the proposed regulations, we allowed providers who had a good cause for omitting the access clause from any contracts entered into or renewed after December 5, 1980, a grace period of 60 days to amend the contract to include the clause. In the final regulations, we have eliminated the 60-day grace period for good cause and, instead, we are allowing all providers 180 days from the effective date of these regulations to review their contracts (oral or written) and to amend those contracts that do not conform to the requirements of these regulations.

D. *Technical change.* In the NPRM, we inadvertently designated 42 CFR 420.302 as 42 CFR 405.302. We are correcting this error in the final rule.

VIII. Impact Analyses

A. *Executive Order 12291.* The Secretary has determined that these regulations do not meet the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291. That is, the regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have 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 import markets.

The regulations do not meet the criteria for a major rule. The new costs involved will be those required for litigation in the rare case that a subcontractor refused us access to its records, the more frequent costs involved in our inspection of records, costs associated with adding the access clause to both written and oral contracts, and increased costs that result when providers must contract with a higher-priced subcontractor when the lower-priced subcontractors do not agree to the access clause. We have estimated that these costs will not add up to $100 million.

B. *Regulatory Flexibility Analysis.* The Secretary certifies, under 5 U.S.C. 605(b) as enacted by the Regulatory Flexibility (Pub. L. 96–354), that these regulations will not have a significant impact on a substantial number of small entities.

The only economic impact on subcontractors will be on those that refuse to include the access provision in their contracts. The economic impact on providers, basically, will be for those providers that do not obtain their subcontractor's agreement to include the access provision in contracts: they will lose reimbursement for the services. Since we do not expect a significant number of subcontractors to refuse to include the provision in their contracts, we do not expect that a significant number of subcontractors and providers to be adversely affected by these regulations.

Accordingly, a regulatory flexibility analysis is not required.

IX. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this rule that are mailed by the date specified in the "DATES" section. If, as a result of public comments, we conclude that change in these final regulations are needed, we will publish the changes in the **Federal Register** and respond to the comments in the preamble of that document.

X. List of Subjects in 42 CFR Part 420

Abuse, Administrative practice and procedure, Contracts (Agreements), Conviction, Convicted, Courts, Exclusion, Fraud, Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Information (Disclosure), Lawyers, Medicaid, Medicare, Penalties, Professional Standards Review Organizations (PSRO), Reporting requirements, Supervision.

42 CFR Part 420 is amended as set forth below:

PART 420—PROGRAM INTEGRITY

1. The table of contents is amended by adding Subpart D to read as follows:

Subpart D—Access to Books, Documents, and Records of Subcontractors

Authority: Secs. 1102, 1861(v), 1862(d), 1862(e), 1866(b), 1871, 1902(a) and 1903(i) of the Social Security Act (42 U.S.C. 1302, 1395x(v), 1395y(d), 1395y(e), 1395cc(b), 1395hh, 1396a(a), and 1396b(i)).

2. A new Subpart D is added to read as follows:

Subpart D—Access to Books, Documents, and Records of Subcontractors

§ 420.300 Basis, purpose, and scope.

This subpart implements section 1861(v)(1)(I) of the Act, which requires, for Medicare payment under certain provider contracts, access by the Secretary, upon written request, and the Comptroller General, and their duly authorized representatives, to certain contracts for services and to books, documents, and records necessary to verify the costs of the services. The contracts affected are those between providers and their subcontractors, and between the subcontractors and organizations related to the subcontractor by control or common ownership. It also specifies the criteria by which HHS will determine whether to request access to books, documents, and records.

§ 420.301 Definitions.

For purposes of this subpart—

"Books, documents, and records" means all writings, recordings, transcriptions and tapes of any description necessary to verify the nature and extent of the costs of the services provided by the subcontractor.

"Common ownership" means that an individual or individuals possess significant ownership or equity in the subcontractor and the entity providing the services under the contract.

"Contract for services" means a contract through which a provider obtains the performance of an act or acts, as distinguished from supplies or equipment. It includes any contract for both goods and services to the extent the value or cost of the service component is $10,000 or more within a 12-month period.

"Control" means that an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions of policies of an organization.

"Provider" means a hospital, skilled nursing facility, home health agency, or comprehensive outpatient rehabilitation facility, or a related organization (as defined in § 405.427 of this chapter) of any of these providers.

"Related to the subcontractor" means that the subcontractor is, to a significant extent, associated or affiliated with, owns, or is owned by, or has control of or is controlled by, the organization furnishing the services, facilities, or supplies.

"Subcontractor" means any entity, including an individual or individuals, that contracts with a provider to supply a service, either to the provider or directly to a beneficiary, for which Medicare reimburses the provider the cost of the service. This includes organizations related to the subcontractor that have a contract with the subcontractor for which the cost or value is $10,000 or more in a 12-month period.

§ 420.302 Requirement for access clause in contracts.

(a) *Applicability.* This subpart applies to contracts—

(1) Between a provider and a subcontractor and, where subject to section 1861(v)(l)(I)(ii) of the Act, between a subcontractor and an organization related to the subcontractor;

(2) Entered into or renewed after December 5, 1980; and

(3) For services the cost or value of which is $10,000 or more over a 12-month period, including contracts for both goods and services in which the service component is worth $10,000 or more over a 12-month period.

(b) *Requirement.* Any contract meeting the conditions of paragraph (a) of this section must include a clause that allows the Comptroller General of the United States, HHS, and their duly authorized representatives access to the subcontractor's contract, books, documents, and records until the expiration of four years after the services are furnished under the contract or subcontract. The access must be provided for in accordance with the provisions of this subpart. The clause must also allow similar access by HHS, the Comptroller General, and their duly authorized representatives to contracts subject to section 1861(v)(l)(I)(ii) of the Act between a subcontractor and organizations related to the subcontractor and to books, documents, and records.

(c) *Prohibition against Medicare reimbursement.* If a contract subject to the requirements of this subpart does not contain the clause required by paragraph (d) of this section, HCFA will not reimburse the provider for the cost of the services furnished under the contract and will recoup any payments previously made for services under the contract. However, in order to avoid nonreimbursement or recoupment, providers will have until July 28, 1983, to amend those contracts entered into or renewed after December 5, 1980, and before January 31, 1983, that do not conform to the requirements of paragraph (b) of this section.

§ 420.303 HHS criteria for requesting books, documents, and records.

HHS will generally request books, documents, and records from a subcontractor only if one of the following situations exists and the question cannot satisfactorily and efficiently be resolved without access to the books, documents, and records:

(a) HHS has reason to believe that the costs claimed for services of the subcontractor are excessive or inappropriate;

(b) There is insufficient information to judge the appropriateness of the costs;

(c) There is a written accusation with suitable evidence against the provider or subcontractor of kickbacks, bribes, rebates, or other illegal activities; or

(d) There is evidence of a possible nondisclosure of the existence of a related organization.

§ 420.304 Procedures for obtaining access to books, documents, and records.

(a) *Contents of the request.* Requests for access will be in writing and contain the following elements:

(1) Reasonable identification of the books, documents, and records to which access is being requested;

(2) Identification of the contract or subcontract in which costs are being questioned as excessive or inappropriate;

(3) The reason that the appropriateness of the costs or value of the services of the subcontractor in question cannot be adequately or efficiently determined without access to the subcontractor's books and records;

(4) The authority in the statute and regulations for the access requested;

(5) To the extent possible, the identification of those individuals who will be visiting the subcontractor to obtain access to the books, documents and records;

(6) The time and date of the scheduled visit; and

(7) The name of the duly authorized representative of HHS to contact if there are any questions.

(b) *Subcontractor response to a request for access to books, documents, and records.*

(1) The subcontractor will have 30 days from the date of a written request for access to books, documents, and records to make them available in accordance with the request.

(2) If the subcontractor believes the request is inadequate because it does not fully meet one or more of the required elements in paragraph (a) of this section, the subcontractor must advise the requesting organization of the additional information needed.

(i) The subcontractor must notify the requesting organization within 20 days of the date of the request that it was improperly completed.

(ii) The subcontractor must make the books, documents, and records available within 20 days after the date of the requesting organization's response.

(3) If the subcontractor believes, for good cause, that the requested books, documents, and records cannot be made available as requested with the 30-day period under paragraph (b)(1) of this section, the subcontractor may request an extension of time within which to comply with the request from the requesting organization. The requesting organization may, at its discretion, grant the request for an extension, in whole or in part, for good cause shown.

(4) The subcontractor must make the books, documents, and records available during its regular business hours for inspection, audit, and reproduction.

(5) If HHS asks the subcontractor to reproduce books, documents, and records, HHS will pay the reasonable cost of reproduction. However, if the subcontractor reproduces books, documents, and records as a means of making them available, the subcontractor must bear the cost of the reproduction and no Medicare reimbursement will be made for that purpose.

(6) HHS reserves the right to examine the originals of any requested contracts, books, documents, and records, if they exist.

(c) *Refusal by subcontractor to furnish access to records.* If HCFA determines that the books, documents, and records are necessary for the reimbursement determination and the subcontractor refuses to make them available, HHS may initiate legal action against the subcontractor.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance)

Dated: December 22, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 23, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-35353 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-563]

Amendment and Correction Concerning Delegations of Authority to the Chief, Mass Media Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule and correction.

SUMMARY: Action taken herein amends the delegation of authority to the Chief, Mass Media Bureau, of the Federal Communications Commission. That delegation, which was adopted by the Commission on September 14, 1982 (47 FR 47828), permitted the Chief, Mass Media Bureau, to act with regard to monetary forfeitures assessed against Commission licensees and cable systems if the amount of the forfeiture was not in excess of $4000. This Order amends the delegation to permit the Bureau Chief to administer forfeitures unless they are in excess of $10,000. Forfeiture matters in excess of that amount would have to be referred to the Commission for disposition. The action is necessary to permit the efficient and expeditious handling of forfeiture matters and to correct an oversight in the September 14, 1982, Order.

DATE: Effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and Functions (Government Agencies).

Order

Adopted: December 10, 1982.

Released: December 14, 1982.

In the Matter of Amendment of Part 0 of the Commission's Rules and Regulations Concerning Delegations of Authority to the Chief, Mass Media Bureau.

1. On September 14, 1982, the Commission adopted an *Order* merging the Broadcast Bureau and the Cable Television Bureau into a unified Mass Media Bureau. (47 FR 47828, FCC 82-445). In creating the Mass Media Bureau it was necessary for the Commission to amend Part 0 of its Rules and to adopt a set of delegations of authority to the Chief, Mass Media Bureau. (Section 0.283 of the Commission's Rules.) This *Order* will correct an error in that rule as adopted.

2. Section 0.283(c)(3), as adopted, delegates authority to the Chief, Mass Media Bureau, to, *inter alia,* issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures if the amount set out in the notice of apparent liability is $4,000 or less. Prior to the reorganization, this had been the delegation to the Chief, Broadcast Bureau. However, in 1982, the Commission had concluded that the delegation of authority to the Chief, Cable Television Bureau should be amended to allow the issuance of forfeitures up to $10,000.[1]

3. In amending the delegation to the Chief, Cable Television Bureau, we noted that raising the forfeiture limit would:

"* * * result in more efficient handling of forfeiture matters and aid the Cable Television Bureau in expediting the processing of pending cases as well as reduce the Commission's workload of routine cases." [2]

We believe that this reasoning is equally valid as to forfeitures involving broadcasters.

4. Thus, in establishing the delegations for the Chief, Mass Media Bureau, we intended to set $10,000 as the limit. This *Order* will amend section 0.283(c)(3) to reflect the $10,000 limit. As this amendment relates only to Commission procedures the notice and comment provisions of the Administrative Procedure Act do not apply.[3]

5. REGULATORY FLEXIBILITY ANALYSIS

I. *Need for and Purpose of the Rule.*

This action is being taken in order to provide for the more efficient handling and expeditious processing of forfeiture matters.

II. *Assessment of Flexibility Issues Raised in Comments.*

As this amendment did not require a Notice of Proposed Rule Making, an opportunity to file comments is not required.

III. *Significant Alternatives.*

There were no significant alternatives considered. The possibilities present would be: (1) To leave the delegation of authority as it currently exists; or (2) to adopt the alteration being made herein. The first alternative is being rejected because it was felt that $4,000 is too low an amount to require Commission scrutiny. Accordingly, the second alternative listed above is being adopted. It minimizes the burdens on the Commission—as it will permit most forfeiture matters to be handled at the Bureau level—and it will minimize the impact upon small entities as it will permit expenditious handling of most forfeiture matters in the most prompt and routine fashion possible.

6. Authority for the rule amendment adopted herein is contained in Sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended.

7. Accordingly, it is ordered, That, effective January 31, 1983, Part 0 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix.

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

Federal Communications Commission,

William J. Tricarico,

Secretary.

APPENDIX

PART 0—[AMENDED]

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

Section 0.283(c)(3) is revised to read as follows:

§ 0.283 Authority delegated.

* * * * *

(c) * * *

[1] *Amendment of Part 0 of the Commission's Rules and Regulations Concerning Delegations of Authority to the Chief, Cable Television Bureau,* 88 F.C.C. 2d 1499 (1982). Previously the Cable delegation (Section 0.288 of the Commission's Rules) permitted the Chief, Cable Television Bureau to act in forfeiture matters when the amount involved was $4,000 or less if a cable system operator was involved or up to $2,000 when the forfeiture was being assessed against a Cable Television Relay Service (CARS) station licensee. Thus, both the Broadcast Bureau and Cable Television Bureau delegations generally corresponded.

[2] *Id.,* at p. 1500.

[3] See, Title 5 U.S.C. 553(b)(3)(A).

(3) Notices of opportunity for hearing pursuant to Section 1.80(g) of this chapter, and notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under Section 1.80(f) if the amount set out in the notice of apparent liability is more than $10,000.

* * * * *

[FR Doc. 82-35295 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 34 and 35

[CC Dockets No. 82-475; RM-3926; FCC 82-546]

Amendment of Annual Report Forms O and R

AGENCY: Federal Communications Commission.

ACTION: Final Rule (Report and Order).

SUMMARY: The Commission is revising the annual reports for wire-telegraph, ocean-cable and radio-telegraph carriers to eliminate reporting regulations deemed unnecessary by staff analysis and comments received in response to a Notice of Proposed Rulemaking in CC Docket 82-475 released August 16, 1982.

DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, Common Carrier Bureau, 634-1861.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 34

Communications Common Carriers, Radiotelegraph, Uniform System of Accounts.

47 CFR Part 35

Communications Common Carriers, Wire-Telegraph, Ocean-Cable, Uniform System of Accounts.

Report and Order

Adopted: December 8, 1982.
Released: December 17, 1982.

I. Introduction

1. On August 16, 1982, the Commission released a Notice of Proposed Rulemaking (NPRM), 47 FR 38927, proposing to revise certain schedules of Annual Report Forms O and R (Forms O and R). This NPRM was based on a petition filed by The Western Union Telegraph Company (Western Union) to revise certain schedules of Form O which they believed were duplicative, overbroad, outdated or unduly burdensome. The Commission included Annual Report Form R in the proposal because the reporting requirements of that report are identical to those contained in the Form O.

2. Form O is an annual report which is required to be filed by wire-telegraph and ocean cable carriers,[1] whose accounting is prescribed in Part 35 of the Rules; and Form R is an annual report required to be filed by radio-telegraph carriers [2] whose accounting is prescribed in Part 34 of the Rules. These reports which are filed in accordance with Section 43.21 of Part 43 and Section 1.785 of Part 1 of the Rules provide information on the stock and stockholders; officers and directors; funded debt; property, franchises and equipment; employees and their salaries; and financial operations of the reporting companies.

Proposed Revisions

3. The NPRM proposed the outright deletion of the following nine schedules on the basis that they were either duplicative or unnecessary for regulatory purposes.

Schedule 102, Analysis of Credits for Plant Retired
Schedule 110, Miscellaneous Physical Property
Schedule 130, Special Cash Deposits
Schedule 131, Working Cash Advances
Schedule 132, Temporary Investment
Schedule 338D, Investment of Pension and Benefit Funds
Schedule 401, Service Equipment Furnished Free to Customers
Schedule 406, Frank Service
Schedule 410, Accidents to Employees During the Year

4. The NPRM also proposed the deletion of Schedule 400, Wire-Telegraph and Ocean-Cable Plant Mileage and Schedule 400A, Wire-Telegraph Plant Mileage-Telegraph Channel. However, it sought specific comment as to whether the reporting of the data on these schedules is desirable and whether the data are available from company records if needed in future rate cases.

5. The NPRM proposed to amend Schedule 3, General Officers and Executives, to eliminate any reference to directors on the basis that the information for directors is duplicative of information reported on Schedule 2, Board of Directors. It also proposed to revise Schedule 3 to raise the salary cut-off level for reporting information for employees that are not officers and directors to $75,500 and to establish a salary cut-off level of $75,500 for reporting information for assistant general officers. Finally, as an alternative to the proposed revisions, the Commission requested comments on whether Schedule 3 should be eliminated.

6. The NPRM proposed to retain Schedule 140, Materials and Supplies, pending final resolution of the accounting for the provision of deregulated CPE in its petition. Western Union had requested that this schedule be eliminated.

7. The instructions for Schedule 143, Prepaid Taxes and Tax Accruals, currently require the listing of taxes paid to each individual state. The NPRM proposed amending this schedule to require the reporting of state and local taxes in one lump sum. It also proposed to amend this schedule to add the reporting by type of tax which has been submitted under separate cover, and it proposed to require the reporting of operating taxes separate from nonoperating taxes. A conforming revision was also proposed for Schedule 300, Income and Earned Surplus Statement, to separate income taxes between operating and nonoperating taxes.

8. Finally, the NPRM proposed to eliminate Schedule 401, Service Equipment Furnished Free to Customers with the caveat that Schedule 401A, Telegraph Printers in Service on Customers' Premises, be modified to collect information regarding the number of telegraph printers not furnished free to customers. The NPRM also proposed to revise Schedule 401A to require the reporting of the number of teletypewriter terminals in service broken down by class of service, i.e., TWX, Telex, and other.

Comments

9. The NPRM permitted all interested parties to file comments on the specific proposals on or before September 22, 1982, and reply comments on or before October 7, 1982. Comments were filed by Western Union Telegraph Company (Western Union), RCA Global Communications, Inc. (RCA Globcom), and Western Union International, Inc. (WUI). No reply comments were filed. The comments were generally in favor of the NPRM proposals. No objections were filed by any of the parties to the elimination of the nine schedules listed in paragraph 3.

10. The proposed elimination of Schedules 400 and 400A was favored by all three respondents. Western Union

[1] Carriers that report of Form O are Western Union Telegraph Company, WUI Caribbean Inc., FTC Communications Inc., and Western Union International Inc.

[2] Carriers that report on the Form R are ITT World Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications, and U.S. Liberia Radio Corporation.

and WUI stated that the information reported on these schedules is available in their records for use in future rate cases if needed. RCA Globcom stated that it does not maintain such information.

11. Western Union recommended that, if Schedule 3 is retained, the salary levels be raised from the proposed $75,500 per year to $87,000 per year to reflect additional inflation since its petition was filed. In response to our question regarding deletion of the Schedule 3, both Western Union and WUI preferred that it be deleted. RCA Globcom did not comment on this schedule.

12. Both Western Union and WUI agreed to the retention of Schedule 140 pending changes to the accounting regulations for customer premises equipment.

13. WUI supports the proposed changes to Schedule 143 and Schedule 300. Western Union agrees with the proposed changes to Schedule 143 to report state and local taxes as one lump sum and to report information by type of tax. However, Western Union opposed the proposal to separate operating and nonoperating taxes on the basis that it is unclear what was meant by "operating taxes" and "non-operating taxes" and how these taxes should be calculated. Western Union also stated that this proposal would necessitate revisions to Parts 34 and 35 and would result in arbitrary allocations which it considers inappropriate for general ledger purposes. Finally, Western Union expressed the view that this proposal would be contrary to the Commission's goal of minimizing the burden on the companies.

14. The proposed elimination of Schedule 401 and revisions to Schedule 401A were favored by Western Union and WUI, particularly in view of the Commission's stated willingness to review the schedules after the adoption of new CPE accounting regulations. However, WUI recommended also revising Schedule 401A to delete the existing service classes, i.e., government, commercial and press.

15. Finally, RCA Globcom and WUI sought Commission consideration of other reporting requirements not mentioned in the NPRM. RCA Globcom felt that some are superfluous and add administrative burden to the carriers. The specific examples given were (1) the reporting of marine telex revenues and expenses separate from all other telex revenues, (2) Schedule 107R reporting of the ratio of depreciation charge to average monthly book cost for each subclass of plant, and (3) providing a break out in Schedule 408A of hourly wage data for employees covered by the Fair Labor Standards Act. WUI sought the revision to Schedule 301, Ocean Cable Operating Revenue, to reflect current industry trends.

II. Discussion

16. There was no objection by the parties filing comments to deleting the nine schedules listed in paragraph 3, above. We find these schedules duplicative or unnecessary to our regulatory function. Accordingly, the following schedules are eliminated from Forms O and R.

Schedule 102, Analysis of Credits for Plant Retired
Schedule 110, Miscellaneous Physical Property
Schedule 130, Special Cash Deposits
Schedule 131, Working Cash Advances
Schedule 132, Temporary Investment
Schedule 338D, Investment of Pension and Benefit Funds
Schedule 401, Service Equipment Furnished Free to Customers
Schedule 406, Frank Service
Schedule 410, Accidents to Employees During the Year

17. After further review of Schedule 400, Wire-Telegraph and Ocean-Cable Plant Mileage and Schedule 400A, Wire-Telegraph, Plant Mileage-Telegraph Channel, it appears doubtful that these data would be needed in future rate cases or for any other regulatory purposes. On that basis, together with the comments of the respondents in favor of eliminating these schedules, we conclude that Schedule 400 and Schedule 400A should be eliminated.

18. Rather than revising Schedule 3, General Officers and Executives, to raise salary dollar limits, and to eliminate all reference to Directors as proposed in the NPRM, we are choosing the alternative proposal, and eliminating the Schedule in its entirety. We can foresee no regulatory purpose being served by requiring that this information be reported on a recurring basis, and there is no statutory requirement for us to maintain the information. Though we can see little, if any, use of the data in federal regulatory decisions, it would certainly be available in the company records for an ad hoc submission or for audit and review. For these reasons, we are eliminating this schedule.

19. In the NPRM, we proposed to retain Schedule 140, Materials and Supplies, pending final resolution of the accounting for the provision of deregulated CPE. Western Union and WUI agreed to this approach, and RCA Globcom was silent on this schedule. Accordingly, we are retaining Schedule 140. However, we will further evaluate its utility upon the final resolution of the accounting for the provision of deregulated CPE.

20. There was no opposition to our proposal to obtain state and local taxes on Schedule 143, Prepaid Taxes and Tax Accruals, as a lump sum rather than individually, and to require the reporting of taxes by type of tax. We are revising Schedule 143 accordingly.

21. Regarding our proposal to revise Schedule 143 and Schedule 300 to separate operating and nonoperating taxes, Western Union, as already noted, opposed the nonoperating and operating split on the basis that it did not understand our intended distinction between operating and nonoperating taxes and that such a distinction would necessitate revisions in Parts 34 and 35 which it considered as inappropriate. After consideration of Western Union's comments, we have decided that there is sufficient information generated by instruction 6 to Schedule 143 to provide, at least in the interim, sufficient information for our regulatory purposes. Further, since we issued this NPRM, we issued a Notice of Proposed Rulemaking in CC Docket 82–678 which proposes to amend Parts 34 and 35 to require separate accounting for unregulated activities. The revisions proposed in that proceeding could reduce or eliminate the need for separate reporting of operating and nonoperating taxes as proposed. Accordingly, we are not adopting the proposed separate reporting of operating and nonoperating taxes. After 82–678 is finalized, we will determine whether any additional disclosure of operating and nonoperating taxes is necessary.

22. We are amending Schedule 401A, Telegraph Printers in Service on Customers' Premise to include information regarding the number of teletypewriter terminals in service by class of service, i.e., TWX terminals, Telex terminals, and other teletypewriter terminals. There was no opposition to these proposals except for WUI's indication that the old class of service requirements (government, commercial and press) still remained and should be deleted. It was and still is our intention to remove those class of service requirements and replace them with the TWX, Telex, and other terminal classifications above.

23. WUI's request to revise Schedule 301, Ocean Cable Operating Revenue to reflect current trends in the industry, and RCA Globcom's requests regarding changes in (1) the reporting of marine telex revenue and expenses separately from all other telex service; (2) how Schedule 107R is calculated for each depreciable sub-class of plant; and (3) the provision required for the reporting

of Schedule 408A of hourly wage data for employees covered by the Fair Labor Standards Act are outside the purview of this rulemaking. Therefore, we are not considering them at this time, but will consider them at some future date as we continue the process of revising and updating our reporting requirements.

III. Ordering Clauses

24. Accordingly, it is ordered, That annual report Forms O and R shall be amended as discussed above, effective (Insert date of thirty days from Fed. Reg. publication date), for the reporting year 1982.[3]

25. It is ordered, That the Table of Contents and the Indices for Form O and Form R will be amended accordingly.

26. It is further ordered pursuant to Section 220(i) of the Communications Act, 47 U.S.C. 220(i), That the Secretary shall cause a copy of this Notice to be served on each state commission.

27. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

Willian J. Tricarico,

Secretary.

[FR Doc. 82-35430 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 231

[FRA Docket No. SA-3, Notice No. 6]

Safety Appliance Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; extension of compliance date.

SUMMARY: This document amends the final rule published on December 17, 1979 (44 FR 73101), which extended the compliance date for the removal of roof running boards from box and other house cars from December 31, 1979 to December 31, 1982. It extends the compliance date six months until June 30, 1983. This action is being taken in response to a petition of the Association of American Railroads.

[3] Carriers should note that the Forms O and R for 1982 were scheduled for printing before this proceeding was approved. Therefore, those schedules to be eliminated will still appear in the 1982 Forms O and R and should not be completed. Those schedules to be revised will also appear in the 1982 Forms O and R in their existing format. Carriers should use their typewriters to interline those schedules to include our revisions.

EFFECTIVE DATE: This final rule becomes effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Leavitt A. Peterson; Office of Safety, Federal Railroad Administration, Washington, D.C. 20590; Telephone (202) 426-0897.

Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590; Telephone (202) 426-8836.

SUPPLEMENTARY INFORMATION: The Association of American Railroads (AAR) has filed a petition requesting that the Federal Railroad Administration (FRA) delete the first sentence of the Note in § 231.1 of the Safety Appliance Standards (49 CFR 231.1). This would eliminate in its entirety the requirement for the removal of roof running boards and the completion of related changes in associated ladders and handholds on all box and other house cars built on or before April 1, 1966, or under construction prior to that date and placed in service on or before October 1, 1966. The present compliance date for this requirement is December 31, 1982. The petition also requests that this compliance date be extended six months to June 30, 1983, pending completion of rule making to delete this requirement.

In its petition, the AAR states that this requirement now "has less than a tenuous relationship to the safety of railroad employees". Railroad operating rules prohibit engine and train crews from going on the roof of a freight car. Railroad rules also prohibit other employees such as maintenance and repair personnel from going on the roof of a moving freight car.

On the basis of a recent survey, AAR estimates that approximately 30,000 cars are still in service that have not been so modified. The survey also indicates that almost one-half of these cars will be retired within the next three years.

After considering this petition, FRA has decided to extend the current compliance date six months to June 30, 1983. This will provide sufficient time for FRA to complete a rule making proceeding concerning the AAR request that this requirement be deleted in its entirety.

Notice and Public Procedure

Since this final rule merely extends for six months the compliance date of a regulation that is already in effect and imposes no additional burden on any person, FRA finds that notice and public procedure are not necessary and, because of the imminent December 31, 1982 compliance date, are also impractical.

Also, to avoid the disruption of rail service and public inconvenience that would result if all box and other house cars that have not been so modified were to be removed from service on the current compliance date of January 1, 1983, this amendment shall become effective in less than 30 days on January 1, 1983.

List of Subjects in 49 CFR Part 231

Railroad safety.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. It will not have an adverse or significant economic impact on any entity, including small entities, because it does not place any new requirements or burdens on the public. Accordingly, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1164, September 13, 1980). It does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The amendment does not constitute a major rule under the terms of Executive Order 12291 and does not constitute a significant rule under the Department of Transportation regulatory policies and procedures. Moreover, since there are no costs associated with this amendment, a regulatory evaluation is not warranted.

The Final Rule

PART 231—[AMENDED]

In consideration of the foregoing, § 231.1 of Part 231 of Title 49, Code of Federal Regulations, is amended, effective January 1, 1983, by revising the first sentence of the Note in that section to read as follows:

§ 231.1 Box and other house cars.

Note.—After June 30, 1983, cars of this type built on or before April 1, 1966, or under construction prior to that date and placed in service before October 1, 1966, must be equipped as nearly as possible with the same complement of safety appliances, depending upon type, as specified in § 231.27 for box and other house cars without roof hatches, or in § 231.28 for box and other house cars with roof hatches.

* * * * *

(Secs. 2, 4, and 6, 27 Stat. 531, as amended, secs. 1 and 3, 32 Stat. 943, as amended, secs. 1-6, 36 Stat. 943, as amended, sec. 6(e) and (f), 80 Stat. 939; 45 U.S.C. 2, 4, 6, 8, 10, 11-16, 49

U.S.C. 1655; and section 1.49(c) of the Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c))

Issued in Washington, D.C. on December 28, 1982.

Thomas A. Till,

Deputy Administrator.

[FR Doc. 82-35549 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1033 and 1254

[Ex Parte No. 285]

Maintenance of Records Pertaining to Demurrage, Detention, and Other Related Accessorial Charges by Rail Common Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The Commission has determined that the rules at 49 CFR 1254, pertaining to the maintenance of demurrage and detention records, are unnecessary. The Commission is removing these rules. The retention of the car service rule at 49 CFR 1033.15 may be necessary for purposes unrelated to the demurrage/detention rule; and requires further review. It is not rescinded at this time but will be considered in Ex Parte No. 241 (Sub-No. 1), Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices which is being reopened.

EFFECTIVE DATE: The removal of these rules will be effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: In the notice instituting this proceeding, served January 25, 1982 (47 FR 3574, January 26, 1982), the Commission proposed to reassess the need for its demurrage/detention recordkeeping regulations (49 CFR 1254.01-1254.06) adopted in *Maintenance of Records Pertaining to Demurrage*, 352 I.C.C. 739 (1976), and requested comments concerning possible modification or recission of the regulations. The notice also called for consideration of the related Car Service Rule 15 (49 CFR 1033.15). Although the other car service rules had been rescinded in Ex Parte No. 241 (Sub-No. 1), *Investigation of Adequacy of Freight Car Ownership*, 362 I.C.C. 844, 879 (1980)(45 FR 49942, July 28, 1980 as corrected at 47 FR 47394, October 26, 1982), Rule 15 was retained because of the reporting requirements it satisfied for the demurrage recordkeeping rules. Reassessment of these rules is in keeping with the policy of the Staggers Rail Act of 1980 (49 U.S.C. 10101a), which mandates that federal regulations be eliminated where they are unnecessary.

Comments were submitted by the Association of American Railroads (AAR), the American Short Line Railroad Association (ASLRA), Bartlett Agri Enterprises, Inc. (Bartlett Agri), Central Vermont Railway, Inc., Detroit, Toledo and Ironton Railroad Company, Duluth, Winnipeg and Pacific Railway Company, and Grand Trunk Western Railroad Company (GTW), and SRI, Inc. (SRI).

49 CFR 1254.01-1254.06

The demurrage rules at 49 CFR 1254.01-1254.06 set out explicit reporting requirements concerning a number of activities including the movement of cars on the track, track checks, notification of unloading, arrival, and actual and constructive placement of cars, and car orders. The rules state the manner and timing of recordation as well as the subjects to be recorded. These regulations were initially adopted to ensure that carriers would keep records enabling them to collect demurrage and detention charges applicable to rail freight cars and freight trailers. The rules were considered necessary because the carriers' substantiating records were incomplete. We stated in our prior notice, however, that the increased competition brought about by legislative changes in the regulatory structure, had become increasingly intense, and suggested that carriers' financial self-interest might suffice to ensure accurate recordkeeping and collection of charges, even in the absence of regulation. We also suggested that recent computer technology may make these rules unnecessary. The comments unanimously support this view.

The parties agree that the regulations are incompatible with technological advancements in the areas of computerization and mechanized or automated data processing systems which are used in recordkeeping, rating, and billing. For example, the rules require that carriers maintain separate records for each open station, that they prepare daily car reports, and that they forward the reports daily to recordkeeping offices. These clerical functions are time-consuming and expensive. The use of a computer, which retains the data at a central location, is at least as efficient and less expensive than the methods required by our regulations, and makes the preparation and forwarding of daily car reports unnecessary.

The rules also provide that notification of arrival and of unloading be in writing. They make one exception, for notification by telephone, and require that records of certain information must be kept when notification is by telephone. This requirement is no longer necessary. The recordation of loading and unloading is now accomplished by computer. Further, the provision relating to notice by telephone does not permit notification by other electronic means that are faster and less expensive. Moreover, other requirements have been made redundant or unnecessary by recently changed carrier practices and the revision made by Congress in the Interstate Commerce Act.

As a whole, these rules generate needless paperwork and negate the efficiencies provided by the use of computers. The kind of recordkeeping required by these rules is clearly expensive, cumbersome, and unnecessary, and no longer serves to protect the public interest. For these reasons, the rules will be rescinded.

In rescinding them, however, we are not removing the requirement that carriers maintain base records supporting the collection of the charges covered by 49 CFR 1254.01-.06. 49 U.S.C. 10750 requires carriers to compute demurrage charges and establish rules related to those charges. Carriers cannot compute and collect such charges without supporting records. Rail carriers must make and maintain records of all movements of freight cars which will readily reveal data sufficient to assess applicable charges and support all allowances required or authorized by lawful tariffs. Instead of the Commission prescribing the methods, the carriers should use any type of record compatible with their particular systems of recordation, and retain the records at whatever location and in whatever manner they desire. This approach is consistent with the Federal policy of less government interference in the day-to-day operations of the rail industry.

49 CFR 1033.15

As we previously stated, all the car service rules except Rule 15 were rescinded in Ex Parte No. 241 (Sub-No. 1). Rule 15 was retained because it had been incorporated into the demurrage recordkeeping rules and established certain reporting requirements under those rules. Since we are rescinding the demurrage recordkeeping rules, Rule 15 is no longer needed for this purpose.

Nevertheless, we are, in another proceeding, seeking comment on whether Rule 15 is necessary to the preservation and promotion of reciprocal switching, which in turn, promotes competition between carriers for traffic, and gives shippers shipping options at points of interchange. *See* Ex Parte No. 241 (Sub-No. 1), *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices*, issued simultaneously herewith.

PART 1254—[REMOVED]

Accordingly, 49 CFR Part 1254 consisting of §§ 1254.01–1254.06 is removed.

This action will not significantly affect either the quality of the human environment or conservation of energy resources. Nor will this action have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1254

Railroads.

(49 U.S.C. 10101a, 10321, and 5 U.S.C. 553)

Dated: December 20, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35360 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1039 and 1300

[Ex Parte No. 387]

Railroad Transportation Contracts; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 49 FR 50261 (November 5, 1982) the Commission adopted rules to implement the provisions of the Staggers Rail Act of 1980 providing for filing contract rates and for filing complaints related to railroad transportation contracts. Those rules contained inadvertent errors which are corrected by this notice.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278, or Michael Sullivan, (202) 275–0826.

SUPPLEMENTARY INFORMATION: Title 49 of the CFR is corrected by correcting the document published at 47 FR 50261–50266 as follows:

PART 1039—CONTRACTS

(1) The second sentence of § 1039.3(a) is corrected to read as follows:

§ 1039.3 Filing and approval.

(a)* * * The contract will be accompanied by two copies of a summary of the nonconfidential elements of the contract in the format specified in 49 CFR 1300.300–1300.315.

* * *

* * * * *

PART 1300—[AMENDED]

(2) In § 1300.313 paragraphs (a)(5)(i) (A) and (B) are corrected to read as follows:

§ 1300.313 Content of contract summary; format.

(a)* * *

(5)* * *

(i)* * *

(A) Available and owned by the carriers listed in paragraph (a)(1) of this section;

(B) Available and leased by the carriers listed in paragraph (a)(1) of this section;

* * * * *

Dated: December 22, 1982.

James H. Bayne.

Acting Secretary.

[FR Doc. 82-35358 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 25 and 95

Access To and Protection of National Security Information and Restricted Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to modify the requirements for submitting reports on classification/declassification actions, adding a specific marking to classified documents released to IAEA representatives, and maintaining records concerning visits involving classified information. The proposed amendments provide additional guidance for handling classified drafts of documents and working papers and for obtaining approvals for the security of telecommunication and automatic data processing systems where classified information is involved. The proposed amendments also update the regulations in accordance with the requirements of Executive Order 12356 and its Implementing Directive. These proposed amendments are necessary to incorporate experience gained under the current regulations and to prevent the unauthorized disclosure of National Security Information and Restricted Data.

DATE: Comments must be received on or before January 31, 1983. Comments received after this date will be considered if practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m. Copies of comments received may be examined and copied for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Security Policy Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427–4415.

SUPPLEMENTARY INFORMATION: On April 6, 1982, Executive Order 12356 entitled "National Security Information" was publshed in the **Federal Register** (47 FR 14874). Effective August 1, 1982, E.O. 12356, together with an accompanying Information Security Oversight Office (ISOO) Implementing Directive, changed certain requirements governing the classification, declassification, downgrading and safeguarding of National Security Information. As explained more fully in connection with the specific changes proposed in this notice, Parts 25 and 95 need to be amended in order to bring them into conformance with the provisions of E.O. 12356. Additional guidance and clarifying changes to these Parts are also being proposed. In particular, the proposed rule revises the authority sections of 10 CFR Parts 25 and 95 and makes changes to some definitions contained in these Parts. The proposed rule also clarifies the requirements for submittal of a complete security forms packet and makes other minor amendments.

Section 6.1 of E.O. 12356 reflects a change in the definition of the term "National Security Information." Sections 25.5 and 95.5 are being amended to reflect this revised definition. Additionally, § 95.5 is being revised to reflect changes in the definitions of "National Security," and "Classified Matter."

Section 25.17(c) in its original final form (45 FR 14476) required a full personnel security packet of forms identified in (1) through (6) of paragraph (c) to be submitted with each access authorization request. On October 30, 1980 (45 FR 71763), NRC amended § 25.17(c) and waived the full set of forms requirement for those individuals who already possessed an active security clearance from another Federal agency or who were being processed for a security clearance by another Federal agency on the effective date of the rule. The October 30, 1980 amendment substantially reduced the initial administrative burden on affected licensees who used the new procedure to obtain authorizations for affected employees. A literal intepretation of the regulation as it now reads, continues to permit a reduced requirement for forms, even if the previously granted security clearance has since been terminated. This was not the staff's intent. The changes being made to this section will continue to permit the certification of existing active Federal government access authorizations (with the reduced forms requirement) when based on adequate investigations which are not more than five years old.

Paragraph (c) of § 25.33, "Termination of access authorizations," currently requires the licensee or other organization official conducting a termination briefing to notify NRC in writing that a briefing was conducted and forward the Security Termination Statement. Section 25.33(c) is being revised to reflect that the NRC Division of Security accepts the submission of the completed termination statement as evidence that the termination briefing has been conducted.

When Part 25 was originally published, NRC prescribed a number of recordkeeping requirements based on disposition schedules then in use. A recordkeeping requirement for documents relating to classified visits was not identified at that time. A records maintenance requirement for NRC Form 277 will provide the opportunity for NRC review of the classified visit program at the affected facility and provides assurance that only properly authorized individuals obtain access to classified matter during visits to other facilities and agencies. A revision of § 25.35 imposes this necessary recordkeeping requirement.

Sections 25.37 and 95.61, "Violations," are being revised to provide clear and concise notice of potential criminal liabilities and the availability of criminal penalties for the willful violation of the Parts and to reflect the replacement of E.O. 12065 by E.O. 12356.

In order to permit licensees and others to make changes to their facility security plans, a new paragraph 95.15(d) has been added. Changes which do not decrease the effectiveness of the plan may be made without prior NRC

approval, but they must be submitted within two months after the changes have been made.

Classified documents which have been released to IAEA representatives will be identified by a special marking applied to them in accordance with instructions contained in the specific disclosure authorization letter provided by the NRC to the licensees. This additional means of identification and control for classified documents has been incorporated in section 95.36.

The requirements of E.O. 12356 modified the markings to be applied to classified documents. These modifications are reflected in the revisions being made to § 95.35(c), "Markings required on face of classified document." Under E.O. 12356, the declassification of documents can occur on a specific date, event, or upon the originating agency's determination that the document may be declassified. Since the new E.O. eliminated the scheduled or routine review for declassification, § 95.35(c) is being revised to reflect this change. Additionally, § 95.37(c)(6), which addresses the extension of classification beyond six years, is being deleted since National Security Information documents under the new E.O. are no longer automatically declassified after that period.

The requirements of E.O. 12356 also modified the markings applied to transmittal memoranda and letters. These new markings are set forth in the proposed revisions to § 95.35(h).

Section 95.37, "Classification and preparation of documents," provides detailed requirements for the marking and handling of classified documents. Experience in working with this section has demonstrated a need to provide more direction for the marking and handling of newly created documents. For this reason, a new paragraph (k) has been added that provides specific direction for the marking and handling of drafts and working papers.

The existing § 95.39(d), "Telecommunication of classified information," and § 95.49, "Security of automatic data processing (ADP) systems," also demonstrated the need for revision to provide the necessary direction and requirements to establish a secure telecommunication or ADP system. Revised §§ 95.39(d) and 95.49 impose no additional requirements, but do offer more detailed direction.

Section 95.57 presently requires the submission of an NRC Form 790 whenever a document containing National Security Information or Restricted Data is generated or its classification is changed. An amendment to this section clarifies who should submit this report and what actions should be reported and on what schedule.

Section 95.59, "Inspections," is being revised to reflect the replacement of E.O. 12065 by E.O. 12356.

Part 95, Appendix A, "Classification Guide for Safeguards Information," is being updated to conform with E.O. 12356. A significant change occurs in the area of declassification guidance. Whereas previously, reviews at the end of 7 or 20 years were required, a determination by the originating agency is now required before information may be declassifed.

Paperwork Reduction Act Statement

This rule contains information collection requirements which have been submitted to OMB for review and approval.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on any small entities. Each NRC licensee or other organization which may require access to National Security Information and/or Restricted Data used, processed, stored, reproduced, transmitted and destroyed in connection with a license or application for a license could potentially be impacted by this rule and required to provide adequate protection for National Security Information and/or Restricted Data. Only 12 entities (none of which have been determined to be small as defined by the Regulatory Flexibility Act of 1980) including five fuel cycle facilities, three transportation companies, one reactor, and three other organizations are currently required to meet the requirements of 10 CFR Parts 25 and 95.

List of Subjects

10 CFR Part 25

Classified information, Penalty, Reporting requirements, Security measures.

10 CFR Part 95

Classified information, Penalty, Security measures.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Parts 25 and 95 is contemplated.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for Part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398, (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under Title V, Pub. L. 82–137, 65 Stat. 290 (31 U.S.C. 483a).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are also issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Remove the authority citations following §25.17 and Appendix A.

3. In § 25.5, the definition of "National Security Information" is revised to read as follows:

§ 25.5 Definitions.

* * * * *

"National Security Information" means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

* * * * *

4. In § 25.17, paragraphs (a) and (c) are revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

(a) Access authorizations shall be requested for licensee employees or other persons (e.g., 10 CFR Part 2, Subpart I) who need access to National Security Information and/or Restricted Data in connection with activities under Parts 50, 70, or 72.

* * * * *

(c)(1) Each personnel security packet submitted, must include the following completed forms:

(i) Personnel Security Questionnaire (NRC–1, Parts I and II);

(ii) National Agency Check-Data for Nonsensitive or Noncritical-Sensitive Position (SF–85–A)—for "L" cases only;

(iii) Two Standard Fingerprint cards (FD–258);

(iv) Security Acknowledgment (NRC–176);

(v) Authorty to Release Information (NRC–259); and

(vi) Related forms where specified in accompanying instructions (NRC–254).

(2) Forms identified in paragraphs (c)(1)(i) and (ii) of this section must be typed. Only a Security Acknowledgment (NRC Form 176) need be completed by any person possessing an active access

authorization, or who is being processed for an access authorization, by another Federal agency. Such active or pending access authorization must be at an equivalent level to that required by the NRC and be based on an adequate investigation not more than 5 years old.

* * * * *

5. In § 25.31, paragraph (b) is revised to read as follows:

§ 25.31 Extensions and transfers of access authorizations.

(b) The NRC Division of security may, on request, transfer an access authorization when an individual's access authorization under one employer or activity is terminated, simultaneously with the individual being granted access authorization for another employer or activity.

* * * * *

6. In § 25.33, paragraph (c) is revised to read as follows:

§ 25.33 Termination of access authorizations.

(c) When an access authorization is to be terminated, a representative of the licensee or other organization shall conduct a security termination briefing of the individual involved, explain the Security termination Statement (NRC Form 136) and have the individual complete the form. The representative shall promptly forward the original copy of the completed Security Termination Statement to the NRC Division of Security, Office of Administration, Washington, DC 20555.

7. Section 25.35 and the undesignated center heading preceding it are revised to read as follows:

Classified Visits

§ 25.35 Classified visits.

Visits to NRC, NRC contractor, licensee or licensee related facilities, or other government agencies and their contractors involving access to classified information by individuals covered by this part require advance certification of "need-to-know" and verification of NRC access authorization. Individuals planning these visits shall complete NRC Form 277, "Request for Visit or Access Approval," with the "need-to-know" certified by the appropriate NRC office exercising licensing or regulatory authority. This NRC Office shall then forward the request to the NRC Division of Security at least 15 days in advance of the date of the visit for appropriate verification of NRC access authorization. The Division of Security shall forward the form to the facility to be visited. Records related to these visits must be maintained by the facility for two years following the expiration date of the visit authorization.

8. Section 25.37 and the undesignated center heading preceding it are revised to read as follows:

Violations

§ 25.37 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) National Security Information is protected under the requirements and sanctions of Executive Order 12356.

(c) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of the Atomic Energy Act of 1954, as amended, for which no criminal penalty is specifically provided or any regulation or order prescribed or issued under subsections 161i or o of the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law. Regulations issued under the Act include regulations issued under subsections 161i and o and cited within the authority citation at the beginning of this part for the purposes of section 223.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

9. The authority citation for Part 95 reads as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398, (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); 95.13, 95.15(a), 95.25, 95.27, 95.29(b), 95.31, 95.33, 95.35, 95.37, 95.39, 95.41, 95.43, 95.45, 95.47, 95.51, 95.53, and 95.57 are also issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)).

10. In § 95.5, the definitions of "Classified Matter," "National Security," and "National Security Information" are revised to read as follows:

§ 95.5 Definitions.

* * * * *

"Classified Matter" means documents or material containing classified information.

* * * * *

"National Security" means the national defense or foreign relations of the United States.

"National Security Information" means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

* * * * *

11. In § 95.15, paragraph (d) is added to read as follows:

§ 95.15 Approval for processing licensees and others for security facility approval.

* * * * *

(d) A licensee or other person may make a change in an NRC approved facility security plan for the safeguarding of National Security Information and Restricted Data without prior NRC approval, if the change does not decrease the effectiveness of the plan. A report containing a description of each change must be furnished to the NRC. Director of Security, Office of Administration, Washington, DC 20555, with a copy to the Regional Administrator of the appropriate NRC Regional Office listed in Appendix A, 10 CFR Part 73, within two months after the change.

12. In § 95.36, paragraph (c) is revised to read as follows:

§ 95.36 Access by Representatives of the International Atomic Energy Agency.

* * * * *

(c) In accordance with the specific disclosure authorization provided by the Division of Security, licensees are authorized to release (i.e., transfer prossession of) copies of documents which contain National Security Information directly to IAEA inspector and other representatives officially designated by IAEA to request and receive classified National Security Information documents. These documents shall be marked specifically for release to IAEA in accordance with instructions contained in NRC's disclosure authorization letter. Licensees may also forward these documents through NRC to IAEA representatives at IAEA headquarters in accordance with the NRC disclosure authorization. Licensees are not authorized to reproduce documents containing National Security Information except as provided in § 95.43 of this part.

13. In § 95.37, paragraph (c) and (h) are revised and new paragraph (k) is added to read as follows:

§ 95.37 Classification and Preparation of Documents.

* * * * *

(c) *Markings required on face of classified documents.* Each classified document must contain on its face:

(1) For National Security Information documents:

(i) Identity of classifier. The identity of the classifier must be shown by completion of the "Classified By" line. The completion of the "Classified By" line must show the guide or guidance responsible for the classification and the signature of the classifier applying the guidance to the document.

(ii) Date of classification and office of origin. The date on a document at the time of its origination may be considered the date of classification if the document it marked as classified on the same day it is originated. If the documents is marked on a day subsequent to its origination, the actual date of marking must be shown on the "Classified By" line.

(iii) Classification designation (e.g., Secret, Confidential) and National Security Information.

(iv) Date or event for declassification. Completion of the "Declassify On line will satisfy this requirement. If the information is not to be declassified automatically on a specific date or upon occurance of an event, the "Declassify On" line must read as "Declassify On: Originating Agency's Determination Required."

(2) For Restricted Data documents:

(i) Identity of the classifier. The identity of the classifier must be shown by completion of the "Derivative Classifier" line. The "Derivative Classifier" line must show the name of the person classifying the document and the basis for the classification. Dates for downgrading or declassification do not apply.

(ii) Classification designation (e.g., Secret, Confidential) and Restricted Data.

* * * * *

(h) *Letter of transmittal.* If a document transmitting National Security Information and/or Restricted Data contains no classified information or the classification level of the transmittal document is not as high as the highest classification level of its enclosures, then it must be marked at the top and bottom with a classification at least as high as its highest classified enclosure. The classification may be higher if the enclosures, when combined, warrant a higher classification than any individual enclosure. When the contents of the letter of transmittal warrant a lower classification than the highest classified enclosure(s) or combination of enclosures or requires no classification, a stamp or marking such as the following must also be used on the letter:

Upon removal of attachments this document is: (Classification level of transmittal document standing alone or the word "Unclassified" if the transmittal document contains no classified information.)

* * * * *

(k) *Drafts and working papers.* Drafts of documents and working papers which contain or which the originator believes contain classified information must be marked on the top and bottom of each page with the highest level of classification contained therein with the National Security Information or Restricted Data marking. It is not required that other markings specified in § 95.37(c) be applied or that an NRC Form 790 be prepared as indicated in § 95.57(b) for drafts and working papers, provided they are not disseminated outside the facility. Prior to any dissemination outside of the facility, drafts and working papers must be reviewed by an authorized derivative classifier, final and complete classification markings applied, and an NRC Form 790 prepared and submitted to the NRC Division of Security, Washington, D.C. 20555. If classified Secret, the document must be recorded in the accountability record in accordance with § 95.41.

14. In § 95.39, paragraph (d) is revised to read as follows:

§ 95.39 External transmission of documents and material.

* * * * *

(d) *Telecommunication of Classified Information.* There must be no telecommunication of National Security Information or Restricted Data unless the telecommunication system has been approved by the NRC Division of Security. Licensees or other persons who may require a secure telecommunication system shall submit a telecommunication plan as part of their request for NRC security facility approval, as outlined in § 95.15, or as an amendment to their existing security plan for the protection of National Security Information or Restricted Data.

15. Section 95.41 is amended by capitalizing the word "secret," which precedes National Security Information.

16. Section 95.43 is revised to read as follows:

§ 95.43 Authority to reproduce.

Secret National Security Information and/or Restricted Data will not be reproduced without the written permission of the originator, the originator's successor, or higher authority. Confidential National Security Information and/or Confidential Restricted Data may be reproduced, unless restricted by the originating agency, to the extent required by operational needs.

17. In § 95.45, paragraph (a) is revised to read as follows:

§ 95.45 Changes in classification.

(a) Documents containing National Security Information and/or Restricted Data shall be downgraded or declassified as authorized by NRC classification guides or as determined by NRC. Requests for downgrading or declassifying any National Security Information and/or Restricted Data should be forwarded to the NRC Division of Security, Office of Administration, Washington, DC 20555. Requests for downgrading or declassifying of Restricted Data will be coordinated as appropriate by the NRC Division of Security with the Department of Energy.

* * * * *

18. Section 95.49 is revised to read as follows:

§ 95.49 Security of automatic data processing (ADP) systems.

Classified data or information must not be processed or produced on an ADP system unless the system and procedures to protect the classified data or information have been approved by the NRC Division of Security. Approval of the ADP system and procedures is based on a satisfactory ADP security proposal submitted as part of the licensee's or other person's request for NRC security facility approval outlined in § 95.15 or submitted as an amendment to its existing security plan for the protection of National Security Information or Restricted Data.

19. In § 95.57, the introductory paragraph is revised to read as follows and the undesignated paragraph following § 95.57 (b) is designated as (c) and is revised to read as follows:

§ 95.57 Reports

Each licensee or other person having a

security facility approval shall immediately report to the Regional Administrator of the appropriate NRC Regional Office listed in Appendix A, 10 CFR Part 73:

* * * * *

(c) In addition, a licensee's or license related organization's authorized classifier shall complete a NRC Form 790 (Classification Record) whenever a document containing National Security Information and/or Restricted Data is generated, its classification is changed or it is declassified. Notification of declassification is not required for any document or material which has an automatic declassification date. Completed NRC Forms 790 should be submitted to the NRC Division of Security, Washington, DC 20555, on a monthly basis.

20. Section § 95.59 is revised to read as follows:

§ 95.59 Inspections.

The Commission shall make such inspections and surveys of the premises, activities, records and procedures of any person subject to the regulations in this Part as the Commission deems necessary to effect the purposes of the Act, E.O. 12356, and NRC rules.

21. Section 95.61 is revised to read as follows:

§ 95.61 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) National Security Information is protected pursuant to the requirements and sanctions of E.O. 12356.

(c) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of the Atomic Energy Act of 1954, as amended, for which no criminal penalty is specifically provided or any regulation or order prescribed or issued under subsection 161i of the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law. Regulations issued under the Act include regulations issued under subsection 161i and cited within the authority citation at the beginning of this Part for the purposes of section 223.

22. In Appendix A, paragraphs E item 5 and paragraph F are revised to read as follows:

Appendix A—Classification Guide for Safeguards Information

* * * * *

E. Definitions used in the Guide:

* * * * *

5. National Security Information (NSI)—information or material collectively termed information, that is owned by, produced for or by, under the control of, or regulated by the United States Government, and that has been determined pursuant to Executive Order 12356 or prior Executive Orders to require protection against unauthorized disclosure, and that is so designated.

* * * * *

F. Declassification—E.O. 12356.

Restricted Data is exempt from automatic declassification and does not require declassification markings. National Security Information identified in this guide will be marked for declassification as specified by the applicable topic of this Guide. This Guide has been approved by an original Top Secret classification authority.

* * * * *

23. In Appendix A, the "Classification Guidance" heading following paragraph G. is designated paragraph H.; immediately beneath the paragraph H. heading "Classification Guidance," a new subheading "(a) Subject" is inserted above the left-hand column of the guidance item list; and immediately beneath the paragraph H. heading "Classification Guidance", a new subheading "(b) Requirement" is inserted above the right-hand column of the guidance item list to read as follows:

* * * * *

H. Classification guidance	
(a) Subject	(b) Requirement
. . . . .	

24. In Appendix A, under the "Requirements" column (b) of paragraph H., the requirements in items 112, 123, 201, 212, 214, 221, 222, 224, 225, 226, 231, 241, 254, 261.2, 261.3, 261.4, 262.1, 262.3, 263.1, 263.2, 264.1, 264.2, 283, 291, 333.1, 333.3, 334.1, 334.2, 334.3, 335, 336, 372, 373, 385, 386, 410, 411, 412, 413, 420, 422, 423.1, 423.2, 423.3, 541, and 542, are revised to read "Originating agency's determination required for declassification."

25. For Appendix A, the note following item 423.2 is removed.

Dated at Bethesda, Maryland, this 22d day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-35374 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-95-AD]

Airworthiness Directives; Lockheed-California Company Model L-1011-385-3 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require a modification to the electrical system of Lockheed Model L-1011-385-3 Series airplanes to protect certain wing wires from moderate to severe lightning strikes. This AD is needed to reduce the potential for a complete loss of the Active Control System, which protects the wing against high structural loads encountered in turbulent conditions.

DATES: Comments must be received no later than January 31, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, Calif. 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seatle, Wash. 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

FOR FURTHER INFORMATION CONTACT: Raymond A. Stoer, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, Calif. 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified under the caption **"Availability of NPRM's"**. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed

in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–95–AD, 17900 Pacific Highway South, C–68966, Seattle, Wash. 98168.

Discussion.

There have been 2 reported incidents in the past 18 months where moderate to severe lightning strikes have caused damage to the active Control (wing load alleviation) System. This resulted in total system loss for the remaining portion of the two flights. This condition occurs when the high-energy field, induced by a lightning strike or a near miss, produces excessive electrical power through the wing signal wires which in turn causes hardware damage to the aileron servo amplifiers. Since lightning activity often occurs in areas of strong vertical gusts, the protection that the active control system provides for the wing against high structural loads can be lost in those conditions when it is most needed.

To preclude further incidents of the type described above, the Lockheed-California Company issued L–1011 Service Bulletin 093–22–147, dated August 17, 1982, which provides aircraft wiring modifications. Lockheed tests have shown that these modifications will provide a significant increase in the level of protection against lightning strike damage to the Active Control System.

In consideration of the potentially hazardous consequence of a failed Active Control System, the proposed AD is considered to be necessary.

The estimated costs associated with the proposed AD are as follows: Fifteen domestic airplanes are affected that will require approximately 90 manhours per airplane to accomplish the required actions at an average labor charge of $35.00 per manhour. The modification kits are provided by the manufacturer at no cost to the operator. Based upon these figures, the total economic impact is estimated to be $47,250. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to Lockheed Model L–1011–385–3 series airplanes, certificated in all categories. Compliance required by March 31, 1983, unless previously accomplished. To minimize the probability of a total loss of the Active Control System in-flight, accomplish the following:

A. Modify the electrical system in accordance with Part 2, Accomplishment Instructions, in Lockheed-California Company L–1011 Service Bulletin 093–22–147, dated August 17, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternative means of compliance providing an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts Dept. 63–11, U–33, B–1. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Wash. 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Wash. on December 15, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–35160 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–AGL–23]

Proposed Designation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airway V–503 between Rochester, Minn., and Cedar Rapids, Iowa. The direct routing between these points would reduce controller workload by providing an airway in an area where aircraft are normally vectored. Also, V–503 would provide economic benefits to users in the form of fuel savings.

DATES: Comments must be received on or before February 10, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 82–AGL–23, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 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, D.C.

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 Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

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. 82-AGL-23." 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, D.C. 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 § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate new VOR Federal Airway V-503 between Rochester, Minn., and Cedar Rapids, Iowa, via a direct route. An increasing number of pilots are requesting direct routing between these points. The FAA has determined that users of the air traffic control system would be better served by designating an airway in an area where frequent request by pilots for direct routing between these points have been noted. This action would aid flight planning, increase safety, and reduce controller workload. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

VOR Federal Airways, Aviation Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-503 [New]

V-503 From Rochester, MN, to Cedar Rapids, IA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—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.

Issued in Washington, D.C., on December 17, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-35161 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6445; 34-19354; 35-22788; S7-956]

Oil and Gas Producers; Full Cost Accounting Practices; Proposed Amendment of Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing for comment two alternative sets of amendments to its rules for application of the full cost method of accounting by oil and gas producers. The proposed amendments are intended to clarify the criteria for determining which capitalized costs may be excluded from immediate amortization. They would thereby narrow the diversity of practice resulting from varying interpretations of the Commission's existing rules which permit the exclusion from amortization of "unusually significant" costs of unproved properties and major development projects. The Commission is also proposing amendments to clarify its rules on the recognition of gain or loss on sales of oil and gas producing properties.

DATE: Comments should be received by the Commission on or before April 30, 1983.

ADDRESS: Comments should refer to File No. S7-956 and be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All Comments will be available for public inspection at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Rader or John W. Albert (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

In Accounting Series Release No. 258 (ASR 258),[1] issued in December 1978, the Commission adopted rules to establish uniform requirements for financial accounting and reporting practices of oil and gas producers following the full cost method of accounting. Originally, the related proposed rules had specified that the costs of all undeveloped leases and uncompleted wells should be included in the amortization base as the costs were incurred. However, many commentators pointed out that historically the full cost method had recognized the need to exclude certain unevaluated costs from amortization. These commentators argued that, although the methods used to determine exclusions had varied, their purpose was to avoid an unwarranted distortion of the amortization rate, arising from situations where major expenditures were necessary prior to establishing proved reserves (such as unusually large offshore lease investments, major development projects or secondary and tertiary recovery projects).

The Commission concluded that these arguments had merit, and accordingly adopted rules to provide that "costs of

[1] Accounting Series Release No. 258, "Oil and Gas Producers—Full Cost Accounting Practices," December 19, 1978 (43 FR 604134).

acquiring and evaluating unproved properties may be excluded only if the costs incurred are unusually significant in relation to the aggregate costs to be amortized" and that "costs of major development projects may be excluded * * * only if unusually significant development costs must be incurred prior to ascertaining the quantities of proved reserves attributable to the properties under development." [2] The Commission believed that in order to maintain discipline in the full cost method, the eligibility of costs for exclusion should be limited to certain clearly defined conditions. Thus, the exception was designed to apply only in those unusual and infrequent circumstances where highly significant expenditures are required before proved reserves can be established. The objective of the exclusion was to avoid a material and potentially misleading impact on financial reporting as a result of an unrealistic overstatement of the amortization provision prior to proving up reserves and a corresponding understatement afterwards.

Because the Commission recognized that the judgements involved in assessing significance would vary with the individual facts and circumstances, ASR 258 did not establish any percentage tests for determining whether costs are "unusually significant." However, the release pointed out that the normal inventory of preproduction costs (costs of undeveloped leases and related carrying and evaluation costs) typically associated with ongoing exploration activities should be included in the cost center for amortization purposes. By including this "normal inventory" and by taking any additional reserves and related costs into consideration on a prospective basis upon discovery, the Commission believed that a reasonable and consistent allocation of costs over a period of time would be achieved. [3]

Recent Developments

Based on a review of reports recently filed with the Commission as well as discussions within the industry, the Commission staff has noted a significant lack of consistency in the application of the rules permitting full cost companies to exclude certain costs from amortization. In many cases, exclusions from the full cost amortization base seem to have become the rule rather than the exception. [4] At one extreme, the normal inventory concept has been ignored, and the aggregate cost of all unevaluated properties has been excluded. Although other companies limit exclusions to properties which are "unusually significant," defined by reference to a specified percentage of total capitalized costs in a cost center, there are significant differences in the percentage criterion used (ranging from less than 5% to more than 25%) and in the definition of "property" to which this test is applied (individual lease or some aggregation of leases.)

The Commission is concerned that the extensive diversity in current accounting practice creates serious problems of noncomparability among companies who are in essentially similar circumstances and are ostensibly using the same method of accounting for their oil and gas producing activities. This current inconsistency in practice makes it apparent that the existing rules provide insufficient guidance. Accordingly, the Commission is proposing revisions to the existing rules.

The Commission has identified two alternative approaches which it believes warrant consideration as ameded rules for the determination of costs eligible for exclusion from the full cost amortization base. The first alternative would permit exclusion of all unevaluated costs in a cost center from the amortization base while the second alternative would expand on the normal inventory concept by applying specific tests. A discussion of these alternatives follows.

Exclusion of all Costs of Unevaluated Properties

Advocates of the exclusion of all costs of unevaluated properties argue that the amortization rate is computed based on proved (i.e., evaluated) reserves and that, accordingly, only evaluated costs should be associated with those reserves for amortization purposes. Since unevaluated properties are required to have value at least equal to their carrying cost, and since by definition it is not known whether those costs relate to proved reserves, they chould be excluded in their entirety, regardless of their significance either individually or in the aggregate. Supporters of this approach further maintain that it is more objective and easier to apply than the normal inventory method because it does not require an inevitably judgmental and arbitrary definition of "normal" inventory. It therefore produces greater consistency of practice and comparability of reported financial information than a normal inventory approach.

The arguments against the blanket exclusion of all costs of unevaluated properties are essentially the same as those supporting the normal inventory method. Opponents of a blanket exclusion refer to the full cost theory that nonproductive as well as productive costs are unavoidable in the discovery of oil and gas reserves. They insist that some or all preproduction costs should accordingly be amortized based on current production. They maintain that exclusions can be justified, if at all, only when the unevaluated costs in question so far exceed the normal level that their inclusion would result in an unwarranted distortion of the amortization rate. In other words, exclusions should be permitted only in highly unusual circumstances; otherwise the "full cost" method of accounting would become indistinguishable from the successful efforts method, except for the capitalization of dry hole costs and non-recognition of gain or loss on sales of oil and gas properties.

Exclusion of Costs Based on the Normal Inventory Theory

The normal inventory concept is consistent with the approach followed in the existing rules which provide for exclusion only of costs of unevaluated properties and major development projects which are unusually significant in that they exceed the normal inventory level. The fundamental precept of this theory is that although preproduction costs do not add value to the reserves already proved, a certain level of such costs is essential and unavoidable in order for a company to function as an ongoing exploration and development operation. Accordingly, this normal inventory amount is an integral part of the cost of proved reserves and should be amortized currently. Where unevaluated costs are unusually significant relative to the total costs in the cost center, that is, where they exceed the amount of unevaluated costs normally associated with the operations of the cost center, they should be excluded from the amortization base in order to avoid distortion of the amortization rate.

Alternative Suggestions Solicited

The Commission invites comments on which of the previously discussed methods, as set forth in two alternative

[2] Rule 4-10(i)(3)(ii) of Regulation S-X.

[3] Section 406.01.c.i of Financial Reporting Release No. 1, "Codification of Financial Reporting Policies," April 15, 1982.

[4] The impetus for increased exclusion of costs from the amortization base may have been provided by the August 1980 issuance of FASB Interpretation No. 33, "Applying FASB Statement No. 34 to Oil and Gas Producing Operations Accounted for by the Full Cost Method," which permits oil and gas producers following the full cost method to capitalize interest on costs excluded from amortization and prhohibits interest capitalization on costs being amortized.

rule proposals, is the more appropriate. Commentators are also specifically invited to discuss any other appropriate criteria for the exclusion of costs from the amortization base under the full cost method of accounting. These criteria may include, among other possibilities, (1) establishing a set percentage test for exclusions (such as all unevaluated costs in excess of 15% of total capitalized costs in a cost center), (2) permitting no exclusions, (3) modifying the proposed exclusion of all unevaluated costs to require immediate amortization of certain costs, such as those which are nonproductive (e.g., leasehold carrying costs and costs of unsuccessful exploratory wells), or (4) modifying the percentages used in the normal inventory approach.

Criteria to Be Addressed

Commentators are requested to support their suggested approach to exclusions from amortization based on considerations which include, among other things, (1) meaningfulness to investors and other financial statement users, and (2) accurate representation of industry economics.

Discussion of Proposed Rules

Exclusion of all costs of unevaluated properties—The first alternative proposed by the Commission would permit the exclusion from amortization of all costs of unevaluated properties. These excluded costs should (a) specifically relate to those properties which have not yet been evaluated and (b) represent potentially productive costs. Accordingly, unproved properties would be periodically assessed on an individual basis to ascertain whether impairment has occurred, and the amount of any impairment would be included in the amortization base. In addition, geological and geophysical costs which are not directly allocable to specific unevaluated properties would be included in the amortization base as incurred.

Normal inventory of preproduction costs—In implementing the normal inventory theory, the Commission recognizes that the amount of costs included in the normal inventory level will vary from company to company, depending on individual facts, circumstances and modes of operation. The proposal would, therefore, establish criteria for determing the normal inventory level which would be company specific in order to allow equitable treatment for companies with relatively low as well as relatively high normal levels of preproduction costs. However, if a normal inventory method is adopted, the Commission also proposes that this approach require that nominal amounts of preproduction costs always be amortized. Conversely, the Commission proposes that where a company typically carries large investments in undeveloped leases, at least some portion of that investment should be considered in excess of a normal inventory level and should be excluded from amortization. (Otherwise, the normal inventory method could produce the same result as a requirement to include all unevaluated costs in the amortization base.) The normal inventory computation would be based on costs incurred and capitalized to date, without consideration of estimated future development costs.

Accordingly, under its second alternative the Commission is proposing to define a company's normal inventory of preproduction costs for a cost center as an amount computed by multiplying total capitalized costs for the cost center, as of the date the amortization rate is computed, by the "normal inventory percentage." This "normal inventory percentage" would be defined as the three-year moving average of the actual percentage of preproduction costs to total capitalized costs in the cost center, but not less than 10% nor more than 20% of such total capitalized costs as of the date the amortization rate is computed. For purposes of this computation, preproduction costs would include all costs of undeveloped leases and related carrying and evaluation costs, whether or not being amortized currently, but would exclude any costs estimated to be incurred in the future. Geological and geophysical costs would be included in preproduction costs only to the extent that they can be directly associated with specific unevaluated properties. Total capitalized costs would represent the amount included in the balance sheet as of the date the amortization rate is computed and would include all such preproduction costs. The Commission is proposing a three-year moving average because it is a reasonably current measure, which also considers and offsets some of the effects of significant year-to-year fluctuations. Although the percentage tests are arbitrary, amounts less than 10% of total costs generally would not distort the amortization rate. Similarly, the 20% ceiling is not unduly high and represents approximately the middle of the range of percentages which the Commission understands are currently being applied to assess "unusual significance."

Related Issue-Mineral Property Conveyances

Discussions with registrants and others also indicate possible confusion as to the meaning and intent of the Commission's rules for recognition of gain when oil and gas properties are sold. Accordingly, the Commission is proposing to amend and clarify its rules on accounting for mineral property conveyances by full cost companies.

Rule 4–10(i)(6)(i) of Regulation S–X states that sales of mineral properties by full cost companies are ordinarily treated as adjustments of capitalized costs with no gain or loss recognized. This treatment is appropriate because under full cost accounting, costs lose their identity once they are charged to the pool. Rule 4–10(i)(6) provides for exceptions to this general rule in two circumstances: (1) when the sale causes a significant alteration in the relationship between costs and reserves in a cost center, or (2) when properties held primarily for lease brokerage purposes are sold in connection with drilling arrangements and the cash consideration received exceeds total costs incurred plus any costs expected to be incurred subsequently.

The Commission has recently become aware that considerable confusion surrounds these mineral property conveyance rules, primarily with respect to the applicability of the two exceptions under which gain or loss may be recognized. Questions have arisen first as to whether the general prohibition against gain recognition in Rule 4–10(i)(6)(i) applies to properties excluded from current amortization. The proposed amendments would clarify that the gain recognition rules apply to all properties held for production purposes (i.e., all properties not segregated and accounted for in a separate lease brokerage account), regardless of whether they are being amortized currently. Thus, gain may be recognized only where the "significant alteration" test is met.

With respect to the drilling arrangement rules, there is also uncertainty as to which leases are eligible for gain or loss recognition under these provisions. The Commission believes that the confusion regarding the drilling arrangement rules arises because the existing rules do not explicitly address their original purpose, which is to permit companies that are in fact involved in two separate and distinct aspects of the oil and gas business—one being oil and gas exploration and production and the other lease brokerage—to recognize

gains from their brokerage activities. These rules were never intended to permit gain recognition or exclusion from the full cost pool for typical "farm-out" or promoted-deal production arrangements which are primarily financing or risk sharing transactions. Accordingly, the proposed rules would explicitly state that the drilling arrangement rules apply only to companies which can demonstrate and document that they operate in two distinct aspects of the oil and gas business (for instance, companies for which a major segment of operations and source of revenues consists of buying proved properties for syndication). For such companies, the rules would apply only to properties segregated in an inventory account of leases held for brokerage purposes. The rules would also specify that a lease should not be classified in this "inventory" account if the registrant expects to retain an interest equivalent to greater than a 15% working interest in the property. The Commission recognizes that the 15% cutoff is arbitrary but believes an objective guideline is necessary and in the past, the staff has administratively permitted gain recognition in cases where the seller retained an interest up to 15%.

A corollary to the "separate lines of business" basis for gain recognition is that properties should never be transferred from a full cost pool to the inventory account and only in rare cases should they be transferred to a full cost pool from inventory. Although these policies have previously been communicated administratively by the staff, the Commission believes it would be desirable to incorporate them directly into the rules. The proposed rules would also clarify various questions concerning the application of the cost recovery method under the existing rules to indicate that gain may be recognized only on the broader of a property-by-property basis or partnership-by-partnership basis. In other words, if undivided interests in a single property are sold to different parties, gain may be recognized only to the extent that total compensation from all parties exceeds total costs for the entire property, including any costs expected to be incurred subsequently. If a company sells more than one property to a partnership, joint venture or similar entity, gain may be recognized only to the extent that total compensation exceeds the total combined costs of all properties transferred, including any costs expected to be incurred subsequently.

Regulatory Flexibility Act Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an initial regulatory flexibility analysis of the economic impact which the amendments proposed herein will, if adopted, have on small entities. This analysis is attached to this release.

List of Subjects in 17 CFR Part 210

Accounting, Reporting requirements, Securities.

Text of Proposed Rules

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By either revising paragraphs (i)(3)(ii), (i)(3)(ii) (A) and (B) and adding new paragraph (i)(3)(ii)(C) of § 210.4–10 according to Alternative I or adding Instruction 1 to paragraph (i)(3)(ii), according to Alternative II, and by revising paragraphs (i)(6)(i) and (i)(6)(iii) and adding paragraphs (i)(6)(iii) (A) through (H) as follows:

§ 210.4–10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(i) *Application of the full cost method of accounting.* * * *

(3) * * *

Alternative I

(ii) The cost of investments in unproved properties and major development projects may be excluded from capitalized costs to be amortized, subject to the following:

(A) All costs directly associated with the acquisition and evaluation of unproved properties may be excluded from the amortization computation until it is determined whether or not proved reserves can be assigned to the properties. Until such a determination is made, the properties shall be assessed individually to ascertain whether impairment has occurred (see paragraph (c) of this section). If the results of the assessment indicate impairment, the amount of the impairment (including both acquisition and exploration costs) shall be added to the costs to be amortized. If geological and geophysical costs cannot be directly associated with specific unevaluated properties, they shall be included in the amortization base as incurred.

(B) Where major development projects (e.g., the installation of an offshore drilling platform from which development wells are to be drilled, the installation of improved recovery programs, and similar major projects undertaken in the expectation of significant additions to proved reserves) are required prior to ascertaining whether material additional quantities of proved reserves are attributable to the properties under development, the portion of the estimated future expenditures associated with the development project as well as a pro rata portion of platform and other common costs (based on a comparison of the number of wells drilled and to be drilled) may be excluded from amortization. The portion excluded shall represent only those costs directly identified with the major development project. Such costs may be excluded from costs to be amortized until the proved reserves added as a result of the project are ascertainable or until it is determined that impairment has occurred.

(C) Excluded costs and the proved reserves related to such costs shall be transferred into the amortization base on an ongoing (well-by-well or property-by-property) basis as the project is evaluated and proved reserves established or impairment determined. Once proved reserves are established, there is no further justification for continued exclusion from the full cost amortization base even if other factors prevent immediate production or marketing.

Alternative II

* * * * *

(ii) * * *

(B) * * *

Instructions to Paragraph (ii)

1. Costs of investments in unproved properties and major development projects shall be considered "unusually significant" to the extent that in the aggregate, as of the date the amortization rate is computed, they exceed the normal level of preproduction costs, which is defined to be the amount computed by multiplying total captialized costs for the cost center, as of the date the amortization rate is computed, by the "normal inventory percentage." This "normal inventory percentage" is defined to be a three-year moving average of the actual percentage of preproduction costs to total capitalized costs for each fiscal

year, but not less than 10% nor more than 20% of total capitalized costs, as of the date of the amortization rate is computed. For purposes of this computation, preproduction costs include all costs of undeveloped leases and related carrying and evaluation costs, whether or not being amortized currently, but exclude any costs estimated to be incurred in the future. Geological and geophysical costs should be included in preproduction costs *only* to the extent that they can be directly associated with specific unevaluated properties. Total capitalized costs represent the amount included in the balance sheet as of the date the amortization rate is computed and include all such preproduction costs.

* * * * *

(6) *Mineral property conveyances and related transactions* * * *

(i) *Sales and abandonments of oil and gas properties.* Sales of oil and gas properties included in the full cost pool, whether or not being amortized currently, shall be accounted for as adjustments of capitalized costs, with no gain or loss recognized, unless such adjustments would significantly alter the relationship between capitalized costs and proved reserves of oil and gas attributable to a cost center. For instance, a significant alteration would not ordinarily be expected to occur for sales involving less than 25 percent of the reserve quantities of a given cost center. If gain or loss is recognized on such a sale, total capitalized costs within the cost center shall be allocated between the reserves sold and reserves retained on the same basis used to compute amortization, unless there are substantial economic differences between the properties sold and those retained, in which case capitalized costs shall be allocated on the basis of the relative fair values of the properties. Abandonments of oil and gas properties shall be accounted for as adjustments of capitalized costs, that is, the cost of abandoned properties shall be charged to the full cost center and amortized (subject to the limitation on capitalized costs in paragraph (4) of this section).

* * * * *

(iii) *Drilling arrangements.* No income shall be recognized from sales of unproved properties in connection with various forms of drilling arrangements involving oil and gas producing activities (e.g., carried interest, turnkey wells, management fees, etc.) unless the registrant can demonstrate and document on an ongoing basis that its lease brokerage activities are separate and distinct from its oil and gas producing activities. The properties used in brokerage activities should be identified and segregated upon acquisition and carried in an inventory account separate from any full cost center. Consistent with the provisions of paragraph (h) of this section, the circumstances in which income may be recognized are further limited to situations where (1) the cash consideration received from the sale of unproved properties or drilling arrangements involving oil and gas producing activities exceeds the total cost of the properties plus any exploration and development costs to be subsequently incurred, or (2) the cash compensation represents reimbursement for amounts currently charged to expense.

(A) In cases where the entity sells oil and gas properties in connection with partnership or joint venture operations that involve more than one property, the determination of whether the cash compensation exceeds the cost of the properties shall be made based on the entity's participation in the total operations of the partnership or joint venture, rather than on a property-by-property basis.

(B) If undivided interests in a property are sold to different parties, income may be recognized only on an aggregate total property basis. However, if physically divided interests are sold to different parties, income shall be recognized separately on each piece.

(C) If the cash consideration received represents reimbursement of organization, offering, general and adminstrative expenses, etc., such compensation may be recognized as income only to the extent that costs have been both *currently incurred and* charged to expense.

(D) If the sales of unproved properties or drilling arrangements related thereto will provide for the receipt or retention of a significant economic interest in the properties such that the transaction is in substance a farmout, promotion, or pooling of assets in a joint undertaking, the properties in question should be included in the full cost pool and amortized currently (unless excluded from amortization pursuant to Rule 4-10(i)(3) of this section). Such properties should not be classified in a brokerage inventory account and no gain should be recognized, even though "boot" in the form of cash may be received. For purposes of this section, an interest equivalent to greater than a 15 percent working interest shall be considered significant.

(E) Properties held in the brokerage inventory account shall be assessed individually to ascertain whether impairment has occurred (see paragraph (c) of this section). If the results of the assessment indicate impairment, any impairment or abandonment shall be charged directly to expense.

(F) Where an economic interest is retained and cash consideration is inadequate to cover total costs incurred and expected to be incurred subsequently, no gain should be recognized and the net unrecovered costs should be charged to the full cost center and amortized.

(G) Properties classified at acquisition in a full cost pool shall not subsequently be transferred into a lease brokerage inventory account. Transfers from the lease brokerage account to a full cost pool should be highly unusual and should occur only when the company has definite and immediate plans for development.

(H) Where a registrant organizes and manages a limited partnership involved only in the purchase of proved producing properties and subsequent distribution of income from such properties, management fee income may be recognized to the extent that the registrant receives or acquires (through investment of a management fee) an interest in the fund or in the related proved producing properties themselves. *However,* if before production of reserves, the properties involved require future development expenditures in excess of 10 percent of the recorded cost to date of such properties, income should be recognized only to the extent that cash consideration received exceeds total costs incurred and estimated to be incurred.

* * * * *

Authority. These amendments are being proposed pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935 and Section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and it is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its

responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 21, 1982.

Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis, which relates to proposed amendments of the Regulation S–X rules for application of the full cost method of accounting by oil and gas producers, has been prepared in accordance with 5 U.S.C. 603.

1. *Reasons for Proposed Action*—As discussed in the section of the release entitled, "Recent Developments," the Commission staff has recently become aware that there are widely varying interpretations of the provisions of Regulation S–X which allow oil and gas producing companies using the full cost method to exclude certain capitalized costs from immediate amortization. The resulting diversity in practice has created a serious lack of comparability between financial statements of companies who are in essentially similar circumstances and are using the same basic method of accounting. The financial statement impact of the reduced current amortization expense resulting from the exclusions is intensified because under generally accepted accounting principles (GAAP) excluded properties are usually eligible for interest capitalization.

The Commission has identified two alternative approaches which it believes warrant consideration as amended rules for the determination of costs eligible for exclusion from the full cost amortization base. The first alternative would permit exclusion of all unevaluated costs in a cost center from the amortization base while the second alternative would require inclusion in the amortization base of a normal level or normal inventory of unevaluated costs. From a financial reporting standpoint, the major difference between these two approaches is that the blanket exclusion of all unevaluated costs will generally result in the short run in higher capitalized costs on the balance sheet as well as higher net income than the normal inventory approach. This result is achieved because the blanket exclusion excludes *more* cost than a normal inventory method, thus producing lower amortization expense and higher interest capitalized. Correspondingly, both the lower amortization and the capitalized interest increase the balance of total capitalized costs. It should be noted, of course, that these net income and balance sheet effects will reverse once the properties are evaluated and begin to be amortized. After evaluation, amortization expense will be higher and net income lower than it would have been if more costs had been amortized earlier and less interest capitalized. In addition to the blanket exclusion and normal inventory approaches, the proposing release encourages commentators to suggest other criteria for exclusions.

In addition, as discussed in the release under the heading "Related Issue—Mineral Property Conveyances," the staff has become aware of confusion as to the circumstances under which the Commission's rules permit gain or loss recognition on transfers of oil and gas producing properties. This misunderstanding also creates a potential for inconsistency in accounting practice and noncomparability of reported results.

Questions have arisen first as to whether the general prohibition against gain recognition in Rule 4–10(i)(6) applies to properties excluded from current amortization. The proposed amendments would clarify that the gain recognition rules apply to all properties held for production purposes (i.e., all properties not segregated in a separate lease brokerage account) regardless of whether they are being amortized currently. Thus, gain may be recognized only where a sale causes a "significant alteration" in the relationship between costs and reserves in a cost center.

With respect to the drilling arrangement rules, there is also uncertainty as to which leases are eligible for gain or loss recognition under these provisions. The Commission believes that the confusion regarding the drilling arrangement rules arises because the existing rules do not explicitly address their original purpose, which is to permit companies which are in fact involved in two separate and distinct aspects of the oil and gas business—(1) exploration and production and (2) lease brokerage—to recognize gains from their brokerage activities. Accordingly, the proposed rules would explicitly state that the drilling arrangement rules apply only to companies which can demonstrate that they operate in two distinct aspects of the oil and gas business. For such companies, the rules would apply only to properties segregated in an inventory account of leases held for brokerage purposes. The rules would also specify that a lease should not be classified in this "inventory" if the registrant more than a 15 percent interest in the property.

A corollary to the "separate lines of business" basis for gain recognition is that properties should never be transferred from a full cost pool to the inventory account and only in rare cases should they be transferred to a full cost pool from inventory. The proposed rules would also clarify the application of the cost recovery method under the existing rules to indicate that gain may be recognized only on a property-by-property basis where interests in a single property are sold to different parties or on a partnership-by-partnership basis where more than one property is sold to a partnership, joint venture or similar entity.

2. *Objectives*—As stated in the "Summary" to the release, the objective of the proposed amendments is to narrow the diversity of current practice resulting from varying interpretations of the existing rules. To that end, the proposed amendments would clarify the criteria for (1) exclusion of capitalized costs from immediate amortization and (2) recognition of gain or loss on sale of oil and gas producing properties.

3. *Legal Basis*—The Commission is proposing the amendments to the rules for the application of the full cost method of accounting pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) (14 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; and Section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975.

4. *Small Entities Subject to Rule*—For purposes of this analysis, the Commission is using the definition of "small business" as adopted in Securities Act Release No. 6380.[1] That release provides that when used in reference to the Securities Act, small business means any issuer whose total assets on the last day of its most recent fiscal year were $3 million or less and is engaged or proposes to engage in "small business financing." [2] Accordingly, the amendments would affect all entities engaged in oil and gas production which fall within the Commission's definition of a "small entity." There were approximately 200 such entities that filed reports on Form 10-K for their fiscal years ending in 1981.

5. *Reporting, Recordkeeping and Other Compliance Requirements*—The proposed amendments would introduce no new data collection, recordkeeping or reporting requirements. The required information is already generally available as an integral part of existing accounting records and the amendments would affect only the way in which existing data are organized and considered in the computation of amortization, interest capitalized and gain or loss on transfers of mineral properties.

Depending on how the alternative finally adopted compares to each registrant's current practices, especially with respect to exclusions of unevaluated costs from amortization, the revised rules could have a significant impact on an individual registrant's reported net income. (There will be no effect on actual cash flows.) The Commission is unable to ascertain whether this book income impact could have an effect on competitive position or the ability to sell securities in the capital markets.

6. *Overlapping or Conflicting Federal Rules*—The Commission believes that no present Federal rules duplicate or conflict with the proposals.

7. *Significant Alternatives*—With respect to the criteria for exclusions from current amortization, the release is specifically drafted to encourage consideration of alternative approaches which would achieve the stated objective of reducing the current diversity in practice. The release therefore proposes two separate sets of rule amendments which embody considerably different approaches to the issue. The release

[1] Securities Act Release No. 6380 (January 28, 1982) (47 FR 5215).

[2] Small business financing is defined to mean conducting or proposing to conduct an offering of securities which does not exceed the dollar limitation prescribed by Section 3(b) of the Securities Act. The Section 3(b) limitation is presently $5 million.

also explicitly encourages commentators to discuss other possible criteria.

With respect to both the full cost exclusions and the mineral property conveyances issues, the consideration of differing reporting or compliance requirements or reporting timetables is not necessary since the proposed amendments would not change the recordkeeping requirements or other compliance burdens. Furthermore, since the proposed amendments involve fundamental accounting issues for full cost oil and gas producing companies and comparability of financial statements is an essential aspect of accounting and financial reporting, an exemption or an alternative approach designed particularly for small entities would not be appropiate.

In the Commission's view, the use of performance rather than design standards was not applicable since the proposals are not related to either performance or design standards.

8. *Solicitation of Comments*—The Commission encourages the submission of comments with respect to any aspect of this initial regulatory flexibility analysis and such comments will be considered in the preparation of the final regulatory analysis if the proposed amendments are adopted. The Commission is especially interested in any empirical data on the costs and/or benefits of the proposed amendments. Persons wishing to submit written comments should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street N.W., Washington, D.C. 20549. All submissions should refer to File No. S7–956 and will be available for public inspection at the Commission's Public Reference Room, 450 5th Street N.W., Washington, D.C. 20549.

[FR Doc. 82–35492 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 240

[Release No. 19372; File No. S7–930]

Reproposal of an Order Exposure Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is publishing for public comment a proposed rule in revised form, requiring exposure of customer orders in certain securities. The proposed rule includes elements of the Commission's previously published order exposure rule proposals and reflects comments concerning these proposals received by the Commission. Proposal of this order exposure rule is intended to afford the public a further opportunity to comment on the specific elements of the rule proposal currently under consideration by the Commission.

DATE: Comments to be received by March 1, 1983.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. All comments should refer to File No. S7–930 and will be available for public inspection at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Robert L. D. Colby, (202) 272–2413, Room 5205, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is reproposing for comment a rule, designated Rule 11A–1 under the Securities Exchange Act of 1934 ("Act"),[1] requiring intermarket exposure of customer orders in certain securities. On May 13, 1982, the Commission proposed two alternative order exposure rules, Rules 11A–1[A] and 11A–[B] under the Act, to address concerns potentially arising from the failure of market makers or market centers to expose their customer order flow in securities subject to Rule 19c–3 under the Act [2] to other markets before executing their customer orders as principal. At the same time, the Commission solicited comment on a third alternative of deferring action on an order exposure rule until such time as actual adverse effects from concurrent over-the-counter ("OTC") and exchange trading in Rule 19c–3 securities are observed.[3] Subsequent to the proposal of these alternatives, the Commission received more fully articulated order exposure principles from the Securities Industry Association ("SIA") Committee responsible for the initial principles underlying proposed Rule 11A–1[B]. In addition, the Commission received over 450 comment letters on its proposed alternatives. These comments included a submission by the New York Stock Exchange, Inc. ("NYSE") of a revised order exposure rule proposal applicable to all markets in Rule 19c–3 securities. To provide an opportunity for additional public consideration and comment on order exposure requirements reflecting these developments, the Commission is publishing a revised order exposure rule proposal, Rule 11A–1, incorporating various elements of these proposals.

I. Introduction

A. Background

The Commission first published proposed order exposure rules, Rules 11A–1 [A] and [B] under the Act, on May 13, 1982. These rule proposals were based on industry proposals and principles developed to address concerns potentially arising from internalization [4] of orders by market makers pursuant to Rule 19c–3. The Commission explained that it was proposing these rules to support ongoing industry efforts to reach a consensus on equitable principles that should govern the trading of Rule 19c–3 securities; at the same time, it noted that proposal of these rules did not constitute a determination on its part that the experience with trading under Rule 19c–3 justified the adoption of an order exposure rule.

Rule 19c–3 was adopted as an essential part of the Commission's efforts to encourage the evolution of a national market system. In the 1975 Amendments, Congress charged the Commission with facilitating the establishment of a national market system for securities, consistent with certain special objectives, including the enhancement of fair competition among brokers and dealers, exchange markets, and markets other than exchange markets.[5] Pursuant to this responsibility, and a specific statutory directive to examine exchange off-board trading restrictions, which prevent exchange member firms from effecting transactions in listed securities other than on an exchange,[6] the Commission engaged in a series of proceedings regarding exchange off-board trading restrictions.[7] As a result of these proceedings it concluded that off-board trading restrictions impose significant burdens on competition,[8] and on June 11,

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[1] 15 U.S.C. §§ 78a *et seq.*, as amended by the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. No. 94–29, 89 Stat. 97 (June 4, 1975); *reprinted in* [1975] U.S. Code Cong. & Ad. News 97.

[2] Rule 19c–3, 17 CFR 240.19c–3 precludes exchange off-board trading restrictions from applying to reported securities (*i.e.*, securities for which transaction reports are made available pursuant to an effective transaction reporting plan) that were listed on an exchange after April 26, 1979 (the date of the proposal of the Rule), or that were listed on April 26, 1979, but ceased to be traded on an exchange for any period of time thereafter ("Rule 19c–3 securities").

[3] Securities Exchange Act Release No. 18738 (May 13, 1982), published 47 FR 22376, May 24, 1982 ("May Release").

[4] The Commission has defined the term "internalization" as referring to "the withholding of retail orders from other market centers, for the purpose of executing them in-house, as principal, without exposing those orders to buying and selling interest in those other market centers." *See* Securities exchange Act Release No. 16888 (June 11, 1980) at 18 n.31, 45 FR 41125, 41128 n.31 ("Rule 19c–3 Adoption Release").

[5] Section 11A(a)(1)(c)(ii) of the Act.

[6] Section 11A(c)(4)(A) of the Act.

[7] For a more extensive discussion of prior Commission action concerning off-board trading restrictions, *see* Securities Exchange Act Release No. 15769 (April 26, 1979) at 5–8, 44 FR at 26688–89.

[8] Securities Exchange Act Release No. 11942 (December 19, 1975) at 5–7, 41 FR 4507, 4509 ("December Release"); Securities Exchange Act Release No. 13662 (June 23, 1977) at 35–36, 42 FR 33510, 11514 ("June Release").

1980, after six days of public hearings, the Commission adopted Rule 19c–3, eliminating exchange off-board principal restrictions with respect to securities listed on an exchange after April 26, 1979.[9]

In adopting Rule 19c–3, the Commission took note of the potential problems that could arise from internalization of order flow by off-board market makers. In particular, the Commission acknowledged that internalization by off-board market makers potentially might increase existing fragmentation of the markets for listed securities,[10] raise concerns regarding possible overreaching of customers,[11] and have adverse competitive effects on exchange market makers and small broker-dealers.[12]

After evaluating these concerns, however, the Commission concluded that the benefits of preserving existing OTC market-making in competition with exchange markets, combined with the experiential benefits of observing actual concurrent trading of listed securities by exchange markets and OTC market makers, outweighed the potential risks that might result from removing exchange off-board principal restrictions. The Commission indicated that, in its view, the limited scope of Rule 19c–3 should prevent the rule from having a significant adverse competitive effect on exchanges and smaller broker-dealers. Moreover, the Commission recognized that concerns associated with internalization were also present to some degree in exchange markets, in that order flow received by an exchange is generally executed without exposure to potential buying and selling interest in other markets.[13] As a result, the Commission determined that measures addressing internalization concerns should be considered in a general proceeding examining order exposure concerns in all markets.

In order to evaluate the need for further regulatory action in this area, the Commission established a monitoring program to examine the extent of Rule 19c–3 trading, its impact on the overall markets for Rule 19c–3 securities and, in conjunction with the National Association of Securities Dealers, Inc. ("NASD"), the extent, if any, of overreaching of customers by OTC market makers in these securities.[14] The Commission published its first report on this program in August 1981.[15] In brief, this report concluded that, based on the limited amount of OTC trading pursuant to Rule 19c–3 that had developed up to that time, no significant adverse effect on the quality of the markets for Rule 19c–3 securities could be discerned, nor had any overreaching problems of significance resulted from OTC market making pursuant to Rule 19c–3. The *Monitoring Report* noted that, in the absence of an effective method of routing orders between exchange floors and OTC market makers, it was difficult to evaluate the limited amount of OTC trading in Rule 19c–3 securities to that time.

To further the statutory objective expressed in the 1975 Amendments of "linkage of all markets for qualified securities through communication and data processing facilities,"[16] the Commission urged the development of an interface between individual exchange trading floors and the OTC markets.[17] After the NASD and the Intermarket Trading System ("ITS")[18] participants were unable to reach agreement on various issues essential to implementation of an interface between the ITS and the NASD's CAES, the Commission, on April 21, 1981, issued an order ("Linkage Order") mandating the establishment of an automated interface between the ITS and the NASD's CAES.[19] In adopting the Linkage Order, the Commission concluded that an interface between ITS and CAES would not exacerbate internalization concerns as a structural matter. Nonetheless, the Commission expressed its strong support for industry endeavors to develop a consensus regarding an appropriate resolution of internalization concerns.[20]

Concurrent with the NASD–ITS participant discussions regarding the details of the interface, broader discussions regarding appropriate means of addressing internalization concerns were being pursued by representatives of various segments of the securities industry, under the aegis of an SIA Special Committee ("SIA Committee").[21] These discussions resulted in preliminary agreement upon a number of principles that should govern the operation of an order exposure rule for Rule 19c–3 securities, in the event that a rule was deemed necessary.[22] In general, the SIA principles would require all market makers in a Rule 19c–3 security, whether OTC or on an exchange floor, to hold out customer orders to all other linked market centers at a price that is better than the price displayed in the best ITS quotation, before trading with these orders as principal. After the formulation of these preliminary principles, the SIA Committee indicated that additional direction from the Commission was needed before it could develop these principles further.

[9] Rule 19c–3 Adoption Release, *supra* note 4. Previous to this, the Commission eliminated exchange restrictions on execution of customer orders off-board as agent. *See* December Release, *id.*

[10] Commentators have argued that fragmentation of order flow among disparate market centers potentially might result in a deterioration of the depth, liquidity, and continuity of the markets, and a decrease in pricing efficiency. *See* Rule 19c–3 Adoption Release, *supra* note 4, at 19–22, 45 FR at 41128.

[11] "Overreaching" refers to broker-dealer firms taking advantage of their customers by executing retail transactions as principal at prices less favorable to those customers than they could have obtained had those firms acted as agent. *See* Rule 19c–3 Adoption Release, *supra* note 4, at 19 n.33, 45 FR at 41128 n.33.

[12] *Id.*

[13] *See* Rule 19c–3 Adoption Release, *supra* note 4, at 26, 45 FR at 41129; June Release, *supra* note 8, at 57–58, 42 FR at 33517.

[14] The NYSE made a number of valuable suggestions for improving the Commission's surveillance procedures in a letter from William M. Batten, Chairman and Chief Executive Officer, NYSE, to the Commissioners, SEC, dated September 23, 1982 ("NYSE Monitoring Comment"). Where practicable, the suggestions will be reflected in the monitoring program carried on by the Commission.

[15] Securities and Exchange Commission, *A Monitoring Report on Rule 19c–3 under the Securities Exchange Act of 1934* (*"Monitoring Report"*).

[16] Section 11A(a)(1)(D) of the Act.

[17] *See* Securities Exchange Act Release No. 14416 (January 26, 1978) at 28, 43 FR 4354, 4358; Securities Exchange Act Release No. 15926 (June 15, 1979) at 62, 44 FR 36912, 36922; Securities Exchange Act Release No. 16214 (September 21, 1979) at 12, 44 FR 56069, 56074.

[18] The ITS is an intermarket communciations system operated jointly by certain national securities exchanges, and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to Section 11A(a)(3)(B) of the Act. The current participants in ITS are the NYSE, the American, Boston, Cincinnati, Midwest, Pacific, and Philadelphia Stock Exchanges, and the NASD.

[19] *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856 ("Linkage Order Release"). The Linkage Order originally set a target date of March 1, 1982, for implementation of the pilot phase of the interface. Technical delays in the development of the interface, and the NASD and ITS participants' continued inability to reach agreement on necessary amendments to the plan governing the operation of ITS ("ITS Plan"), led the Commission to postpone the implementation date of the interface, *See* Securities Exchange Act Release No. 18537 (March 4, 1982), 47 FR 10658, and to adopt amendments to the ITS Plan on its own initiative to include the NASD in ITS. *See* Securities Exchange Act Release No. 18713 (May 6, 1981), 47 FR 20413. Consequently, the interface between ITS and CAES became operational on a pilot basis on May 17, 1982.

[20] *Id. See* Securities Exchange Act Release No. 17516 (February 5, 1981), 46 FR 12379, 12380 (release proposing the Linkage Order).

[21] The SIA Committee is chaired by Ralph DeNunzio, President and Chief Executive Officer of Kidder, Peabody & Co., Inc., and former Chairman of the SIA, and is composed of representatives of different elements of the industry, including OTC market makers, exchange specialists, regional and national broker-dealer firms, block positioners, and regional exchanges.

[22] The SIA Committee only addressed the form a rule should take; it expressly declined to address the question whether a rule was necessary.

The NYSE also contributed to the development of a measure addressing internalization concerns by preparing a rule proposal incorporating order exposure requirements similar to those suggested by the SIA Committee. In contrast to the SIA's principles, however, the NYSE's initial order exposure rule proposal applied only to OTC market makers in Rule 19c–3 securities. The NYSE, however, did express its support for continued discussions concerning a rule applicable to all markets.

Although the Commission reached no conclusion concerning the ultimate need for an order exposure measure, the Commission determined that the order exposure principles and rule proposals developed by the SIA Committee and the NYSE merited broad industry consideration. Accordingly, the Commission sought to encourage wider participation in the discussions concerning these order exposure principles by proposing alternative order exposure Rules 11A–1[A] and [B] in a Commission rulemaking proceeding. The Commission specifically sought to focus public attention upon the issues of the feasibility of order exposure requirements and the need for such requirements at the present time.[23]

B. Proposed Rules 11A–1 [A] and 11A–1 [B]

Both proposed Rules 11A–1 [A] and 11A–1 [B] would have required a market maker to stop (that is, guarantee the execution of) a customer order at the proposed execution price, and then publicly bid a customer buy order, or offer a sell order, through the consolidated quotation system at a price an eight better than the proposed execution price for one minute before executing the customer order as principal. Alternatively, both rules would have allowed an OTC market maker participating in CAES to enter its customer order for execution in CAES, but only if the order entry and execution functions of the market maker were structured so that no coordination in the execution of customer orders in CAES could take place.

Proposed Rule 11A–1 [A] incorporated the NYSE proposal, requiring order exposure only by OTC market makers in Rule 19c–3 securities; proposed Rule 11A–1 [B] followed the form of the NYSE proposal but required exposure of customer orders by all market makers in these securities, including exchange market makers. In addition, proposed Rule 11A–1 [B] differed from the NYSE proposal in several other respects. It omitted the requirement in Rule 11A–1 [A] that a market maker display a proprietary bid or offer at the proposed execution price in conjunction with the exposure of the customer order; it also provided that a market maker need not alter its quotation in response to a customer order when the market maker already was quoting at the exposure price in equal or greater size at the time the customer order was to be exposed. In contrast, Rule 11A–1 [A] would have required that the customer order itself be exposed by increasing the size of the quotation by the size of the customer order.[24] Furthermore, Rule 11A–1 [B] permitted execution of agency cross transactions outside of an exchange or CAES if executed at the ITS best bid or offer in eight point markets, or between the best bid or offer where the spread is ¼ point or wider. In contrast, proposed Rule 11A–1 [A] would require agency cross transactions to be executed either on an exchange or in CAES.

In the May Release, the Commission solicited comment on these specific differences, as well as the basic issue of whether order exposure requirements should apply to all market makers in Rule 19c–3 securities. The Commission also solicited comment on the general need for an order exposure Rule 19c–3 securities, and the possible effects of specific elements of the proposed rules. In particular, the Commission requested commentators to address the impact of an order exposure rule on the efficiency of OTC and exchange market making, the willingness of OTC market makers to continue participating in Rule 19c–3 markets subject to a rule, and the potential beneficial effects that might result from a rule. In addition, the Commission solicited comment on the proposed CAES order export alternative and an exemption from order exposure requirements for small orders and block trades.

II. Status of the ITS/CAES Interface

Since the implementation of the pilot phase of the ITS/CAES interface on May 17, 1982,[25] 30 of the most actively traded Rule 19c–3 stocks have been traded in the interface ("linked securities"); of these, 23 are listed on the NYSE and 7 are listed on the Amex.[26]

The ITS/CAES interface has operated without major technical problems since its implementation; even during the periods of unprecedented trading volume since August, 1982,[27] the interface was able to absorb the increased flow of commitments in linked securities that accompanied the general volume rise. OTC trading in linked securities has increased since the implementation of the interface, with substantial OTC volume developing in a few linked securities. During the two month prior to implementation of the interface (March and April, 1982), OTC share volume as a percent of composite share volume in linked securities totalled 8 and 7 percent, respectively. This percentage rose to an average of 13.5 percent in August, 12.7 percent in September, and 13.4 percent in October, 1982.[28]

A significant proportion of OTC trading volume in the linked stocks is attracted from other markets through the ITS/CAES interface. Indeed, during the period from May 17 to October 31, 1982, a total of 5.4 million shares were executed in the OTC market via the interface, while OTC market makers executed only 2.4 million shares in other ITS market centers through the interface during this period.

On the whole, these figures suggest that the interface has encouraged OTC market maker participation in linked securities, and has enhanced priced competition, as evidenced by the steady

[23] May Release, *supra* note 3, at 40, 47 FR at 22384.

[24] Rule 11A–1 [A], however, would not have required exposure where the quotation represented an agency order rather than a market maker's proprietary interest.

[25] The Linkage Order originally envisaged a six month pilot period for the ITS/CAES interface, in which experience would be gained in trading the 30 most active Rule 19c–3 securities before the interface was extended to the entire universe of OTC-traded Rule 19c–3 securities. In view of the import of the proposed exposure rules for trading in these linked securities, and the pendency of this order exposure rule proceeding, the Commission postponed the end of the pilot phase and the expansion of the interface from November 15, 1982 until January 15, 1983. *See* Securities Exchange Act Release No. 19229 (November 9, 1982), 47 FR 57645.

The NASD has nonetheless proceeded to adopt permanent rules governing use of the ITS/CAES interface, as contemplated in the ITS Plan, *see* Securities Exchange Act Release No. 19249 (November 17, 1982), 47 FR 53552, and has modified CAES to permit entry of short sale commitments, as required before the end of the pilot phase of the ITS/CAES interface. In addition, the Commission has today issued an order extending the pilot phase of the linkage until June 1, 1983, three months after the close of the comment period on this proceeding. *See* Securities Exchange Act Release No. 19371 (December 23, 1982).

[26] Although neither the Linkage Order nor the ITS Plan set forth procedures for replacing previously linked securities, the ITS participants have developed a satisfactory practice of substituting another actively traded Rule 19c–3 security when a linked security is replaced. The Commission believes this practice should continue during the interface's extended pilot phase.

[27] Consolidated tape activity in NYSE-listed securities totalled 1,951 million shares in August 1982, 1,824 million in September 1982, and 2,415 milion in October 1982, compared to 1,069, 1,019, and 1,153 million shares in August, September, and October 1981.

[28] Approximately 15 percent of the October OTC volume in NYSE linked securities was the result of large block trades in the OTC market.

flow of orders drawn through ITS to the OTC market.[29] Nonetheless, the interface has not resulted in a major restructuring of the markets for most of these securities; in general, the primary exchange markets have retained a predominant share of the order flow in linked securities. Although the NYSE share of composite volume in its linked securities has declined somewhat from the 80.3 percent share prevailing in the week prior to linkage, to approximately 80 percent in November,[30] this decline is minimal, and the NYSE still remains by far the primary market in virtually all NYSE linked securities.

III. Discussion of Comments and Proposals

A. Need for a Rule

1. *Comments.*—The Commission's publication of proposed order exposure rules resulted in the submission of 469 letters of comment.[31] The large majority of these comments addressed only the threshold issues raised in the May Release concerning whether an order exposure rule was necessary or appropriate at the present time, and the possible effects of such a rule on market making in Rule 19c–3 securities. Relatively few commentators reached the issue of to whom an order exposure rule should apply or discussed the specific elements of the rules. Several commentators, however, did provide extensive comments concerning both the need for and the characteristics of the proposed rules,[32] and others requested an opportunity to comment further at some later point on the details of the rules under consideration by the Commission.[33]

The commentators were divided on the need for an order exposure rule at present. Although the substantial majority of commentators favored imposition of some form of rule requiring order exposure, a number of other commentators opposed such a rule as unnecessary and potentially anticompetitive in impact. Those commentators supporting an order exposure rule included several exchanges,[34] 64 broker-dealers, 32 NYSE specialists and floor traders, and 195 NYSE listed companies. In addition, 13 letters representing the views of 84 members of Congress were submitted in favor of order exposure proposals.

In general, these commentators argued that internalization of order flow, especially by OTC market makers, was contrary to the goals expressed in the language and legislative history of the 1975 Amendments, and, unless affirmative order exposure was required, could potentially result in the deterioration of Rule 19c–3 markets as a whole. They argued that, by requiring the display of customer orders before execution, order exposure requirements would tend to promote the maximum interaction of orders. The NYSE argued in particular that enhanced intermarket order interaction was necessary to ensure that orders executed off-board could be reached by market interest on other exchanges at prices between the best displayed quotations. It noted that approximately 38 percent of trades in securities on the NYSE interact with trading interest at prices between the publicly disseminated quotation for the security, and argued that order exposure would provide analogous opportunities for linked securities.[35]

Commentators also suggested that, in addition to providing opportunities for best execution under existing conditions, order exposure could encourage heightened intermarket competition for these securities, resulting in improved executions for customers overall. According to this view, the exposure of customer orders at a better price to other markets prior to execution could lead market makers to trade with those orders through ITS at that superior price, even though the executing market maker might not be willing to display a quotation at that price. As a result of this exposure, the customer order would receive a better execution than was previously available either on the original market receiving the order or through ITS, and the executing market maker would receive an opportunity to interact with additional order flow, to the benefit of each.

Commentators also emphasized that order exposure would reduce concerns about unfair competition for order flow initially directed to one market or market maker, because it would provide other markets some access to this order flow before it was executed by the recipient market as principal. While certain commentators maintained that an off-board market maker would still enjoy a competitive advantage in having initial access to and final control over its own separate pool of customer orders, they indicated that requiring exposure of these orders to other markets at a superior price would reduce this advantage by providing competitive opportunities to others, and hence eliminate the market maker's complete control over its customer orders. In addition, commentators stated that requiring order exposure would force off-board market makers to trade with customer orders in the open, displaying orders prior to execution rather than merely reporting completed trades, thus providing broader awareness of market making activity in the security.[36]

Commentators further suggested that this enhanced knowledge of market maker activity would tend to correct pricing inefficiencies introduced by market fragmentation. According to this view, exposure of orders to other

[29] This net flow of orders to CAES also reflects the advantages that exchange ITS participants have in being able to execute automatically against the quotations displayed by OTC market makers in CAES. CAES market makers transmitting ITS commitments to an exchange market, on the other hand, must follow the usual ITS process used by all ITS exchanges. As a result, they must await a response indicating whether or not an execution actually took place at the anticipated price, a process involving considerably greater delay and uncertainty. The Commission notes that an automatic execution capability corresponding to that included in the CAES portion of the interface could be added to the ITS, providing significantly enhanced execution speed and certainty in the System and encouraging use of ITS, with a concomitant reduction in trade-throughs. Accordingly, the Commission encourages the ITS participants to consider enhancing the ITS in this manner.

[30] The regional exchange share of the volume in these securities has declined more substantially, falling from 11.2% in the week prior to linkage to approximately 8.3 percent in November.

[31] The comment letters are contained in File S7–930 and are available for public review.

[32] Because relatively few commentators addressed the specific elements of the rule proposals, the suggestions of these commentators will be discussed as a part of the explanation of the elements of the new rule proposal which appears in an appendix to this release, as discussed below.

[33] *See* Letter from Robert J. Birnbaum, President, American Stock Exchange, Inc. ("Amex"), to George A. Fitzsimmons, Secretary, SEC, dated July 23, 1982 ("Amex Comment"); Letter from James Keegan, Executive Vice President, Morgan, Keegan & Co.; Robert Peters, Partner B.C. Christopher & Co.; Les Buchan, President, Olde Bernarde; Ted Perkowski, Vice-President, Howe, Barnes & Johnson, Inc.; Hugh Quigley, Trading Manager, OTC Trading Department, Merrill Lynch, Pierce, Fenner & Smith, Inc.; James Holway, Institutional Sales, Jerry Williams, Inc.; Peter Madoff, Manager Trading, Bernard L. Madoff, Inc.; George R. Fairweather, Managing Partner, Shepards and Chase; Samuel Lieberman, President, Rothschild Lieberman Ltd., to George A. Fitzsimmons, Secretary, SEC, dated July 22, 1982, ("CAES Participants Comment").

[34] Letter from William Batten, Chairman and Chief Executive Officer, NYSE, to the Commissioners, SEC, dated July 23, 1982 ("NYSE Comment"); Letter from William Batten, NYSE, to the Commissioners, dated August 18, 1982 ("NYSE Supplemental Comment"); Letter from William Batten, NYSE, to the Commissioners, dated October 15, 1982 ("NYSE Summary Comment"); Amex Comment, *supra* note —, *See* also, Letter from John E. Weithers, President, Midwest Stock Exchange, Inc. ("MSE") to George A. Fitzsimmons, Secretary, SEC, dated August 11, 1982 ("MSE Comment"); Letter from K. Richard B. Niehoff, President, Cincinnati Stock Exchange, Inc. ("CSE"), to George A. Fitzsimmons, Secretary, SEC, dated July 22, 1982 ("CSE Comment").

[35] NYSE Comment, *id.* at 12, 15.

[36] *See* MSE Comment, *supra* note 34, at 16.

markets prior to execution would provide market participants with a fuller understanding of actual supply and demand conditions for a security, permitting the securities markets to set a price accurately reflecting all buying and selling interest in the security at a given moment, wherever located. The role of order exposure in preserving the integrity of the market's pricing mechanism was of particular note to commentators representing institutional investors, because of the importance of the pricing function to institutions in accumulating and disposing of stocks for themselves and on behalf of clients. While they recognized the role of intermarket linkages such as the ITS/CAES interface in reducing supply and demand imbalances in various markets and enhancing the efficiency of the markets, they argued that the importance of true and current quotations reflecting total supply and demand for a security required more extensive exposure of orders.[37]

Other commentators, however, expressed strong opposition to imposing order exposure requirements on market makers at the present time. For the most part, these commentators [38] did not address the potential benefits of order exposure put forth by proponents of a rule, although a few commentators did express their opinion that a rule would in fact result in few if any practical benefits; [39] instead, these commentators focused on the present basis for a rule and its possible negative effects.

These commentators rejected the suggestion that an order exposure rule was in any way necessitated by current conditions. Rather, they argued that Commission and industry monitoring had not revealed any harm to the securities markets resulting from off-board trading in Rule 19c–3 securities to date. As a basis for this conclusion, they cited the Commission's *Monitoring Report*, [40] the results of ongoing NASD surveillance, [41] and in certain instances, their own internal data, which in their view showed that off-board trading had not had any negative effect on the markets for Rule 19c–3 securities, and that customers had received as good or better an execution for their orders in Rule 19c–3 securities as for other listed securities. These commentators concluded that adoption of a prophylactic measure to forestall what they viewed as undemonstrated concerns would constitute overregulation on the Commission's part, particularly because, as stated by a group of CAES market maker participants, upstairs trading of listed securities already is conducted in "a regulatory fishbowl constantly subject to scrutiny from both the SEC and the NASD." [42]

In addition, those commentators opposed to an order exposure rule argued that the order exposure procedures proposed in the rules were so complex and burdensome that they would effectively curtail most off-board trading.[43] They argued that the numerous mechanical steps involved in exposing an order would render the efficient execution of off-board principal transactions virtually impossible, and concluded that in practice the rules would be unworkable and anti-competitive. Furthermore, in view of the rules' potential disincentive effect on off-board market making, these commentators regarded the proposed order exposure requirements as antithetical to Rule 19c–3; in particular, the NASD characterized the proposed order exposure rules as a *de facto* repeal of Rule 19c–3.[44] The U.S. Department of Justice similarly concluded that, in view of the significant additional transaction costs and added risks imposed on off-board market makers by the rule, as well as the minimum benefits likely to result, the proposed rules could not be justified under a cost-benefit analysis.[45]

2. *Discussion.*—The Commission's proposal of Rules 11A–1[A] and [B] in May appears to have achieved in great measure its objectives of broadening public consideration of the need for an order exposure rule at the present time, and focusing the attention of many parts of the securities industry and the public on this issue. In this connection, the Commission notes that, since the rule proposals last May, the SIA Committee has developed and submitted to the Commission augmented order exposure principles having "if not majority, certainly very broad support" among the SIA Committee members.[46] These principles reaffirm the SIA Committee's earlier position that any order exposure Rule should apply to all markets in Rule 19c–3 securities. In addition, the augmented principles call for the application of order exposure requirements to all orders in these securities, including block transactions, and, with certain adaptations, to agency cross transactions. At the same time, the augmented principles would reduce the exposure period from 60 seconds to 30 seconds or less to reduce the impact of these requirements on efficient market making.[47]

In addition, as part of its comments on proposed Rules 11A–1[A] and [B], the NYSE submitted a modified version of its earlier rule proposal.[48] The principal alteration in the NYSE's modified rule proposal was its application of order exposure requirements to all markets in Rule 19c–3 securities; however, this proposal suggested several additional exceptions from order exposure requirements intended to reduce any trading inefficiencies resulting from an order exposure requirement. The Commission believes that these exceptions, which will be discussed in detail in a Technical Appendix,[49]

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[37] *See, e.g.*, Letter from Richard L. Winters, Assistant Vice President, Equitable Life Assurance Society of the United States ("Equitable"), to John S.R. Shad, Chairman, SEC, dated July 14, 1982 ("Equitable Comment"); Letter from Thomas P. Kozlak, Director of Equity Trading, The St. Paul Financial Services, to George A. Fitzsimmons, Secretary, SEC, dated July 15, 1982.

[38] *See, e.g.*, Letter from Gordon Macklin, President, NASD to George A. Fitzsimmons, Secretary, SEC, dated July 23, 1982 ("NASD Comment"); Comments of the United States Department of Justice in the Matter of Order Exposure Rules, dated July 23, 1980 ("Department of Justice Comment"); Letter from Jeremiah A. Mullins, Chairman, and Morton N. Weiss, President, National Security Traders Association, to George A. Fitzsimmons, Secretary, SEC, dated July 29, 1982; and CAES Participants Comment, *supra* note 33.

[39] *See e.g.*, Department of Justice Comment, *id.*

[40] *See, e.g.*, Letter from Edmund C. Puckhaber, Executive Vice President, Dean Witter Reynolds, Inc., to George A. Fitzsimmons, Secretary, SEC, dated July 23, 1982 ("Dean Witter Comment"). On the other hand, the NYSE criticized the *Monitoring Report* for reliance on "questionable methodologies and data," and for failing to deal with a number of "inherent" adverse impacts of Rule 19c–3. *See* NYSE Monitoring Comment, *supra* note 14, at 2–3.

[41] *See, e.g.*, NASD Comment, *supra* note 38.

[42] CAES Participants Comment, *supra* note 33, at 2.

[43] *See, e.g.*, NASD Comment, *supra* note 38, at 11; CAES Participants Comment, *supra* note 33, at 4. These concerns may be substantially reduced, however, by the addition in proposed Rule 11A–1 of several exceptions from the exposure requirements, that should ease the burden of order exposure during active trading in a security.

[44] *See* NASD Comment, *supra* note 38, at 4.

[45] *See* Department of Justice Comment, *supra* note 38, at 25. The NYSE specifically took issue with this conclusion in its Summary Comment, *supra* note 34.

[46] Letter from Ralph D. DeNunzio, President and Chief Executive Officer, Kidder, Peabody & Co., Inc., to John S. R. Shad, Chairman, dated November 12, 1982 ("SIA Committee Letter"). The Commission applauds the dedication of the individual SIA Committee participants, and particularly its Chairman, in jointly striving toward development of order exposure principles of the broadest application, and it further commends the SIA Committee for the commitment to cooperation displayed in this endeavor.

[47] As before, the SIA Committee in its augmented principles expressly declined to address the question whether a rule was necessary.

[48] *See* NYSE Supplemental Comment, *supra* note 34, Attachment A.

[49] The Technical Appendix will be published with this release in the SEC Docket. In addition, copies can be obtained by contacting Robert Colby (202) 272–2413, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

substantially eliminate any concern that continuous trading might be interrupted during the period an order was being exposed.[50] In addition, the NYSE proposed a possible exception for automatic execution systems, which was intended to reduce the costs of the Rule for those systems. The NYSE also reiterated several of its earlier suggestions, including the requirement that market makers expose their proprietary interest at the stop price concurrent with exposure of a customer order.

The discussions attending proposal of Rules 11A–1[A] and [B] and the progress of the SIA Committee deliberations appear to have stimulated a reexamination of the role of order exposure in a national market system among certain market participants. In particular, in October 1982, Merrill Lynch & Co. ("Merrill Lynch"), a participant in the SIA Committee and a major market maker in linked securities, confirmed its commitment to implementing an order exposure mechanism for all markets as a means of providing interaction among all orders, including those transmitted through automated routing and derivative execution systems.[51]

The Commission has not reached a conclusion concerning the necessity or ultimate adviseability of mandated order exposure at the present time. The Commission is preliminarily inclined to conclude, however, that, if such a rule were to be applied to markets for Rule 19c–3 securities, it should be applied in an attempt to obtain the potential benefits of order exposure by all markets—increased opportunities for best execution, enhanced interaction of orders, and additional opportunities for competition—rather than in an attempt to address speculative overreaching and other concerns associated only with OTC market makers interacting with so-called internalized customer orders. The Commission intends to continue to monitor for these possible effects. To date, however, it has not observed any objectively identifiable negative impacts of internalization on Rule 19c–3 trading in the past that would justify imposition of an order exposure rule.[52]

The Commission notes the arguments made by the NYSE in its comments that the absence of exposure in OTC internalized trades creates inherent "best execution" concerns. On the other hand, the Commission recognizes the arguments made by a number of commentators that increased OTC competition in Rule 19c–3 securities inherently increases depth, liquidity, and pricing efficiency. The Commission, in adopting Rule 19c–3, made the determination that, in that limited context, these potential competitive benefits outweighed any potential concerns arising from the absence of exposure by OTC market makers. The Commission has not to date been provided any data or analysis which would cause it to reverse that determination. Therefore, any decision to adopt an order exposure rule would have to be based on a determination that there would be incremental benefits resulting from such a rule that would outweigh the costs of the additional regulation.

In this connection, the Commission believes that adoption of an order exposure rule for linked securities could possibly provide benefits for the markets for those securities and give the Commission experience with which to consider and evaluate the role of order exposure generally as a means to improve intermarket competition and best execution and thereby foster development of a national market system. The Commission is mindful, however, that some commentators have raised concerns that an order exposure rule could negate benefits already achieved through enhanced opportunities for intermarket competition and best execution afforded by adoption of Rule 19c–3. The Commission specifically requests comment on this issue. The Commission also believes that commentators and other interested persons should have the opportunity to consider and respond to the new developments contained in the recent industry proposals. Thus, the Commission believes that it would be useful at this point for it to republish a rule incorporating those elements of the earlier comments and the new proposals that appear to improve the operation of the order exposure proposals. This proposal would provide commentators with a fresh opportunity to provide views and insights concerning the specifics of an order exposure rule, as many requested, and would provide them with a further opportunity to comment on the overall costs and benefits, of such a rule. Accordingly, the Commission is reproposing for comment a single order exposure rule, Rule 11A–1, containing modifications and new provisions intended to enhance the principal objectives of order exposure or reduce the possible adverse effects of such a requirement.

This proposed Rule is described in brief below. The Commission has also prepared a more extensive description of the specifics of the proposed Rule, including a discussion of the comments on the various aspects of the Rule and the differences between proposed rule 11A–1 and the SIA and NYSE proposals. This description is contained in the Technical Appendix to this Release, and is incorporated by reference in the discussions herein.

B. Proposed Rule 11A–1

Proposed Rule 11A–1 would cover all broker-dealers trading as principal with their customers in Rule 19c–3 linked securities, including off-board market makers, exchange specialists, and broker-dealers on the floor of an exchange. The Rule would prohibit a broker-dealer from executing as principal a customer order in a Rule 19c–3 linked security unless (1) the broker-dealer is registered as an ITS/CAES market maker in the security or the transaction occurs on or through the facilities of an exchange; (2) the broker-dealer's quotations can be reached through, and it has access to, the ITS/CAES interface; and (3) the customer order is executed either pursuant to the Rule's order exposure procedures or its order export alternative.

The Rule's order exposure requirement would require a brokerdealer to stop (that is, guarantee) a customer order[53] at the proposed execution price, and then publish a bid or offer on behalf of the order for 30 seconds at a price 1/8 better than the proposed execution price, before executing the customer order as

[50] In periods of active trading, individual exposure of a succession of orders for the full exposure period potentially could result in considerable trading delays as each separate order is exposed. To avoid these delays, exceptions have been proposed in the Rule that would, under certain circumstances, allow immediate execution of a customer order when a quotation is already being published by the broker-dealer at the exposure price, and that would allow for elections of stops granted to a customer's order, and immediate execution of that order when an unrelated transaction in that security takes place in that market, or the market's quotation is changed to the order's proposed execution price in response to unrelated quotation changes. *See* Technical Appendix, Section 3.

[51] Letter from Robert P. Rittereiser, Executive Vice President, Merrill Lynch, to Douglas Scarff, Director, Division of Market Regulation, SEC, dated October 18, 1982; Letter from Robert P. Rittereiser, Executive Vice President, Merrill Lynch, to George A. Fitzsimmons, Secretary, SEC, dated August 2, 1982.

[52] Indeed, as discussed above, the interface appears to have resulted in some increased market maker competition, although it has not significantly changed the structure of Rule 19c–3 markets.

[53] Customer orders under the control of an exchange specialist, and thus subject to order exposure requirements under this proposed Rule, would include limit orders left with the specialist and orders received through an exchange order delivery system such as the NYSE's Designated Order Turnaround ("DOT") and the Amex's Post Execution Report ("PER") systems.

principal. The Rule's order export alternative would require the broker-dealer to "export" the order to CAES or the CSE's National Securities Trading System ("NSTS") in such a manner that the order is sent on a neutral basis, and the broker-dealer either (1) establishes procedures reasonably designed to separate the firm's order entry and execution functions, or (2) has not improved his quotation in the 30 seconds prior to trading with a customer order.

The Rule would specifically encompass all automated and derivative execution systems, including both regional exchange automated execution systems and derivative execution systems such as the NYSE's Registered Representative Rapid Response System ("R4").[54]

As noted previously, the Rule would also provide a number of exceptions from the order exposure requirements to reduce the burdens of the Rule during periods of active trading. Taken together, these exceptions are designed to assure that trading continuity is not disrupted, even during periods of active trading. First, a broker-dealer would not be required to change its quotation in response to receipt of a customer's order if (1) it has a quotation published at the exposure price (that is, an 1/8 better than the stop price) in a size at least as large as the customer order, (2) that quotation is maintained for 30 seconds from receipt of the order, and (3) the customer order receives the benefit of any execution at the exposure price. Second, if a broker-dealer is already exposing a customer order, the broker-dealer would be allowed to execute a subsequent customer order of up to a 1000 shares larger than the exposed order at the stop price of that exposed order.[55] Third, once a broker-dealer exposes a customer order, it may "elect the stop" and execute that order at the stop price prior to expiration of the exposure period if (1) an unrelated transaction occurs at the stop price or an inferior price in the broker-dealer's market,[56]; (2) the broker-dealer lowers its offer or raises its bid to the stop price to match a quotation published in another market; or (3) the offer is independently lowered or the bid raised to the stop price in the broker-dealers' market.[57] Fourth, an exception is provided allowing a broker-dealer to reduce the size of the exposed order if that order is partially executed.

With respect to block transactions,[58] the proposed Rule would require the ITS participants to submit to the Commission within 18 months of the Rule's effective date a plan providing an effective means for exposing blocks to other markets ("Block Exposure Plan"). This section reflects the Commission's preliminary view that, while exposure of blocks would be theoretically desirable, a practicable means for achieving this goal has not yet been developed. Accordingly, the proposed Rule would provide an exclusion from the Rule's provisions for blocks until a Block Exposure Plan is implemented.[59]

The Rule would not apply order exposure or export requirements to agency crosses. It would, however, generally limit execution of these transactions to CAES or an exchange, with an exception for agency cross transactions executed off-board between the best ITS bid and offer, assuming at least a ¼ point spread, or at the quotation price, assuming an ⅛ point spread. In addition, agency cross transactions of block size would be included in the Rule's Block Exposure Plan requirement and thus would be provided a temporary exclusion from exposure until a Plan is implemented, as discussed previously.[60]

Finally, the Rule would provide a number of additional exclusions for circumstances where the Rule's order exposure or export requirements would appear to provide little benefit or where requiring order exposure could be unduly burdensome or disruptive.[61] Moreover, the Rule would enable the Commission to grant exemptions from the rule if consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets or progress toward a national market system.

IV. Conclusion

The Commission is proposing a revised rule, Rule 11A–1, reflecting the augmented SIA Committee principles and other industry proposals and comments on its proposed Rules 11A–1[A] and [B]. In conjunction with proposal of this revised Rule, the Commission is withdrawing Rules 11A–1[A] and [B] at this time. Although the Commission has reached no determination concerning the ultimate advisability of an order exposure rule at the present time, it believes that publication of an order exposure rule in a revised form may help to refine discussion of this issue, as well as stimulate further comment on the particulars of the Rule. At the same time, the Commission is continuing its monitoring of the markets for Rule 19c–3 securities, and will take into account both the product of this monitoring and the comments submitted on these questions in its deliberations concerning whether to adopt a rule. The Commission solicits continued comment on the general issue of the desirability of an order exposure rule. The Commission also requests commentators to focus on the specific provisions of the revised rule, and their practical effect on trading in Rule 19c–3 securities.

V. Summary of the Initial Regulatory Flexibility Analysis

Although the Commission is only republishing an order exposure rule at this juncture, the Commission has prepared an Initial Regulatory Flexibility Analysis ("Analysis"), consistent with 5 U.S.C. § 603, regarding proposed Rule 11A–1.

The Analysis notes that the Commission is republishing a rule proposal reflecting comments and proposals of various elements of the securities industry, including the SIA Committee concerning its initial rule proposals, Rule 11A–1 [A] and [B]. This proposal is intended to afford the public a further opportunity to comment on the specific elements of the rule proposal currently under consideration by the Commission.

The Analysis indicates that the proposed rule would apply to all broker-

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[54] The application of the Rule of these systems is discussed in detail in the Technical Appendix, Section 1(b).

[55] *See* Technical Appendix, Section 3(a).

[56] As discussed below, execution of the subsequent customer order pursuant to this exception would elect the stop granted to the order already being exposed and permit execution of that order at the same time as the subsequent order.

[57] *See* Technical Appendix, Section 3(b).

[58] "Block transactions" are defined as transactions involving 10,000 shares or more or having a market value of $200,000 or more.

[59] *See* Technical Appendix, Section 5.

[60] *See* Technical Appendix, Section 1(c).

[61] Specifically, the Rule would provide exclusions for (1) primary or registered secondary distributions; (2) private offerings made in reliance on Section 4(2) of the Act; (3) trades unrelated to the current market price to correct an error or to make a gift; (4) tender offers; (5) purchases or sales effected upon the exercise of an option; (6) odd-lot transactions; (7) transactions in a foreign country; (8) trades on an exchange when that exchange is relieved of its firm quotation obligations under Rule 11Acl–1 under the Act; (9) trades on any market when the primary exchange is relieved of its quotation obligations under Rule 11Acl–1; (10) opening or reopening transactions; (11) transactions at the close; (12) transactions involving unmarketable limit orders (that is, limit orders to sell at or above the best prevailing bid price or to buy at or below the prevailing offer price) where these orders are reflected in the broker-dealers quotation for 30 seconds; (13) customer orders effected in conjunction with a block trade effected outside the best ITS quotations; and (14) percentage orders. *See* Technical Appendix, Section 4 for a further discussion with respect to these exclusions.

dealers who make markets in Rule 19c–3 securities which are eligible to be traded through the ITS/CAES interface, including specialists on national securities exchanges.[62] The Analysis also notes that the rule would impose certain administrative burdens inherent in the mechanical procedures for exposing orders on broker-dealers; however, the Analysis concludes that because of the relatively small number of customer orders handled by small broker-dealers, the administrative burdens of this rule on small broker-dealers would appear to be less than for larger broker-dealers. In addition, the Analysis notes that the rule also provides new opportunities for small broker-dealers to compete for order flow by permitting them access to the customer orders exposed by other markets. Furthermore, the rule offers a broker-dealer the option of competing for its own order flow by exporting its customer orders to CAES or the CSE's NSTS. The Commission is soliciting comment on the precise impact of the proposed rule and, if it determines to adopt a rule, will use this information in designing an aproach which minimizes the burdens on broker-dealers while still ensuring effective exposure.

A copy of the Analysis may be obtained by contacting William W. Uchimoto, (202) 272–2409, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

VI. Text of Proposed Rule

The Securities and Exchange Commission hereby proposes to amend Part 240 of Title 17, Chapter II, of the Code of Federal Regulations, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)), particularly Sections 2, 3, 6, 9, 10,11, 11A, 15, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k, 78k–1, 78*o*, 78*o*–3, 78q and 78w), by adding Section 240.11A–1 to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.11A–1 Exposure of principal and agency cross transactions.

Preliminary Note to Rule 11A–1—Rule 11A–1 applies both to broker-dealer principal transactions with customers and agency cross transactions in specified securities. With respect to broker-dealer principal transactions, the rule applies both to broker-dealer purchases from customers and broker-dealer sales to customers. In order to make the substantive requirements of the rule as easy to follow as possible, only subparagraph (a)(1) of the ruler refers both to broker-dealer purchases and sales. Throughout the remainder of the rule, the text of the rule refers only to the situation where the broker-dealer buys from the customer. With respect to broker-dealer sales to a customer, the requirements of the rule parallel the requirements specified for broker-dealer purchases, but on the opposite side of the market. For example, while the rule provides the broker-dealer with the alternative requirement of "exposing" a customer sell order at a price ⅛ dollar higher than the stop price with respect to broker-dealer purchases, the broker-dealer would have to expose customer buy orders at a price ⅛ dollar lower than the stop price. As a general matter in interpreting requirements with respect to broker-dealer purchases from customers, unless the context requires otherwise, terms such as "purchase," "offer," "higher," "sell," "lowered," "bid," and "raised" used with respect to broker-dealer purchases, should be road as "sale," "bid," "lower," "purchase," "raised" "offer," and "lowered" with respect to broker-dealer sales.

(a) *Principal transactions.* (1) No broker-dealer shall buy a subject Rule 19c–3 security from a customer (or sell such a security to a customer) for a proprietary account of the broker-dealer unless the broker-dealer (i) is registered and acting as an ITS/CAES market maker in the subject security or executes the purchase (or sale) on or through the facilities of a national securities exchange; (ii) has access to, and the published bids and offers of such broker-dealer in the subject Rule 19c–3 security can be reached through, the ITS/CAES Interface; and (iii) complies with either paragraph (a)(2) or (a) (3) of this section.

(2) *Alternative 1: Order exposure.* The broker-dealer, prior to execution of any purchase from a customer as principal, shall complete the steps set forth in this paragraph.

(i) The broker-dealer must "stop" (*i.e.*, guarantee the execution of) the total number of shares he intends to buy at his intended purchase price from the customer (hereinafter referred to as the "stop price");

(ii) Subject to the provisions of paragraph (a)(2)(iv), the broker-dealer must publish and maintain for at least 30 seconds an offer on behalf of the customer, in a size equal to the total number of shares he intends to buy from the customer, at an offer price which is ⅛ dollar higher than the stop price;

(iii) After completing the steps required by paragraphs (a)(2)(i) and (a)(2)(ii), the broker-dealer may execute the customer's order (or whatever portion thereof remains unexecuted after publication of an offer on behalf of the customer in accordance with subparagraph (a)(2)(ii)) at the stop price, as principal;

(iv)(A) The requirements of paragraph (a)(2)(ii) shall be deemed to be satisfied with respect to a customer order if, subject to the other provisions of this paragraph (a)(2)(iv), (*1*) an offer already being published by the broker-dealer for its proprietary account meets the price requirement and meets or exceeds the size requirement of subparagraph (a)(2)(ii) and is maintained for at least 30 seconds from the time the customer order is received; (*2*) the customer's order is not executed as principal for 30 seconds after it is received; and (*3*) during such 30 second period any transaction with the broker-dealer that would otherwise be for its proprietary account at the broder-dealer's published offer price in a size up to the size of the customer's order shall be for the account of the customer.

(B) Any offer required to be published and maintained under paragraph (a)(2)(ii) may be reduced in size to the extent of any partial acceptance by one or more third parties of the offer occurring during the 30 second period contemplated by that paragraph.

(C) A customer's order to sell (hereinafter referred to as the "first order") with respect to which publication of an offer is being maintained in compliance with paragraph (a)(2)(ii) may be executed immediately by the broker-dealer as principal at the stop price if, after such publication has commenced or, in the case of an order to which paragraph (a)(2)(iv)(A) applies, after the order is received:

(1) An unrelated transaction is executed in that broker-dealer's ITS market at a price equal to or lower than the stop price;

(2) The broker-dealer lowers his offer to the stop price to match an offer published by another ITS market; or

(3) The published offer in that broker-dealer's ITS market is lowered to the stop price to reflect an independent offer in that market at that price.

(D) A customer's order to sell (hereinafter referred to as the "second order") received by a broker-dealer while that broker-dealer is maintaining a published offer with respect to the first order in compliance with paragraph (a)(2)(ii) may be executed in whole or in part immediately by the broker-dealer as principal at the stop price of the first order in any size up to 1,000 shares in

[62] The Commission notes that no national stock exchange trading a Rule 19c–3 security is defined as a small entity. *See* Rule 0–10(e) under the Act.

excess of the amount of the first order that was stopped by the broker-dealer pursuant to paragraph (a)(2)(i).

(3) *Alternative 2: Order export.* The customer's order shall be entered in ITS/CAES on a neutral basis (*i.e.*, otherwise than by directing the order to the broker-dealer for execution) or in the National Securities Trading System (NSTS) of the Cincinnati Stock Exchange and executed in ITS/CAES or NSTS (as the case may be) at the price of the bid published by the broker-dealer for his proprietary account at the time the order is entered either:

(i) Under circumstances reasonably designed to preclude (A) all persons responsible for making bids and offers or effecting transactions for the broker-dealer's proprietary account in that security from having any knowledge of the existence of that customer's order prior to its entry in ITS/CAES or NSTS, and (B) all persons responsible for the solicitation of customers' orders or for the manner and timing of entry of such orders in that security in ITS/CAES or NSTS from having knowledge of positions or trading strategies then existing for the broker-dealer's proprietary account in that security; or

(ii) where (A) the broker-dealer's bid has not been raised for at least 30 seconds before receipt of the customer order, and (B) the size of such bid during such 30 second period has been equal to or greater than the size of the customer order or that portion of the customer order purchased by the broker-dealer.

(b) *Principal transactions in automated execution or derivative pricing systems.* No broker-dealer who provides executions to others within or by means of an automated execution or derivative pricing system shall buy a subject 19c-3 security for a proprietary account of the broker-dealer from any person within or by means of such a system, whether on an immediate or delayed basis, unless the broker-dealer (1) complies with paragraph (a)(1) of this rule, and (2) complies with the procedures set forth in paragraph (a)(2) or (a)(3) of this section with respect to the execution of such order. For purposes of applying paragraphs (a)(2) and (a)(3) to the execution of orders covered by this paragraph (b), all such orders shall be deemed customer orders whether or not the person for whose account the order is effected is a customer of the broker-dealer within the meaning of paragraph (g)(14) of this section.

(c) *Agency cross transactions.* No broker-dealer shall effect an agency cross transaction involving a subject Rule 19c-3 security unless such transaction is executed on or through the facilities of a national securities exchange or in ITS/CAES; *Provided, however,* that an ITS/CAES market maker may effect an agency cross transaction otherwise than on or through the facilities of a national securities exchange or in ITS/CAES (1) at a price higher than the best bid and lower than the best offer for the subject 19c-3 security then being disseminated by any ITS market(s) (if the spread between such best bid and best offer is ¼ or more); or (2) at a price equal to the best bid or best offer for the subject 19c-3 security then being disseminated by any ITS market(s) (if the spread between such best bid and best offer is ⅛).

(d) *Exclusions.* The provisions of this section shall not apply to: (1) A principal transaction or agency cross transaction involving a block of a subject Rule 19c-3 security effected on or through the facilities of a national securities exchange or with or through an ITS/CAES market maker, except as provided in paragraph (e) of this section;

(2) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution;

(3) Any transaction made in reliance on Section 4(2) of the Securities Act of 1933;

(4) Any trade at a price unrelated to the current market price for the subject Rule 19c-3 security involved for the purpose of correcting an error or to enable the seller to make a gift;

(5) Any transaction pursuant to a tender offer;

(6) Any purchase or sale of a subject Rule 10c-3 security effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire a subject Rule 19c-3 security at a pre-established consideration unrelated to the current market for such security;

(7) Any transaction in any subject security for less than 100 shares;

(8) Any transaction effected outside of normal operating hours of the ITS/CAES interface;

(9) Any transaction effected in any foreign country;

(10) Any principal transaction in a subject Rule 19c-3 security effected on or through the facilities of a national securities exchange or with or through an ITS/CAES market maker during any period when the principal exchange market for that security is relieved of its obligation to collect, process and make available to quotation vendors bids and offers in such security pursuant to paragraph (b)(3)(i) of § 240.11Ac1-1 (Rule 11Ac1-1 under the Act);

(11) Any principal transaction in a subject Rule 19c-3 security effected on or through the facilities of a national securities exchange during any period when such exchange is relieved of its obligation to collect, process and make available to quotation vendors bids and offers in such security pursuant to paragraph (b)(3)(i) of § 240.11Ac1-1 (Rule 11Ac1-1 under the Act;

(12) Any transaction effected in any opening or reopening of a stock in conformity with the provisions of the plan governing operation of ITS as approved by the Commission pursuant to § 240.11Aa3-2 (Rule 11Aa3-2 under the Act);

(13) Any transaction effected with an order (i) which was received within one minute of the close of the ITS market in which that transaction is effected, or (ii) as to which instructions were given to execute the order "at the close";

(14) Any purchase from a customer by a broker-dealer with respect to a non-marketable limit order of that customer if (i) there is published and maintained for at least 30 seconds prior to the purchase (and up to the time the purchase or sale is effected) an offer with respect to the customer order at the limit price of that order in a size at least equal to the number of shares purchased or sold; and (ii) for at least 30 seconds prior to the broker-dealer's purchase, that published offer price is equal to or lower than the price of the lowest offer published by any ITS market for the same security during that 30 second period. For purposes of this paragraph (d)(14), a "non-marketable limit order" shall mean a limited price order to sell at a price at least ⅛ above the price of the highest bid, published by any ITS market for the same security at the time the order was received;

(15) Any purchase from a customer by a broker-dealer with respect to any limit order in an ITS market which is executed in connection with a block transaction in that or another ITS market effected outside the best bid or best offer from any ITS market; and

(16) Any purchase from a customer by a broker-dealer on or through the facilities of a national securities exchange executed pursuant to a percentage order.

(e) *Exposure of block transactions.*

(1) On or before the last business day of the eighteenth month following the effective date of this section, the participants in the Intermarket Trading System shall jointly file with the Commission a plan establishing procedures for the exposure of covered block transactions prior to execution

("block exposure plan"). Such plan shall specify, at a minimum:

(i) The length of time, and the method by which, covered block transactions will be exposed;

(ii) Procedures designed to assure that buying and selling interest represented in any ITS market at the time a covered block transaction is exposed has a reasonable opportunity to respond to such exposure and, subject to the rules of priority, parity, and precedence in the market where the block transaction is to be effected, participates in the transaction;

(iii) Safeguards designed to prevent "step-ins" or other participation by any person whose interest in buying or selling the security which is the subject of the covered block transaction is not represented in an ITS market at the time the block transaction is exposed; and

(iv) Appropriate penalties in the event of non-compliance with the terms of the block exposure plan.

(2) The block exposure plan required by paragraph (e)(1) of this section shall be deemed to be a national market system plan within the meaning of § 240.11Aa3–2 (Rule 11Aa3–2 under the Act) and shall be considered by the Commission, and shall become effective, in accordance with the procedures specified in §240.11Aa3–2.

(3) Once the block exposure plan becomes effective pursuant to § 240.11Aa3–2, notwithstanding any other provision of this section, no broker-dealer shall effect any covered block transaction without complying with the provisions of such effective block exposure plan.

(f) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, and broker, dealer, transaction or class of transactions if the Commission determines that such exemption is consistent with the public interest, the protection of investors the maintenance of fair and orderly markets or the removal of impediments to, and perfection of the mechanisms of, a national market system.

(g) *Definitions.* For purposes of this section, (1) The term "Rule 19c–3 security," shall mean any security listed and registered on a national securities exchange for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan, other than a "covered security" as defined in § 240.19c–3 (Rule 19c–3 under the Act).

(2) The term "effective transaction reporting plan" shall mean any plan approved by the Commission pursuant to § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) for collecting, processing and making available transaction reports with respect to transactions in an equity security or class of equity securities.

(3) The term "transaction report" shall mean a report containing the price and volume associated with a completed transaction involving one or more round lots of a security.

(4) The term "subject Rule 19c–3 security" shall mean any Rule 19c–3 security which is eligible to be traded through the ITS/CAES Interface.

(5) The term "Intermarket Trading System" ("ITS") shall mean the intermarket communications linkage operated jointly by certain self-regulatory organizations pursuant to a plan filed with, and approved by, the Commission pursuant to § 240.11Aa3–2 (Rule 11Aa3–2 under the Act) ("ITS Plan").

(6) The term "participant," when used with respect to the Intermarket Trading System, shall mean any self-regulatory organization which is included in the ITS Plan and has agreed to act in accordance with the terms of the ITS Plan.

(7) The term "Computer Assisted Execution System" ("CAES") shall mean the computerized order routing and execution system owned and operated by the National Association of Securities Dealers, Inc. ("NASD") as part of the NASDAQ inter-dealer quotation system.

(8) The term "ITS/CAES" shall mean the linked trading systems connected by the ITS/CAES Interface.

(9) The term "ITS/CAES Interface" shall mean the automated interface between the ITS and CAES.

(10) The term 'ITS market" shall mean, with respect to any subject Rule 19c–3 security, any national securities exchange which is a participant in the ITS and trades such security through ITS and any ITS/CAES market maker in such security.

(11) The term "ITS/CAES market maker" shall mean, with respect to any subject Rule 19c–3 security, any third market maker that is registered as a market maker in such security with the NASD for purposes of use of ITS/CAES.

(12) The term "third market maker" shall mean, with respect to any subject Rule 19c–3 security, any broker-dealer who holds himself out as being willing to buy and sell such security for his own account on a regular or continuous basis otherwise than on a national securities exchange in amounts of less than block size (including any such person who also represents, as agent, orders to buy and sell such security on behalf of any other person and communicates bids and offers to a national securities association pursuant to § 240.11Ac1–1 (Rule 11Ac1–1 under the Act) on behalf of such other persons as well as for his own account).

(13) The term "broker-dealer" shall mean any broker or dealer.

(14) The term "customer" of a broker-dealer shall mean (i) any person other than a broker or dealer, except that the term "customer" shall include a broker or dealer (A) which, directly or indirectly controls, is controlled by, or is under common control with such broker-dealer, or (B) whose customers' accounts are introduced to the broker-dealer and are carried by it on either a disclosed or undisclosed basis; and (ii) any person from whom an order has been accepted by the broker-dealer for execution, but only with respect to orders so accepted.

(15) The term "proprietary account" shall mean any one or more accounts in which the broker-dealer has a direct or indirect interest.

(16) A bid or offer made available by a national securities exchange or national securities association pursuant to § 240.11Ac1–1 (Rule 11Ac1–1 under the Act) shall be deemed "published" when it is displayed on or through the facilities of such exchange or in CAES (as the case may be).

(17) The term "intended purchase price from the customer" in a principal transaction shall exclude any commission, commission equivalent, differential or comparable charge to be imposed by the broker-dealer in connection with the transaction.

(18) The term "block" shall mean a transaction involving 10,000 shares or more of a subject Rule 19c–3 security or a quantity of such security having a market value of $200,000 or more.

(19) The term "covered block transaction" shall mean a block of a covered Rule 19c–3 security which is an agency cross transaction or in which a broker-dealer buys such security from a customer for a proprietary account of the broker-dealer.

By the Commission.

December 23, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35493 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-255-82]

Registration Requirements With Respect to Debt Obligations; Proposed Rulemaking

Correction

In FR Doc. 82-31123 beginning on page 51414, in the issue for Monday, November 14, 1982, second column, the heading **"General Rule"** should be inserted above the second paragraph, and in the ninth line of that same paragraph, "section" should read "sections".

BILLING CODE 1505-01-M

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26 CFR Parts 48, 142, and 146

[LR-2119]

Manufacturers Excise Taxes on Motor Vehicles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which would update and revise the regulations concerning Manufacturers and Retailers Excise Taxes on motor vehicles. The proposed regulations contain a new definition of "automotive parts and accessories," and a more detailed treatment of the exemptions provided by section 4063 for "camper coaches," "feed, seed, and fertilizer equipment,"and "trash containers." These amendments would substantially complete the task of updating the regulations under sections 4061 through 4063 of the Internal Revenue Code of 1954 to reflect statutory changes made to these sections since 1964.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 28, 1983. Except as otherwise provided in this document, the amendments are proposed to be effective for sales made after December 31, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-2119).

FOR FURTHER INFORMATION: Neil W. Zyskind of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T, (202) 566-3289, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4061 and 4063 of the Internal Revenue Code of 1954 (Code). These amendments would substantially complete the task of updating the regulations under sections 4061 through 4063 to reflect statutory changes made to these sections since 1964. In this connection, T.D. 7461, published in the **Federal Register** for January 13, 1977, at 42 FR 2672, provided regulations concerning the definition of "highway vehicle," as well as to conform the regulations to changes made in section 4061 (a) by the Revenue Act of 1971 (85 Stat. 530), relating to the repeal of the manufacturers excise tax on passenger automobiles, light-duty trucks, etc.

This document does not provide proposed regulations under the amendments to section 4063, repealing the excise tax on bus chassis and bodies, made by the Energy Tax Act of 1978 (Pub. L. 95-618). Those regulations are expected to be provided by another regulation project.

These amendments are to be issued under the authority contained in sections 4063(c) (78 Stat. 1086, 26 U.S.C. 4063(c)), 4063(d) (90 Stat. 1904, 26 U.S.C. 4063(d)) and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Code.

Explanation of Provisions

The proposed regulations would update and revise the existing regulations regarding manufacturers excise taxes on motor vehicles. The proposed regulations contain a new definition of "automotive parts and accessories," and a more detailed treatment of the exemptions provided by section 4063 for "camper coaches," "feed, seed, and fertilizer equipment," and "trash containers."

The present Part 48 definition of automotive parts and accessories (§ 48.4061 (b)-2 (a)) contains dual tests for determining whether a part or accessory is a taxable part or accessory. The first test is a test of design for use with a highway vehicle, and the second is a test of primary use with a highway vehicle. Although the primary use test is presented in Part 48 as a conclusive test of taxability, it is subject to the qualification in § 48.4061 (b)-2 (b) to the effect that an article of general use is not subject to the tax on automotive parts or accessories. Because of this qualification, the primary use test of taxability has proved troublesome. For this reason, § 48.4061 (b)-2 (a) is proposed to restrict the test of taxability of parts and accessories to the test of primary design for use with highway vehicles to add to their utility as highway transportation devices. However, it is also proposed that the primary use test be retained in § 48.4061 (b)-2 (b) as a step in a procedure for determining whether an article that is primarily used on a highway vehicle is exempt from tax by reason of being an article of "general use." To this end, an article that is primarily used with highway vehicles is proposed to be considered as an article primarily designed for such use, unless it can be established to the satisfaction of the Service that the article is in fact an article exempt from tax as an article of general use.

Section 4061(b)(2) of the Code exempts from the tax on parts or accessories any truck part that is also "suitable for use," and "ordinarily is used" with passenger vehicles. The problem of determining when a truck part is a dual purpose part that is also suitable for use with passenger vehicles is covered in § 48.4061 (b)-2 (d), which includes material published in revenue rulings and certain clarifying material, such as definitions of "passenger automobile," "suitable for use," and "ordinarily is used," as these terms are used in section 4061(b)(2).

Section 4063(a) of the Code provides exemption from the taxes imposed by section 4061 for: (1) Camper coaches, (2) feed, seed, and fertilizer equipment, (3) house trailers, (4) ambulances and hearses, (5) concrete mixers and parts therefor, (6) buses, and (7) trash containers and parts therefor. There has been no treatment in prior regulations of the exemption for ambulances and hearses, and it has been decided that there is no current need for any such treatment. Regulations relating to exemption for buses were provided by another regulation project. In explaining the exemptions for camper coaches and house trailers in the proposed regulations, §§ 48.4063 (a)-1 and 48.4063 (a) (3)-1 provide that these exemptions are intended to apply to living quarters.

Because the exemption for feed, seed, and fertilizer equipment has caused administrative difficulty, § 48.4063 (a) (2)-1 goes into some detail as to the meaning of this exemption and includes three detailed examples.

The exemption for concrete mixers is covered in § 48.4063(a)(5)-1. Paragraph (a) defines concrete mixer bodies, and paragraph (b) defines parts for concrete mixer bodies. Neither of these terms

was defined in prior regulations. The definition of concrete mixer bodies stresses the fact that the body must be of a type that is designed to process basic ingredients into concrete and not merely to keep preprocessed concrete agitated. In defining a part for a concrete mixer body, a power take-off system primarily designed for use with such a body is given as an example of a part exempt under section 4063(a)(5)(B).

The exemption for trash containers and parts for trash containers is presently covered in § 142.1–1(f) of the temporary regulations. In § 48.4063(a)(7) the material in § 142.1–1(f) is restated with minor word changes and § 142.1–1(f) is deleted.

Six of the seven exemptions in section 4063(a) apply to types of articles. The exemptions for trash containers applies to certain uses of otherwise taxable articles. Accordingly, administrative rules for registration, etc. are provided in § 48.4063(a)(7)–2. These rules have been adopted from those rules presently set forth in § 142.1–1(g) of the temporary regulations.

Statutory Amendments Reflected in the Proposed Changes

Many statutory changes enacted after 1964 have not previously been reflected in Part 48 of the regulations. The table set forth below enumerates the statutory changes reflected in these proposed regulations. The section numbers on the left margin list the sections of the Code to which the statutory changes relate.

4061:

1. Section 201 of the Excise Tax Reduction Act of 1965 (Pub. L. 89–44, 79 Stat. 136) relating to parts and accessories, under section 4061(b).

2. Section 401 of the Revenue Act of 1971 (Pub. L. 92–178, 85 Stat. 533) relating to excise taxes on certain articles and parts and accessories for such articles.

3. Section 502 of the Federal Aid Highway Act of 1978 (Pub. L. 95–599, 92 Stat. 2756) relating to effective date for excise taxes imposed under section 4061.

4062 and 4063:

1. Section 5 of the Act of October 13, 1964 (Pub. L. 88–653, 78 Stat. 1086) relating to the sale of rebuilt automotive parts and accessories.

4063:

1. Section 801 of the Excise Tax Reduction Act of 1965 (Pub. L. 89–44, 79 Stat. 157) relating to exemption of certain articles from the excise taxes imposed under section 4061.

2. Section 931 of the Tax Reform Act of 1969 (Pub. L. 91–172, 83 Stat. 724) relating to exemption of concrete mixers from the excise taxes imposed under section 4061.

3. Section 303 of the Excise, Estate, and Gift Tax Adjustment Act of 1970 (Pub. L. 91–614, 84 Stat. 1845) modifying the camper coach exemption.

4. Section 401 of the Revenue Act of 1971 (Pub. L. 92–178, 85 Stat. 530) relating to exemption of certain trash containers from the excise taxes imposed under section 4061.

5. Section 2109 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1904) relating to an exemption for resale of articles for which an excise tax was imposed under section 4061.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR Part 48

Agriculture, Arms and munitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

26 CFR Part 142

Excise taxes, Motor vehicles, Revenue Act of 1971.

26 CFR Part 146

Excise taxes, Motor vehicles.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 48, 142, and 146 are as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. Section 48.4061(a)–1(b)(1) is revised to read as follows:

§ 48.4061(a)–1 Imposition of tax; exclusion for light duty trucks, etc.

* * * * *

(b) *Rate and computation of Tax*—(1) *In general.* With respect to the articles enumerated in paragraph (a) (1) of this section, the rate of tax is determined in accordance with the rates of tax contained in section 4061(a)(1).

* * * * *

Par. 2. Section 48.4061(a)–3 is revised to read as follows:

§ 48.4061(a)–3 Definitions.

For purposes of the tax imposed by section 4061, unless otherwise expressly indicated:

(a) *Automobile truck.* The term "automobile truck" means a motor vehicle designed for transporting property or towing loads.

(b) *Automobile bus.* The term "automobile bus" means a motor vehicle which is designed for commercial or industrial use and which is capable of transporting 8 or more adult passengers, in addition to the operator.

(c) *Tractor.* The term "tractor" means any tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

(d) *Effective date.* The provisions of this section shall apply to articles sold on or after December 11, 1971.

Par. 3. Sections 48.4061(b)–(1) (a) and (b) are revised to read as follows:

§ 48.4061(b)–(1) Imposition of tax.

(a) *In general.* Section 4061(b) imposes a tax on the sale by the manufacturer, producer, or importer of parts and accessories (other than tires and inner tubes) for any of the articles enumerated

in section 4061(a) (see paragraph (a) of § 48.4061(a)–1).

(b) *Effective date.* The provisions of paragraph (a) shall be effective for articles sold on or after June 22, 1965.

(c) *Rates of tax.* Tax is imposed on the sale of parts and accessories for any of the articles enumerated in section 4061(a)(1) at the rates determined in accordance with the rates of tax contained in section 4061(b)(1). The tax is computed by applying to the price for which the part or accessory is sold the rate in effect at the time of the sale. For definition of the term "price" see section 4216 and the regulations thereunder contained in subpart M of this part.

Par. 4. Section 48.4061(b)–2 is amended by revising paragraphs (a), (b), (d), and (e) to read as set forth below.

§ 48.4061(b)–2 Parts and accessories; definitions.

(a) *In general.* As used in section 4061(b)(1), the term "parts and accessories" includes all articles and materials (other than tires and inner tubes) that are primarily designed or adapted for use on or in connection with an automotive chassis, body, or tractor of a type enumerated in section 4061(a)(1) to add to the utility or ornamentation of the chassis, body, or tractor. An article is considered to add to the utility of a chassis, body, or tractor if it in any manner improves the capability of such an article to transport persons or property over the public highways. In addition to those articles that are primarily designed to provide the basic capability of a vehicle to perform a highway transportation function (such as means of propulsion and guidance, provision to carry a load, etc.), any article that is primarily designed to improve: (1) The loading or unloading capability of a highway vehicle, (2) the protection, preservation, or refrigeration of its cargo, or (3) the comfort, convenience, or safety (including, for example, warning lights, reflectors, and back-up alarms) of the operator or passengers, is considered to be a part or accessory for an article enumerated in section 4061(a), and subject to the tax imposed by section 4061(b)(1). The term "parts or accessories" includes all articles that have reached such a stage of manufacture as to be commonly known, or as to be identifiable, as parts or accessories whether or not fitting operations are required in connection with their installation. An article is not deemed to be a taxable part or accessory even though it is designed to be attached to the vehicle or to be primarily used in connection therewith if the article is, in effect, the load being transported and the primary function of the article is to serve a purpose unrelated to the transportation function of the vehicle. For example, a construction derrick attached to a truck is not a taxable part or accessory inasmuch as the derrick is the load of the truck and its use is in connection with construction work at a construction site rather than in connection with the transportation or loading or unloading function of the truck. On the other hand, an article such as a towing cradle or loading or unloading equipment designed to be attached to or to be primarily used in connection with a truck is a taxable part or accessory inasmuch as the article contributes to the load-carrying function of the truck. The term "parts and accessories" does not include tires and inner tubes, since these articles are expressly exempted by section 4061(b) from the tax. However, the term "parts and accessories" does include tire valves designed for use on tires or tubes for articles taxable under section 4061(a). If an article is primarily used on or in connection with a chassis, body, or tractor enumerated in section 4061(a) to add to the utility or ornamentation of the chassis, body, or tractor, such an article is a taxable part or accessory within the meaning of section 4061(b).

(b) *Articles of general use.* An article that would otherwise qualify as a taxable automotive part or accessory is considered an article of general use and therefore not taxable if it can be shown that on an industry-wide basis:

(1) The article has substantial general use other than with articles enumerated in section 4061(a),

(2) The article does not contain any physical design features indicating primary design for use with articles enumerated in section 4061(a), and

(3) The article is not principally held out or advertised by the manufacturer, producer, or importer for use on or in connection with an article enumerated in section 4061(a).

Examples of nontaxable articles of general use (providing they meet the criteria in subdivisions (1), (2), and (3) of this subparagraph) are such commodities as ball and roller bearings, bolts, nuts, washers, screws, nails, tacks, rivets, pins, studs, cotters, pipe fittings such as plugs, tees, ells, and elbows, drain cocks, grease cups, and oilers. Parts primarily designed as parts or components for taxable parts or accessories are taxable. For example, the tax applies to the sale or use of gears, flexible shafts, and flexible housing designed as replacement parts for automotive speedometers, and replacement parts for such articles as automotive engines, transmissions, differentials, steering mechanisms, timers, and windshield wiper motors.

* * * * *

(d) *Dual-purpose articles used on trucks and passenger automobiles.* Under the provisions of section 4061(b)(2), an article that otherwise meets the definition of a "part or accessory" within the meaning of section 4061(b)(1), is not subject to the tax imposed on parts and accessories by that section if the article is also "suitable for use" and "ordinarily is used" on or in connection with, or as a component part of, any chassis or body for a passenger automobile, any chassis or body for a trailer or semitrailer suitable for use in connection with a passenger automobile, or a house trailer. For purposes of section 4061(b)(2) and this paragraph (d), the following terms have the following meanings:

(1) *"Passenger automobile."* The term "passenger automobile" means a vehicle designed for the transportation of persons over the highway which consists of a chassis and body that are not enumerated in section 4061(a) and are not of a bus as defined in § 48.4061 (a)–3(b).

(2) *"Suitable for use."* An article is considered to be "suitable for use" with a passenger automobile if it possesses both practical and commercial fitness for use in performing the function for which it is used. An article possesses practical fitness for use if it performs its function up to a generally acceptable standard of efficiency, and an article possesses commercial fitness for use if it is available for use at a price that is reasonably competitive with other articles that may be used for the same purpose.

(3) *"Ordinarily is used."* An article "ordinarily is used" with a chassis or body for a passenger automobile if its use with these articles is substantial in comparison to its overall use with all highway motor vehicles, and if its use in passenger automobiles is in connection with use of these vehicles that is considered an ordinary use of the vehicles, rather than a specialized use. For example, truck-type storage batteries that are used commonly in police cars would not be considered as being "ordinarily" used with passenger automobiles if their use in police cars is the extent of their use in passenger automobiles, since the use of passenger automobiles as police cars is not considered to be an "ordinary" use of passenger automobiles. On the other hand, if heavy-duty shock absorbers that are used extensively in trucks are

also used commonly in certain models of station wagons while these vehicles are being put to normal passenger automobile use, the use of the shock absorbers in station wagons is an "ordinary" use of the articles with passenger vehicles.

(e) *Effective date.* In general this section shall be effective for articles sold after December 31, 1954. The changes made to paragraph (a) of this section by Pub. L. 89–44 (79 Stat. 136) with respect to any imposition of a tax on automobile radio and television receiving sets shall be effective for such articles sold on or after June 22, 1965. The provisions of paragraph (d) shall apply to articles sold on or after December 11, 1971.

§§ 48.4061–1, 48.4062(a), 48.4062(b), and 48.4062(b)–1 [Removed]

Par. 5. Sections 48.4061–1, 48.4062(a), 48.4062(b), and 48.4062(b)–1 are removed.

Par. 6. The following new §§ 48.4063(a)(1)–1 through 48.4063(c)–1 are added immediately after § 48.4062(a)–1 and prior to § 48.4063–1.

§ 48.4063 (a) (1)–1 Exempt sales; camper coaches, etc.

(a) *In general.* The tax imposed by section 4061 does not apply to articles designed to be mounted or placed on trucks, truck chassis, or automobile chassis to be used primarily as living quarters or camping accommodations. Included among these articles are bodies for self-propelled mobile homes, and articles referred to as camper coaches, camper caps, slide-in cabins, and sleeping units specifically designed for mounting on a pickup truck for use as sleeping quarters for hunters, fishermen, and other sportsmen and sportswomen. However, not included among these articles are those designed for commercial uses or converted to commercial uses, such as business offices, stores, laboratories, catering services, showrooms, repair shops, or sleeping cabs designed for use on trucks and tractors operated for heavy-duty, long-distance hauling purposes.

(b) *Effective date.* The provisions of this section shall apply to articles sold on or after June 22, 1965, however, those articles sold which were designed to be used primarily as camping accommodations shall only be exempt from the tax imposed under section 4061 if such articles were sold on or after December 31, 1970.

§ 48.4063(a)(2)–1 Exempt sales; feed, seed, and fertilizer equipment.

(a) *In general.* The taxes imposed by section 4061 do not apply with respect to any automotive body or part or accessory that is primarily designed:

(1) To process or prepare seed, feed, or fertilizer for use on farms;

(2) To haul feed, seed, or fertilizer to and on farms;

(3) To spread feed, seed, or fertilizer on farms;

(4) To load or unload feed, seed, or fertilizer on farms; or

(5) For any combination of any of the foregoing uses.

(b) *Hauling "to and on farms."* The exemption from tax provided by section 4063(a)(2)(B) for bodies and parts or accessories primarily designed to haul feed, seed, or fertilizer to and on farms applies with respect to those articles that are primarily designed (1) to transport feed, seed, or fertilizer over the highway to the farm, and (2) to unload or otherwise dispense the feed, seed, or fertilizer on the farm. A body or part or accessory that is primarily designed to transport feed, seed, or fertilizer over the highway, but which does not have features indicating special design for unloading or otherwise dispensing the feed, seed, or fertilizer on the farm under conditions peculiar to unloading or dispensing a cargo on the farm (such as unloading feed or seed directly into a bin, or dispensing fertilizer directly into applicators), does not qualify for the exemption from tax provided by section 4063(a)(2)(B). A body or part or accessory designed for hauling feed, seed, or fertilizer from a farm over the highway does not qualify for the exemption provided by section 4063(a)(2)(B) unless it is primarily designed for delivering the feed, seed, or fertilizer to and on a farm. The fact that a body, part, or accessory is primarily designed to carry out one of the functions described in paragraphs (a) (1) through (5) of this section may be demonstrated by establishing that it would not be economically feasible to use the particular body, part, or accessory solely or principally for highway transportation purposes.

(c) *Examples.* The application of the exemption provided by section 4063(a)(2)(B) for bodies primarily designed for hauling feed, seed, or fertilizer to and on farms may be illustrated by the following examples:

Example (1). X Company manufactures an anhydrous ammonia "nurse tank" body with a capacity of 1,600 gallons. This tank body is used to carry anhydrous ammonia short distances, at slow speeds, from central ammonia distributors to individual farms where it is used by the farmer. The body described in this example is deemed to be primarily designed to haul fertilizer to and on farms since it would not be economically feasible, due to its small capacity, to use the tank body solely or principally for highway transportation purposes.

Example (2). Y Company manufactures an anhydrous ammonia tank body which has a capacity of 10,000 gallons or 20 tons. This type of tank body is referred to as a "transport tank" body. The transport tank body and chassis are used chiefly for filling large bulk storage tanks. Due to the capacity of the tank body and the characteristics of its chassis, the transport tank body is rarely, if ever, used on farms but merely transports ammonia to storage tanks. Therefore, the transport tank body described in this example is taxable udner section 4061(a) since it is primarily designed to move fertilizer over the highway rather than to and on farms.

Example (3). Z Company manufactures and sells a line of self-unloading truck, trailer, and semitrailer bodies used primarily for hauling animal and poultry feed to farms and unloading these products into bins or troughs on the farm. The bodies contain heavy-duty mechanical or pneumatic type unloading equipment specially designed to facilitate unloading on the farm. The unloading equipment is built into, and forms an integral part of, the bodies, adding substantially to their cost and weight, and limiting their load-carrying capacity. The bodies described in this example are exempt from the tax imposed by section 4061(a) as bodies primarily designed to haul feed to and on the farm, since they contain physical design features for unloading on the farm which would make it uneconomical to purchase and use these articles solely for highway transportation purposes.

(d) *Effective date.* The provisions of this section shall apply to feed, seed and fertilizer equipment sold on or after June 22, 1965.

§ 48.4063(a)(3)–1 Exempt sales; house trailers.

(a) *In general.* The tax imposed on section 4061(a) does not apply to chassis or bodies designed for use as house trailers. To be considered a "house trailer" for purposes of the exemption provided by section 4063(a)(3), a trailer must be designed for use as living quarters. Therefore, the exemption does not apply to trailers designed for use as business offices, stores, laboratories, catering services, showrooms, or repair shops. For the treatment of certain trailers and semi-trailers specially designed to perform non-transportation functions off the public highways, see § 48.4061(a)–1(d)(2)(iii).

(b) *Effective date.* The provisions of this section shall apply to house trailers sold on or after June 22, 1965.

§ 48.4063(a)(4)–1 Exempt sales; ambulances, hearses, etc. [Reserved]

§ 48.4063(a)(5)–1 Exempt sales; concrete mixers and parts therefor.

(a) *Concrete mixers.* The tax imposed by section 4061(a) does not apply to any article designed to be placed or mounted on an automobile truck chassis, or a truck trailer or semitrailer chassis, to be used to process or prepare concrete. To be considered an article that is designed to process or prepare concrete, the article must be capable of actually processing or preparing concrete or premeasured concrete components (*i.e.*, cement, sand, crushed stone, etc.), and not designed solely for the purpose of transporting concrete. Thus, a body designed for the purpose of agitating concrete in transit or at a jobsite in order to prevent the gravity separation of concrete is not designed to process or prepare concrete, for purposes of this paragraph (a), and the tax imposed by section 4061(a) applies to such body.

(b) *Parts of concrete mixers.* The tax imposed on automotive parts and accessories by section 4061(b) does not apply to any article designed primarily for use on or in connection with a concrete mixer body exempt from the tax imposed by section 4061(a) by reason of the exemption provided by subdivision (A) of section 4063(b)(5) and paragraph (a) of this section. A power take-off system primarily designed to operate a concrete mixer body exempt from tax under the provisions of subdivision (A) of section 4063(a)(5) is an example of an automotive part exempt from the tax imposed by section 4061(b) by reason of the provisions of subdivision (B) of section 4063(a)(5).

(c) *Effective date.* The provisions of this section shall apply to concrete mixers and parts therefor sold after December 31, 1969.

§ 48.4063(a)(6)–1 Exempt sales; buses. [Reserved]

§ 48.4063(a)(7)–1 Exempt sales; trash containers, etc.

(a) *In general.* Under the provisions of section 4063(a)(7), the tax imposed by section 4061(a) does not apply to the sale of any box, container, receptacle, bin, or other similar article that is:

(1) To be used as a trash container,

(2) Not designed for the transportation of freight other than trash, and

(3) Not designed to be permanently mounted on, or permanently affixed to, an automobile truck chassis or body.

The foregoing exemption also applies to parts or accessories designed primarily for use on, in connection with, or as a component part of an exempt trash container, etc., but only if the parts or accessories are installed on the article at the time of sale or are sold with the article as an integral part of the container system. The exemption does not apply to the tax imposed on the sale of parts and accessories by section 4061(b), if the parts and accessories are to be used as replacement parts (even if ordered at the time the trash container is sold), or are parts or accessories that are sold subsequent to the sale of a trash container. A part or accessory that is designed primarily for use in connection with an exempt trash container, such as a hoist to pick up and deposit the container, is not exempt under the provisions of section 4063(a)(7) if it is also designed to be permanently mounted or affixed to a truck chassis or body.

(b) *Procedures for tax-free sales and purchases.* For procedures relating to the tax-free sales and purchases described in paragraph (a) of this section, see § 48.4063(a)(7)–2.

(c) *Effective date.* For the effective date of this section see § 48.4063(a)(7)–2(f).

§ 48.4063(a)(7)–2 Procedures for tax-free sales and purchases.

(a) *Tax-free sales only if seller and purchaser are registered.* Except as provided in paragraph (b) of this section, an article described in § 48.4063(a)(7)–1 (trash containers, etc.) may be sold by the manufacturer to the ultimate purchaser free of the tax imposed under section 4061(a)(1) for a use described in section 4063(a)(7), only if the seller and purchaser of the article are registered as provided in this paragraph. Any person desiring to be registered in order to sell or purchase such an article free of the tax imposed by section 4061(a)(1) shall, prior to making any tax-free sale or purchase, file Form 637, in duplicate, executed in accordance with the instructions contained in such form, with the district director for the district in which the person's principal place of business is located (or if the person has no principal place of business in the United States, with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155). Form 637 may be obtained from any district director. The person who receives a validated Certificate of Registry (Form 637) is considered to be registered for purposes of selling or purchasing articles as provided in this paragraph (a). A manufacturer, producer, or importer who is registered to sell articles subject to tax under chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) free of tax, is not required to reregister solely for purposes of this paragraph (a).

(b) *Exceptions to registration requirements*—(1) *State or local government.* A State or local government purchasing an article described in § 48.4063(a)(7)–1 directly from the manufacturer, producer, or importer, may, but is not required to, register as provided under this section. For purposes of this section, the term "State or local government" means any State, the District of Columbia, or any political subdivision of the foregoing.

(2) *United States Government.* The registration requirements of this section do not apply to purchases by the United States or any of its agencies or instrumentalities.

(c) *Evidence of tax-free sale.* (1) To establish the right of a purchaser to purchase an article tax free under § 48.4063(a)(7)–1, the seller shall obtain from the purchaser and retain in its possession a certificate properly executed and signed on behalf of the purchaser, containing the purchaser's registration number, if required to register, and a brief statement of intention to use an article described in § 48.4063(a)(7)–1 as a trash container.

(2) The following form of exemption certificate is acceptable for the purposes of this section and must be adhered to in substance:

Form of certificate for exemption from tax imposed under section 4061(a) for articles to be used as trash containers:

(Date) ————————, 19——

Under penalties of perjury, the undersigned certifies that he/she, or the (Name of purchaser) ———————— of which he/she is (Title) ————————, holds certificate of registry No. ————; that he/she is authorized to execute this certificate; and that the article(s) specified in the accompanying order, dated ————————, 19—— (or billed on (Name of seller's) ———————— invoice No. ————, dated ————————, 19——) is (are) purchased for use as, or in connection with, a trash container.

The undersigned understands that if the article is used otherwise than as stated above and for a purpose taxable under section 4061(a) of the Internal Revenue Code, he/she will notify the seller of such use.

The undersigned understands that he/she and all other parties who make fraudulent use of this certificate to secure exemption will be subject to a penalty equivalent to the amount of tax due on the sale of the article and upon conviction to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with the costs of prosecution. The purchaser also understands that he/she must be prepared to establish by satisfactory evidence the purpose for which the article purchased under this certificate is to be used.

(Signature) _____
(Address) _____

(3) *Frequency of certificates.* Where only occasional sales are made by a manufacturer, a separate exemption certificate should be furnished with each order. However, where sales by the manufacturer to the same purchaser are regularly or frequently made, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. In such a case, notation should be made on the face of the order providing the registration number and date on which the exemption certificate was furnished to the manufacturer. Such certificate and proper records of invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

(d) *Duty of seller to ascertain use of registration or exemption certificate.* See § 48.4221–1 relating to relieving manufacturers, producers, and importers from liability when an article is sold free of tax for the exempt purpose referred to in paragraph (a) of § 48.4063(a)(7)–1.

(e) *Credit or refund.* Under section 6416(b)(2), the tax under section 4061(a) paid to the United States on the sale of a container or parts and accessories described in § 48.4063(a)(7)–1(a) is considered to be an overpayment if, on or after December 11, 1971, and prior to any other use, such article is sold to a purchaser by any person for a use described in § 48.4063(1)(7)'1(a). Claim for refund may be filed on Form 843, or credit may be taken on a subsequent return, in accordance with the provisions of section 6416 and the regulations thereunder. The provisions of § 48.6416(b)(2)–3(b) of this chapter (Manufacturers and Retailers Excise Tax Regulations) relating to the evidence required to be in the possession of the claimant and certificates to be furnished by the purchaser apply with respect to any refund or credit claimed under this section.

(f) *Effective date.* The provisions of this section and § 48.4063(a)(7)–1 shall apply to trash containers and parts therefore sold on or after December 11, 1971.

§ 48.4063 (b)–1 Exemption for rebuilt automotive parts or accessories.

(a) *In general.* Under the provisions of section 4063(c), the rebuilding of automotive parts or accessories is not considered to be "manufacture" of the parts or accessories for purposes of the tax imposed by section 4061(b) Accordingly, sales of rebuilt parts or accessories are not subject to the tax imposed by section 4061(b). Since rebuilding of parts and accessories is not considered the "manufacture" of taxable articles to be used in connection with an article in section 4061(a)(1), a rebuilder may not purchase new parts or accessories free of tax for use in rebuilding by it of parts or accessories. Furthermore, a rebuilder must pay the tax imposed under the provisions of section 4061(b) on all new parts or accessories manufactured by it and used in rebuilding used parts (see section 4218(c) relating to a use being treated as a sale), or acquired by it free of tax under section 4221(a)(1), relating to acquisition of a part tax free for further manufacturing, that are then to be used by it in rebuilding parts or accessories.

(b) *Effective date.* The provisions of this section shall apply with respect to rebuilt parts and accessories sold on or after January 1, 1965.

§ 48.4063 (c)–1 Resale after certain modifications.

(a) *In general.* The tax imposed by section 4601 does not apply to the resale of any article described in section 4061(a)(1) if before the resale the article was merely combined with any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.

(b) *Further manufacture.* If, as a result of the modification of a motor vehicle chassis or body or the addition to such chassis or body of some article other than an article listed in paragraph (a) of this section, the transportation function of the motor vehicle is significantly improved or significantly changed in such a manner as to amount to the production of a new article, then the modification or addition is considered to be further manufacture for purposes of the tax imposed by section 4061(a), and section 4063(d) and paragraph (a) of this section do not apply.

(c) *Effective date.* The provisions of this section apply to resales of articles on or after October 4, 1976.

PART 142—TEMPORARY EXCISE TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

§ 142.1–1 [AMENDED]

Par. 7. Section 142.1–1 is amended as follows:

1. Paragraph (f) is removed.

2. Paragraphs (g), (h), and (i) are re-designated as (f), (g), and (h), respectively.

3. Paragraph (f), as re-designated, is amended as follows:

a. The phrase "or (f)(1)" is deleted wherever it appears.

b. The first sentence of paragraph (f)(3) is revised by deleting the phrase "or an article described in paragraph (f)(1) as a trash container, as the case may be".

c. The first sentence of paragraph (f)(3)(ii) is revised by deleting the word "forms" and substituting in lieu thereof the word "forms" and by deleting the designation "(a)" after the word "substance".

d. Paragraph (f)(3)(ii)(b) is deleted.

e. Paragraph (f)(5) is revised by deleting the second sentence.

4. The first sentence of paragraph (h), as re-designated, is revised by deleting the words "paragraph (c), (d), (e), or (f)" and substituting in lieu thereof the words "paragraph (c), (d), or (e)".

PART 146—SALE OF REBUILT AUTOMOTIVE PARTS AND ACCESSORIES ON AND AFTER JANUARY 1, 1965 [REMOVED]

Par. 8. Part 146 is hereby removed.

Roscoe L. Egger,
Commissioner of Internal Revenue.

[FR Doc. 82–35490 Filed 12–29–82; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on Modified Portion of the Pennsylvania Permanent Regulation Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on modifying condition (i), regarding payment of costs and expenses in administrative proceedings, of the Pennsylvania permanent regulatory program. Pennsylvania has requested the elimination of an interim step in meeting this condition, requiring the State to submit a memorandum of law providing that costs and expenses,

including attorneys' fees, can be awarded in administrative proceedings. Based on Pennsylvania's request, the Secretary is proposing to eliminate this interim step in meeting condition (i).

This notice sets forth the times and locations that the Pennsylvania program and proposed modification are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program modification, and the procedures that will be followed regarding the public hearing.

DATE: Written comments must be received on or before 4:00 p.m. January 31, 1983 to be considered. A public hearing on the proposed modification will be held on request only on January 12, 1983, from 10:00 a.m. to 1:00 p.m., or until all comments have been heard.

Any person interested in making an oral or written presentation at the hearing should contact Robert Biggi at the address and telephone number listed below by the close of business *three working days* before the date of the hearing. If no one has contacted Mr. Biggi to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Biggi, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESS: Written comments should be mailed or hand delivered to: Robert Biggi, Director, Pennsylvania Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, PA 17101.

If a public hearing is held, it will be at: Holiday Inn, Second and Chestnut Streets, Harrisburg, PA 17101.

Copies of the Pennsylvania program, the letter requesting the modification to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Pennsylvania Field Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Pennsylvania Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, PA 17101.

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Tenth Floor, Third and Locust Street, Harrisburg, PA 17120.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Pennsylvania Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, PA 17101, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION: On January 25, 1982, Pennsylvania resubmitted its proposed regulatory program to OSM. On July 30, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of ten minor deficiencies. The approval was effective on July 31, 1982, as indicated in the notice of conditional approval in the July 30, 1982, **Federal Register** (47 FR 33050–33080).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, **Federal Register** notice (47 FR 33050–33080).

Deficiency (i) of the Pennsylvania program for which the Secretary required correction as a condition of approval is that the Pennsylvania program does not provide that costs and expenses, including attorneys' fees, can be awarded in any administrative proceeding.

In accepting the Secretary's approval, Pennsylvania agreed to correct this deficiency in two stages: (1) By submitting to OSM by October 1, 1982, a memorandum of law, providing that costs and expenses, including attorneys' fees, can be awarded in any administrative proceeding which is no less effective than 30 CFR 840.15, and (2) by submitting to OSM by August 1, 1983, copies of enacted laws or other program amendments for the award of such costs and expenses which are no less effective than 30 CFR 840.15 and in accordance with Section 525(e) of the Surface Mining Control and Reclamation Act of 1977.

In a letter, dated November 12, 1982, Pennsylvania requests the elimination of the first stage of compliance with this condition, involving the submission of a memorandum of law because the memorandum involves some difficult questions of law and, regardless of the memorandum's conclusion, Pennsylvania would still be required to submit statutory and/or regulatory amendments to its program by August 1, 1983. Accordingly, the Secretary proposes to eliminate this interim step in meeting this condition.

The Secretary seeks public comments on whether he should eliminate this interim step in meeting condition (i). If the State's request is approved, Pennsylvania is still required to submit statutory and/or regulatory amendments by August 1, 1983, to fully satisfy this condition.

Additional Information

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 938

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

Dated: December 23, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–35484 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 944

Public Comment and Opportunity for Public Hearing on Modified Portions of the Utah Permanent Regulatory Program

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

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Utah Permanent Regulatory Program (hereinafter referred to as the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Utah program and proposed amendments are available for

public inspection, the comment period during which interested persons may submit written comments on the proposed program elements and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public must be received by 4:30 p.m. on January 28, 1983, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions of approval.

A public hearing on the proposed amendments has been scheduled for January 25, 1983. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by January 14, 1983. If no person has contacted Mr. Hagen by this date to express an interest in participating in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The public hearing will be held between 8:30 a.m. and 12 p.m., at the Conference Room, Room No. 4108, 4241 State Office Building, Salt Lake City, Utah. Written comments and requests for an opportunity to speak at the public hearing should be sent to Mr. Robert Hagen, Director, New Mexico Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central, NW., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and at the OSM Headquarters office and the Office of the state regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah, Telephone: (801) 533–5771

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481–70510). The State of Utah resubmitted the program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After thoroughly reviewing the program resubmission and providing an opportunity for the public to comment, the Secretary of the Interior determined that the Utah program, including the resubmission did, with minor exceptions, meet the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

Information pertinent to the general background, revision, modifications, and amendments to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

In accepting the Secretary's conditional approval, Utah agreed to satisfy conditions "a"–"e" by December 1, 1981, and conditions "f"–"1" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet condition "f", "g", and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced the Secretary's decision to approve the extension.

Upon the State's request the deadline for the State to meet condition "f" was further extended to September 1, 1982, and the deadline for the State to meet condition "h" to January 1, 1983 (47 FR 234155–234156, May 27, 1982).

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"–"e", "g" and "i"–"1".

On June 22, 1982 (47 FR 26827–26831), the Assistant Secretary for Energy and Minerals announced his decision to remove conditions "a"–"e", "j" "1" and to grant Utah until September 1, 1982, to submit modifications to satisfy conditions "i" and "k". In the June 22, 1982 notice, the Assistant Secretary also announced his decision to impose a new condition "m" requiring the State to correct by January 1, 1983, a deficiency in the State program which had come to OSM's attention.

On August 26, 1982, Utah adopted and submitted to OSM regulatory modifications intended to satisfy conditions "f", "g", "i" and "k". Following OSM's review of these amendments as outlined in 30 CFR 732, the Secretary removed conditions "f", "g", "i" and "k" (47 FR 55672, December 13, 1982).

The purpose of this notice is to announce receipt of further amendments submitted by Utah on December 8, 1982, in satisfaction of the two remaining conditions of approval of the Utah program, conditions "h" and "m".

Following is a description of the provisions submitted by the State and of the conditions they are intended to satisfy:

Condition "h" of the Secretary's approval of Utah's program stipulates that Utah must submit to the Secretary by January 1, 1983, copies of fully enacted regulations specifying that underdrains are required in all valley fills unless a waiver is granted with an experimental practice approved by OSM, in accordance with UMC 817.72(b)/SMC 816.72(b) and specifying lifts for valley fills will not be greater than four feet, or less, if required by the regulatory authority, in UMC 817.72(c)/SMC 816.72(c) consistent with 30 CFR 817.72(c) or otherwise amends its program to accomplish the same result.

To address this condition Utah has amended UMC 817.72/SMC 816.72 subpart (b) to require that the underdrain requirement is not waived except with the approval of the Director of OSM after a demonstration that the waiver qualifies under the requirements for experimental practice set forth under UMC/SMC 785. Also UMC 817.72(c) and SMC 816.72(c) have been modified to require that spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the Division in lifts no greater than four feet or less, unless approved by the Director of the Office of Surface Mining as an experimental practice in accordance with UMC 785.13.

Condition "m" of the Secretary's approval of Utah's program stipulates that Utah must submit copies of fully enacted regulations deleting the provision at UMC/SMC 785.19(c) which allows a waiver of the requirements of

subsections (d) and (e) of UMC/SMC 785.19 and of UMC/SMC 822 or otherwise amends its program to be consistent with 30 CFR 785.19(c) and (d).

To address this condition Utah has submitted an amended revision of UMC/SMC 785.19(c)(3)(ii) which provides that if the Division makes a finding that the area of the alluvial valley floor to be affected is insignificant to farming it may waive all or any of the requirements of paragraphs(d) and (e) of section 785.19 and of section 822 provided any waiver granted shall not negate the requirements necessary for the protection of essential hydrologic functions.

The amended provisions submitted by Utah on December 8, 1982, are available in full text for public review at the addresses listed above. The Secretary seeks comment on whether the amendments submitted by Utah on that date satisfy the Secretary's conditions as listed at 30 CFR 944.11(h) and (m).

Additional Determinations

1. *Compliance with the National Environmental Policy Act.*—The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.*—The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance With Executive Order No. 12291.*—On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

List of Subjects in 30 CFR Part 944

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

Dated: December 23, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82-35483 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

(CGD 08-82-02)

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Harvey Canal Route, La.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Jefferson Parish Council, the Coast Guard is considering changing the regulations governing the Lapalco Boulevard bascule span bridge across the Gulf Intracoastal Waterway (G.I.W.W.), Harvey Canal Route, mile 2.8, Harvey, Jefferson Parish, La. The bridge is a semi-high rise, with a vertical clearance of 45 feet in the closed position, and is required to open on signal at any time. The proposed change would require that, Monday through Friday except holidays, the draw need not open for the passage of vessels from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m. This action is designed to relieve overland traffic congestion including school buses during the peak morning and afternoon vehicular traffic periods, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before February 14, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9:00 a.m. and 3:00 p.m., Monday through Friday, at the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130.

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

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

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

Drafting Information

The principal persons involved in drafting this proposal are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of the Proposed Regulation

Navigation through the bridge is largely barge tows with an occasional dredge, commercial fisher and pleasure craft. Vertical clearance of the bascule span is 45 feet in the closed position. Data submitted by the Jefferson Parish Council indicate that:

(1) For the period 15 July through 20 August 1982, Monday through Friday excluding holidays, the daily average number of vehicles crossing the bridge was 5797 between 6:30 and 8:30 a.m. and 7307 between 3:45 and 5:45 p.m., the peak morning and afternoon traffic hours.

(2) For the period 2 November 1981 through 6 October 1982, Monday through Friday excluding holidays, the daily average number of bridge openings to pass navigation was 0.36 and 0.50 during the peak morning and afternoon traffic hours, respectively.

Based on these comparative data, the Coast Guard feels that the proposed regulation should provide relief to overland peak traffic, while still meeting the reasonable needs of navigation without any significant economic impact.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations and considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be

amended by adding a new § 117.538 to read as follows:

§ 117.538 GIWW, Harvey Canal Route, mile 2.8, Harvey, Louisiana.

The draw shall open on signal except that from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m., Monday through Friday excluding holidays, the draw need not open for the passage of vessels.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: December 16, 1982.

W. H. Stewart,

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

[FR Doc. 82–35470 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 01–82–016]

Drawbridge Operation Regulations; Mitchell River, Chatham, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Town of Chatham, Masachusetts, the Coast Guard is considering establishing special regulations for the operation of the Mitchell River drawspan. The regulations will require that advance notice be given when an opening of the drawspan is required. The regulations are expected to provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 14, 1983.

ADDRESS: Comments should be submitted to and will be available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA 02114 (617–223–0645).

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

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, and Lieutenant Susan M. Krupanski, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of the Proposed Regulation

The Town of Chatham has proposed regulations for the operation of the Bridge Street drawspan provided advance notice is given. Although many vessels are moored above the bridge during the boating season, the Town does not receive a significant number of requests for an opening of the drawspan. The Town of Chatham believes that with an advance notice requirement the needs of mariners could be satisfied and that the Town workforce could be used in a more efficient manner. At present, the regulations require that the drawspan must be opened on signal.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 of the Code of Federal Regulations by adding § 117.78 as follows:

§ 117.78b Mitchell River, Chatham, Massachusetts.

The draw will be open on signal provided that:

(a) From 1 May through 31 October, between 8 a.m. and 4 p.m., a one-hour advance notice is given, from 4 p.m. to 8 a.m., a 24-hour notice is given.

(b) From 1 November through 30 April, a 24-hour notice is given.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3)).

Dated: November 29, 1982.

L. L. Zumstein,

Rear Admiral, Coast Guard Commander, First Coast Guard District.

[FR Doc. 82–35488 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 157

[CGD–76–088b]

Tank Vessels Carrying Oil in Bulk; Cargo Monitors

Correction

In FR Doc. 82–34219, beginning on page 56786, in the issue of Monday, December 20, 1982, please make the following corrections:

1. On page 56789, third column, the second line should read: "400 $\sqrt[3]{}$DWT" and is accordingly.

2. On page 56790, second column, § 157.11 (b)(2)(ii), the first word of the second line reading "dock" should read "deck".

3. On page 56790, third column, the third line of the paragraph numbered "7.", should read: term "400 $\sqrt[3]{}$DWT".

BILLING CODE 1505–01–M

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33 CFR Part 183

[CGD 81–092]

Electrical and Fuel Systems Standards; Miscellaneous Amendments

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period.

SUMMARY: In the **Federal Register** of September 23, 1982 (47 FR 41993) the Coast Guard invited public comment on miscellaneous amendments to the Electrical and Fuel Systems Standards in Subparts I and J of Part 183 that apply to boats having gasoline powered engines for propulsion or electrical generation. Based upon a review of its regulations governing construction standards which apply to the manufacture of recreational boats, the Coast Guard determined that many sections are no longer necessary or are of limited value in terms of their impact toward improving boating safety. Therefore the proposed amendments would repeal and revise the unnecessary regulations to relieve the regulatory burden upon recreational boat manufacturers. The original closing date for public comments was December 22, 1982. The public comment period is being unilaterally extended by the Coast Guard to January 21, 1983 because of delays in getting a correction to errors in the notice published in the **Federal Register** and in the mailing of copies of the original notice to an extensive boat manufacturer mailing list.

DATES: As discussed above, the public comment period has been extended to January 21, 1983.

ADDRESS: Written comments may be mailed or be delivered to and will be available for inspection at the Marine Safety Council (G–CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, between 8 am and 4 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G–BBS/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426–4027.

between 8 am and 4 pm Monday through Friday, except holidays.

Dated: December 27, 1982.

V. W. Driggers,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-35497 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SWH-FRL 2274-8]

Hazardous Waste Management Program, Florida; Application for Interim Authorization, Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Florida application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for Wednesday, February 2, 1983 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by January 19, 1983. EPA will determine by January 21, 1983, whether there is significant interest to hold the public hearing. All written comments on the Florida interim authorization application must be received by the close of business on January 19, 1983.

ADDRESSES: If significant public interest in expressed, EPA will hold a public hearing on Florida's application for interim authorization on Wednesday February 2, 1983, at 7:00 p.m. at the Flamenco Room Holiday Inn-Parkway, 1302 Apalachee Parkway, Tallahassee, FL, 32301 901/877-3141.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the Florida application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland St., N.E., Atlanta, GA 30365, (404) 881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the Florida application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after January 21, 1983, the EPA contact person listed below or telephone Mr. Robert W. McVety, Administrator, Solid Hazardous/Waste Section, Florida Department of Environmental Regulation, Twin Towers Office Building, Room 421, 2600 Blair Stone Road, Tallahassee, FL 32301, 904/488-0300.

Copies of the Florida Phase II interim authorization application are available during normal business hours at the following addresses for inspection and copying:

Florida Department of Environmental Regulation, Solid/Hazardous Waste Section, Twin Towers Office Building, Room 421, 2600 Blair Stone Rd., Tallahassee, FL 32301, Telephone: 904/488-0300.

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland St, N.E., Atlanta, GA 30365, Telephone: 404/881-4216.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland St., N.E., Atlanta, GA 30365, Telephone: 404/881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Florida received interim authorization for Phase I on May 19, 1982.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479). As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-35289 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[W-6-FRL 2275-8]

New Mexico Water Quality Control Commission Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the New Mexico Water Quality Control Commission requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application of the New Mexico Water Quality Control Commission to regulate Classes I, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by January 21, 1983; the public hearing will be held on Tuesday, January 28, 1983, beginning at 10:00 a.m. and continuing until all persons have had a reasonable opportunity to present their views. All comments must be received by Friday, February 4, 1983. The hearing will be held in Morgan Hall, located in the lower level of the State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico.

ADDRESSES: Comments and/or requests to testify should be mailed to Julie Coston, Program Manager, Ground Water Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270. Copies of the application and pertinent materials are available for copying between 8:30 a.m. and 4:00 p.m. Monday through Friday, at the following locations:

Environmental Protection Agency, Region VI, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, PH: (214) 767–7341.

New Mexico Environmental Improvement Division, Water Pollution Control Bureau, Crown Building, 725 St. Michael's Drive, Santa Fe, New Mexico 87504, PH: (505) 984–0020

FOR FURTHER INFORMATION CONTACT: Julie Coston, Program Manager, Groundwater Protection Section, Environmental Protection Agency, Region VI, 120 Elm Street, Dallas, Texas 75270, (214) 767–8996.

SUPPLEMENTARY INFORMATION. The New Mexico Oil Conservation Division received program approval for Class II wells on February 5, 1982. This application from the New Mexico Water Quality Contol Commission is for the regulation of Class I, III, IV, and V injection wells.

The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. If this application from New Mexico is approved, the State would protect underground sources of drinking water from endangerment by the following kinds of injection practices:

Class I—Wells which are used to inject municipal and industrial wastes (including hazardous wastes) below the deepest USDW in the area.

Class III—Wells which are used to inject for the extraction of minerals.

Class IV—Wells which are used to inject hazardous wastes into or above USDWs.

Class V—All other wells.

At present, New Mexico has no identified Class I wells, approximately 70 Class III wells, no identified Class IV wells, and approximately 100 Class V wells.

Class I and III wells would require a permit to operate. The permit would apply a number of technical requirements designed to assure that such injections did not result in native or injected fluids reaching USDWs. Such requirements include criteria for siting, construction, testing, operation, monitoring and abandonment.

Class IV wells would be prohibited. Class V wells will be studied to assess whether further regulatory measures are required. In the meanwhile, existing State requirements will continue to be applied.

The Safe Drinking Water Act requires EPA to determine whether the proposed State program meets the requirements of regulations issued at 40 CFR Parts 122, 123, 124, and 146. Should this application be disapproved, the Act requires EPA to prescribe the UIC program for the State.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the New Mexico Water Quality Control Commission and the Region VI office of the Environmental Protection Agency.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123 which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part; and may not all apply to this particular notice:

Hazardous materials
Indians—lands
Reporting and recordkeeping
Waste treatment and disposal
Water pollution control
Water supply
Intergovernmental relations
Penalties
Confidential business information.

Dated: December 17, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82–35372 Filed 12–29–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Evaluation of the Administrative Compliance Costs and the Impact of the Inflation Factor for Titles VI and XVI Assisted Facilities

AGENCY: Health Resources and Services Administration, PHS, DHHS.

ACTION: Rule related notice; request for comments.

SUMMARY: The purpose of this notice is to solicit comments on an evaluation plan which has been developed to examine the impact of the administrative compliance costs and the inflation factor on health facilities obligated under Titles VI and XVI of the Public Health Service Act to provide a reasonable volume of services to persons unable to pay.

DATE: The Department will consider comments received on or before January 31, 1983.

ADDRESS: Interested persons may request copies of the evaluation plan from, and submit comments to: Florence B. Fiori, Dr. P.H., Acting Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5–44, Hyattsville, Maryland 20782.

All comments received in timely response to this notice will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles A. Wells, Ph. D., Chief, Assurances Data and Analysis Branch, Division of Facilities Compliance, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5-44 Hyattsville, Maryland 20782, (301) 436–6893.

SUPPLEMENTARY INFORMATION: Health facilities which received assistance under Title VI and XVI of the Public Health Service Act provided an assurance that they would make available a reasonable volume of services to persons unable to pay. On May 18, 1979, the Secretary published regulations (42 CFR 124.501 *et seq.*) governing the assurance to provide uncompensated services. In the preamble to the rules (44 FR at 29374), the Secretary announced the Department's intent to develop a plan to

evaluate the administrative compliance costs and the impact of the inflation factor, and to seek public comment on the plan. This notice implements the Secretary's directive.

Dated: December 19,1982.

Robert Graham

Administrator, Assistant Surgeon General

[FR Doc. 82-35347 Filed 12-29-82; 8:45 am]

BILLING CODE 4160-16-M

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45 CFR Part 100

Medicare, Medicaid, and Maternal and Child Health Services Block Grant Programs; Civil Money Penalties and Assessments for False or Improper Claims

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations are intended to strengthen the Department's ability to protect the health care financing programs against persons and organizations who defraud and abuse those programs. The regulations would specify procedures for implementing the authority provided to the Department by section 2105 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), as amended by section 137(b)(26) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), to impose civil money penalties and assessments administratively for the filing of false or certain other improper claims in the Medicare, Medicaid, or Maternal and Child Health Services Block Grant programs. The statute also permits an individual upon whom the Department imposes a civil money penalty or assessment to be suspended from participation in the Medicare and Medicaid programs. Until enactment of the civil money penalties legislation, the federal government had to rely upon litigation under the False Claims Act or criminal proceedings in order to compel restitution of funds falsely or improperly claimed under HHS health care financing programs.

Under the new law, violators may be fined up to $2,000 as a penalty for each false or improper claim and an additional assessment of up to twice the amounts falsely claimed. The procedures set forth in the proposed regulations would provide persons liable for civil money penalties and assessments an opportunity for a hearing on the record in accordance with the Administrative Procedure Act, for an appeal to the Secretary, and for judicial review of the Secretary's final determination.

DATES: Written comments will be considered if received before February 28, 1983.

ADDRESSES: Comments should be submitted in writing to Harvey Yampolsky, Assistant General Counsel, Inspector General Division, Department of Health and Human Services, Room 5541 North, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments will be available for inspection by the public between 9:00 a.m. and 5:00 p.m., on regular business days, by making arrangements with the contact person indicated below.

FOR FURTHER INFORMATION CONTACT: Harvey Yampolsky, Room 5541, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, (202) 472-5335.

SUPPLEMENTARY INFORMATION:

Regulatory Burden

Regulatory Impact Analysis

This regulation is not a major rule within the meaning of Executive Order 12291, and thus does not require a regulatory impact analysis.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96-354) requires the federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. This regulation would provide new procedures for taking remedial action against violators of certain program statutes, and thus does not require a regulatory flexibility analysis.

Recordkeeping and Reporting Requirements

This regulation imposes no recordkeeping or reporting requirements and therefore is not subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Discussion of Major Provisions

1. Basis for Civil Money Penalties and Assessments

Section 1128A of the Social Security Act, as added by section 2105 of the Omnibus Budget Reconciliation Act of 1981, and amended by section 137(b)(26) of the Tax Equity and Fiscal Responsibility Act of 1982, gives the Department of Health and Human Services (HHS) the authority to impose a civil money penalty of $2,000, and an assessment of up to twice the amount claimed, against any person (including individuals, organizations, and other entities) that presents or causes to be presented a claim for reimbursement under the Medicare, Medicaid, or Maternal and Child Health Services block grant program which is for an item or service that the person knew or had reason to know was false or improper. Specifically, the provision applies to any claim for an item or service that was not provided as claimed, or for which reimbursement is prohibited because the person has been excluded or suspended from participation in the program, or because the services or charges were in excess of certain statutory standards. The penalty and assessment may also be imposed where the claim was submitted in violation of the terms regarding permissible charges in a Medicare assignment or an agreement with a state's Medicaid agency.

The provision of the regulations covering the circumstances when a person would be subject to civil money penalties and assessments is the same as the statutory provision. However, the regulation would make clear that where more than one person was responsible for filing a claim, each person can be penalized the statutory amount, and all persons may be held jointly liable for any assessment.

The statute also provides the authority to suspend from the Medicare or Medicaid programs for appropriate periods of time persons who are liable for a penalty. The proposed regulation therefore includes suspension as an additional sanction that may be imposed along with money penalties and assessments.

2. Hearing and Appeal Rights

Persons against whom any of the statutory sanctions are proposed have the right to a hearing, and judicial review of any final Department determination. The proposed regulations would provide an opportunity for a hearing before an administrative law judge (ALJ) on any issues pertaining to a proposed penalty, assessment or suspension, an opportunity to appeal an ALJ decision to the Secretary, and an opportunity to seek judicial review of a final agency determination.

The proposed regulations specify that the Inspector General (IG) of HHS will make the initial proposal to impose a penalty, assessment, or suspension. The person against whom any of these sanctions are proposed would have thirty days to accept imposition of the sanctions, or provide reasons for modifying them, or request a hearing. The thirty days may be extended by the IG for a good cause. Unless a hearing is requested, a person would have no further appeal rights. The hearing would be recorded, and the parties would have the right to be represented by counsel, to

present evidence and witnesses, to cross-examine witnesses, and present oral arguments and written briefs. The ALJ would be required to issue his decision within sixty days after the hearing or the period for submitting post-hearing briefs has ended. The ALJ decision would become final and binding on the parties thirty days after notice of the decision is received, unless within that time a party files a written exception to the decision.

Where exceptions are filed, the matter would be referred to the Secretary or his designee for review. There would be no right to appear personally before the Secretary. Decisions of the Secretary or his designee would be final unless, within sixty days of being notified of the decision of the Secretary or his designee, the person against whom sanctions are being imposed seeks judicial review. Under the statute, reviews of penalties and assessments are by the appropriate court of appeals, while reviews of suspension are by the appropriate district court.

3. Calculating the Amount of Penalty or Assessment or the Length of a Suspension

The statute requires the Secretary, when determining the amount of any penalty or assessment, to take into account the nature of the claims and the circumstances under which they were presented and the degree of culpability, history of prior offenses, and financial condition of the person, as well as other matters justice may require. The proposed regulations include guidelines describing those circumstances which we would consider mitigating, resulting in a reduced penalty and assessment, and those circumstances which we would consider aggravating, resulting in a higher penalty and assessment. The regulation would also require that the length of suspensions take into account the amount of the penalties and assessments.

4. Collections

Where a person does not voluntarily pay the amount owed as a penalty and assessment, the Department may initiate a civil action in district court to recover the funds. Furthermore, the statute and regulations permit the amount owed by the person to be deducted from any sums owed to the person by the United States or a State agency.

5. Effective Date

The regulations would apply to any false or improper claim, regardless of when the claim was filed. However, in the case of a claim filed before the date of enactment of the Omnibus Budget Reconciliation Act of 1981, August 13, 1981, the government's burden of proof would be higher, and the government would have to show that the person would have been liable for penalties under the False Claims Act (31 U.S.C. 231 *et seq.*). These additional requirements have been added to assure that no new substantive law or standards will be applied to claims filed before August 13, 1981.

List of Subjects in 45 CFR Part 100

Administrative practice and procedure, Fraud, Grant programs—health, Maternal and child health, Medicaid, Medicare, Penalties.

Dated: November 23, 1982.

Richard S. Schweiker,

Secretary.

45 CFR Subtitle A—Department of Health and Human Services—is amended as set forth below:

1. The table of Contents of Subtitle A is amended by adding at the end thereof the following:

Part

100 Civil Money Penalties and Assessments

2. Subtitle A is amended by adding after Part 99 the following new Part 100:

PART 100—CIVIL MONEY PENALTIES AND ASSESSMENTS

Sec.

Authority: Sections 1102, 1128 and 1128A of the Social Security Act (42 U.S.C. 1302, 1320a–7 and 42 U.S.C. 1320a–7a).

§ 100.100 Basis and purpose.

(a) *Basis.* This part implements sections 1128A and 1128(b) of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7(b)).

(b) *Purpose.* This part (1) establishes procedures for imposing civil money penalties and assessments against persons who have submitted certain prohibited claims under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant programs; (2) establishes procedures for suspending persons against whom a civil money penalty or assessment has been imposed from the Medicare and Medicaid programs; and (3) specifies the appeal rights of persons subject to a penalty or assessment.

§ 100.101 Definitions.

For purposes of this part—

"Act" means the Social Security Act.

"Agent" includes a Medicare fiscal intermediary or carrier, a Medicaid fiscal agent, or any other claims processing agent under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program.

"ALJ" means an Adminstrative Law Judge.

"Assessment" means the amount described in section 100.104, and includes the plural of that term.

"Claim" means and application submitted by a person to an agency of the United States or of a State, or an agent thereof, for payment for

(a) An item or service for which payment may be made under Medicare, or

(b) An item or service for which medical assistance is provided under a State plan for medical assistance, or

(c) An item or service for which payment may be made under the Maternal and Child Health Services Block Grant program.

"Department" means the Department of Health and Human Services.

"General Counsel" means the General Counsel of the Department or his designees.

"HCFA" means the Health Care Financing Administration.

"Inspector General" means the Inspector General of the Department or his designees.

"Item or service" includes (a) any item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for program payment, and (b) in the case

of a claim based on costs, any entry in the cost report, books of account or other documents supporting the claim.

"Maternal and Child Health Services Block Grant program" means the program authorized under title V of the Act.

"Medicaid" means the program of grants to the States for medical assistance authorized under title XIX of the Act.

"Medicare" means the program of health insurance for the aged and disabled authorized under title XVIII of the Act.

"Penalty" means the amount described in section 100.103, and includes the plural of that term.

"Person" means an individual, trust or estate, partnership, corporation, professional association or corporation, or other entity that presents or causes to be presented a claim under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program, and includes the plural of that term.

"Program" means the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program.

"Respondent" means the person upon whom the Secretary has imposed, or proposes to impose, a penalty or assessment.

"Secretary" means the Secretary of the Department or his designees.

"State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"Suspension" means the temporary barring or permanent exclusion of a person from participation in the Medicare or Medicaid programs under section 1128(b) of the Social Security Act.

§ 100.102 Basis for civil money penalties and assessments.

(a) The Department may impose a penalty and assessment against any person whom it determines in accordance with this part has presented or caused to be presented a claim which

(1) Is for an item or service:

(i) That the respondent knew or had reason to know was not provided as claimed; or

(ii) For which no payment could be made under the program under which it was submitted because:

(A) The person had been excluded under section 1128 of the Act (42 U.S.C. 1320a–7);

(B) The person had been excluded from eligibility to provide services on a reimbursement basis under section 1160(b) of the Act (42 U.S.C. 1320c–9(b));

(C) Payment had been prohibited under title XVIII of the Act because of a determination under section 1862(d) of the Act (42 U.S.C. 1395y(d)); or

(D) The Secretary had terminated the person's provider agreement under section 1866(b)(2) of the Act (42 U.S.C. 1395cc(b)(2)); or

(2) Was submitted in violation of (i) the terms of an assignment under section 1842(b)(3)(B)(ii) of the Act, or (ii) an agreement with a State agency not to charge an individual for an item or service in excess of the amount permitted to be charged.

(b) In any case where it is determined that more than one person was responsible for presenting or causing to be presented a claim described in the preceding paragraph, each person may be held liable for the penalty prescribed by this part, and an assessment may be imposed against any one person or jointly against two or more persons, but the aggregate amount of the assessments collected may not exceed the amount that could be assessed if only one person was responsible.

§ 100.103 Amount of penalty.

The Department may impose a penalty of not more than $2,000 for each item or service that is subject to a determination under § 100.102.

§ 100.104 Assessment.

A person subject to a penalty determined under § 100.102 may be subject, in addition, to an assessment of not more than twice the amount claimed for each item or service which was a basis for the penalty. The assessment is in lieu of damages sustained by the Department or a State agency because of that claim.

§ 100.105 Suspension from participation in Medicare or Medicaid.

A person subject to a penalty or assessment determined under § 100.102 may, in addition, be suspended from participation in Medicare for a period of time determined under § 100.107 of this part. The Secretary may require the appropriate State agency to suspend the person from the Medicaid program for a period he shall specify. Any such suspension shall become effective only after there is a final decision of the Secretary pursuant to § 100.125(f)(5), or at any earlier date that the respondent fails, within the time permitted, to exercise his right to a hearing under § 100.109 or administrative review under § 100.125, and only after the Administrator of HCFA concurs with the imposition of a suspension.

§ 100.106 Determining the amount of the penalty and assessment.

(a) In determining the amount of any penalty and assessment, the Department shall take into account, in accordance with this section, (1) the nature of the claim and the circumstances under which it was presented, (2) the degree of culpability of the person submitting the claim, (3) the history of prior offenses of the person presenting the claim, (4) the financial condition of the person presenting the claim, and (5) such other matters as justice may require.

(b) *Guidelines for determining the amount of the penalty or assessment.* As guidelines for taking into account the factors listed in paragraph (a), of this section, the following are to be considered mitigating and aggravating circumstances:

(1) *Nature and circumstances of the claim.* It should be considered a mitigating circumstance if all the items or services subject to a determination under § 100.102 included in the action brought under this part were of the same type and occurred within a six-month period, there were not more than ten such items or services, and the total amount claimed for such items or services was less than $1,000. It should be considered an aggravating circumstance if such items were of three or more types, occurred over more than a 12-month period, there were more than 20 such items or services, or the amount claimed for such items or services was $2,000 or more.

(2) *Degree of culpability.* It should be considered a mitigating circumstance if the claim for the item or service was the result of an unintentional and unrecognized error in the process respondent followed in presenting claims, and corrective steps were taken promptly after the error was discovered. It should be considered an aggravating circumstance if the respondent knew the item or service was not provided as claimed, or, for claims subject to a determination under § 100.102 (a) or (b), knew that no payment could lawfully be made for the claim.

(3) *Prior offenses.* It should be considered an aggravating circumstance if at any time prior to the presentation of any claim which included an item or service subject to a determination under § 100.102, the respondent was held liable for criminal, civil, or administrative sanctions in connection with the presentation of claims under a program covered by this part or any other public or private program of reimbursement for medical services.

(4) *Financial condition.* It should be considered a mitigating circumstance if

imposition of the penalty without reduction will jeopardize the ability of the respondent to continue as a health care provider. It will be considered an aggravating circumstance if the respondent is in such a secure financial position that reduction of the penalty in recognition of mitigating circumstances would defeat the purpose of this part of providing a meaningful sanction to deter violations.

(5) *Other matters as justice may require.* Other circumstances of an aggravating or mitigating nature should be taken into account if, in the interests of justice, they require either a reduction of the penalty or assessment or an increase to assure the achievement of the purposes of this part.

(c) As guidelines for determining the amount of the penalty and assessment to be imposed, for every item or service subject to a determination under § 100.102:

(1) As a general matter, the assessment should be twice the amount of the claim for each item or service.

(2) If there are substantial aggravating circumstances, the amount of the penalty should be the maximum amount permitted by § 100.103.

(d) The guidelines set forth in this section are not binding. Moreover, nothing in this section shall limit the authority of the Department to settle any issue or case as provided by § 100.126 or to compromise any penalty and assessment as provided by § 100.128.

§ 100.107 Determining the duration of a suspension.

(a) As guidelines for determining the duration of a suspension, the following factors are to be considered: (1) The duration of a suspension should be based primarily upon the total amount of penalties and assessments imposed in an action initiated under this part, and (2) a respondent should be suspended for an appropriate period of time whenever the aggregate amount of the penalty and assessment imposed in any action under this part exceeds $5,000.

(b) The guidelines set forth in paragraph (a) are not binding. A respondent may be suspended when the total amount of the penalty does not exceed $5,000, and in all cases the duration of a suspension should take into account circumstances of an aggravating or mitigating nature and any other matters which justice may require.

§ 100.108 Penalty not exclusive.

A penalty imposed under this part is in addition to any other penalties prescribed by law.

§ 100.109 Notice of proposed determination.

(a) If the Inspector General proposes to impose a penalty and assessment, or suspend a respondent from participation in Medicare or Medicaid, in accordance with this part, he must personally serve or send (by certified mail, return receipt requested) to the respondent written notice of his intent to impose a penalty and assessment or a suspension. The notice will include reference to the statutory basis for the penalty and assessment, or suspension; specific identification of the claims with respect to which the penalty and assessment or suspension are proposed; the reason why such claims subject the respondent to a penalty and assessment or suspension; the amount of the proposed penalty and assessment, and period of suspension (where applicable); instructions for responding to the notice; and a copy of the rules contained in this part.

(b) Within 30 days of the date of receipt of the notice, the respondent may submit:

(1) A written statement accepting imposition of the penalty and assessment or suspension as proposed, which may include reasons why the proposed penalty and assessment or suspension should be reduced or modified; or

(2) A written request for a hearing, which shall be accompanied by an answer to the notice that (i) with respect to each of the claims identified in the notice, admits or denies that the respondent presented or caused to be presented such claim, and (ii) states any defense on which the respondent intends to rely.

(c) The Inspector General may extend the 30 day period for good cause shown by the respondent.

§ 100.110 Failure to request a hearing.

If the respondent does not request a hearing within the time prescribed by § 100.109(b) and (c), the Inspector General may impose the proposed penalty and assessment or suspension or any less severe penalty and assessment or suspension. The Inspector General shall notify the respondent by certified mail, return receipt requested, of amy penalty, assessment, or suspension that has been imposed and of the means by which the respondent may satisfy the judgment. The respondent has no right to appeal a penalty and assessment, or suspension, with respect to which he has not requested a hearing.

§ 100.111 Initiation of hearing.

If the respondent requests a hearing in accordance with § 100.109(b)(2), determination of the proposed penalty and assessment or suspension will be assigned to an ALJ.

§ 100.112 Parties.

The Inspector General and the respondent are parties to the hearing.

§ 100.113 Notice of hearing.

The ALJ will send written notice to the respondent and to the Inspector General stating the time and place for the hearing and the issues which will be considered. In fixing the time and place of the hearing, the ALJ will attempt to minimize the costs to the parties.

§ 100.114 Issues and burden of proof.

(a) To the extent that a proposed penalty and assessment is based on claims presented on or after August 13, 1981, the Inspector General must prove by a preponderance of the evidence that the respondent presented or caused to be presented such claims as described in § 100.102.

(b) To the extent that a proposed penalty and assessment is based on claims presented before August 13, 1981, the Inspector General must prove by clear and convincing evidence that

(1) the respondent presented or caused to be presented such claims as described in § 100.102; and

(2) presenting or causing to be presented such claims could have rendered respondent liable under the provisions of the False Claims Act, 31 U.S.C. 231 *et seq.*

(c) Where a final determination that the respondent presented or caused to be presented a claim falling within the scope of § 100.102 has been rendered in any proceeding in which the respondent has had an opportunity to be heard, the respondent shall be bound by such determination in any proceeding under this part.

(d) The respondent shall bear the burden of producing and proving by a preponderance of the evidence any mitigating factors under § 100.106.

(e) The Inspector General shall bear the burden of producing and proving by a preponderance of the evidence any aggravating factors under § 100.106.

§ 100.115 Authority of ALJ.

(a) The ALJ will conduct a fair hearing, avoid delay, maintain order, and assure that a record of the proceedings is made.

(b) The ALJ may:

(1) Change the date, time, and place on the hearing, upon notice to the parties;

(2) Continue or recess the hearing in whole or in part;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas in hearings involving Medicare claims;

(6) Rule on motions and other procedural matters;

(7) Regulate the course of the hearing and the conduct of counsel;

(8) Examine witnesses;

(9) Receive, rule on, exclude, or limit evidence;

(10) Upon motion of a party, decide cases, in whole or part, by summary judgment where there is no disputed issue of material fact;

(11) Issue a written opinion containing findings of fact, conclusions of law, and an initial decision on whether a penalty or assessment or suspension should be imposed, and if so, the amount.

(c) The ALJ does not have authority to decide upon the validity of Federal statutes or regulations.

§ 100.116 Rights of parties.

All parties may:

(a) Appear by counsel (or, in the case of a government agency, other authorized representative) in all hearing proceedings.

(b) Participate in any prehearing or posthearing conference held by the ALJ.

(c) Agree to stipulations as to facts which will be made part of the record.

(d) Make opening statements at the hearing.

(e) Present material evidence which is relevant to the issues at the hearing.

(f) Present witnesses who then must be available for cross-examination by all other parties.

(g) Present oral arguments at the hearing.

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 100.117 Discovery.

Upon request of a party, the ALJ may allow the party to inspect and copy documents relevant to the issues in the proceeding that are in the possession or control of the other party. Previous statements of a witness are not available until after the witness has testified on direct examination. Depositions, interrogatories, and other forms of discovery are not authorized.

§ 100.118 Evidence and witnesses.

(a) Testimony at the hearing is given orally and under oath or affirmation. Written direct testimony may be used in the discretion of the ALJ. Witnesses must be available at the hearing for cross-examination by all parties.

(b) Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, must be exchanged at a prehearing conference or otherwise prior to the hearing, if the ALJ so decides.

(c) Technical rules of evidence are not applicable to the hearing, except that when reasonably necessary, the ALJ must apply rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination.

(d) A witness may be cross-examined on any matter relevant to the proceeding without regard to the scope of his or her direct examination.

(e) The ALJ shall exclude irrelevant, immaterial, or unduly repetitious evidence.

(f) All documents and other evidence offered or taken for the record shall be open to examination by the parties.

§ 100.119 Exclusion from the hearing for misconduct.

Disrespectful or disorderly language or conduct, refusal to comply with directions, or continued use of dilatory tactics by any individual at the hearing constitutes grounds for immediate exclusion of that individual from the hearing by the ALJ.

§ 100.120 Ex parte contacts.

(a) Except to the extent required for the disposition of ex parte matters, the ALJ may not consult or be consulted by a party or any other individual (except employees or his own office) on a fact in issue, unless on notice and opportunity for all parties to participate.

(b) The ALJ shall not consider letters or other contacts from non-parties expressing views, urging action, or submission of other unrequested written material regarding matters in issue in a hearing.

§ 100.121 Separation of functions.

An employee or an agent of the Department, who is engaged in the performance of investigative or prosecutive functions for or on behalf of the Department in a case may not, in that or a factually related case, participate or advise in the decision, except as witness or counsel in public proceedings.

§ 100.122 Official transcript.

The hearing will be recorded and transcribed. Transcripts may be obtained from the reporter by a party or the public at not to exceed the maximum rates fixed by contract between the Department and the reporter.

§ 100.123 Post-hearing briefs.

The ALJ will fix the time for filing post-hearing briefs, which may not exceed 30 days after termination of the hearing, unless the hearing was of unusual length or complexity, in which case the time may be extended. Such briefs may contain proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 100.124 Record for decision.

The transcript of testimony, exhibits, and all papers, requests and rulings filed or made in the proceedings, constitute the exclusive record for the ALJ's initial decision.

§ 100.125 Initial decision; administrative review; finality.

(a) The ALJ shall serve the initial decision on all parties within 60 days after whichever of the following is later:

(1) Termination of the hearing; or

(2) The time for submission of post-hearing briefs has expired.

(b) The initial decision shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments (which may be the amount proposed by the Inspector General, or a greater or lesser amount), and the length of any suspension, imposed upon the respondent thereby.

(c) The finding of fact shall include a finding on each of the following issues for each item or service with respect to which a penalty or assessment was proposed:

(1) Whether the item or service is subject to a determination under § 100.102; and

(2) If the item or service is subject to a determination under § 100.102 whether there are mitigating or aggravating circumstances as described in § 100.106(b).

(d) The initial decision of the ALJ becomes final and binding on the parties 30 days after notice thereof is received by the respondent, unless on or before that 30th day a party files with the ALJ written exceptions to the initial decision and supporting reasons for the exceptions.

(e) A party opposing exceptions may file a brief within 30 days after receipt of the exceptions.

(f)(1) If a party timely files exceptions under paragraph (d), the ALJ will forward to the Secretary the record of the proceeding, the exceptions and reasons therefor, and any briefs filed in opposition.

(2) After the Secretary has reviewed the initial decision, the record on which it is based, and submissions of the parties made subsequent to the decision, the Secretary will affirm, modify, or reverse the initial decision, or remand the case to an ALJ. The Secretary may modify the penalty, assessment, or suspension, to be more or less severe than that imposed by the ALJ.

(3) There is no right to appear personally before the Secretary.

(4) A copy of the decision of the Secretary will be mailed to each party.

(5) Except in the case of a remand, the decision of the Secretary becomes final and binding on the parties 60 days after notice thereof is received by the respondent, unless on or before the 60th day the respondent files a written petition requesting review in the court of appeals as provided by section 1128A(d) of the Act (42 U.S.C. 1320a–7a(d)), or, in the case of a request for judicial review of a suspension, to the appropriate district court as provided by section 1128(d) and 205(g) of the Act (42 U.S.C. 1320a–7 and U.S.C. 405(g)).

§ 100.126 Settlement.

The Inspector General has exclusive authority to settle any issues or case, without the consent of the ALJ or the Secretary, at any time prior to a final decision by the Secretary. Thereafter, the General Counsel has such exclusive authority.

§ 100.127 Judicial review.

(a) Section 1128A(d) of the Act authorizes judicial review of a penalty or assessment imposed under sections 100.110 or 100.125 which has become final. Judicial review may be sought by a respondent only with respect to a penalty or assessment with respect to which the respondent filed an exception under § 100.125(d).

(b) Section 1128(d) of the Act authorizes judicial review of a determination to bar a person from participation in Medicare or Medicaid pursuant to section 1128(b) of the Act. Judicial review may be sought by a respondent only with respect to a suspension with respect to which the respondent filed an exception under § 100.125(d).

§ 100.128 Collection of penalty and assessment.

(a) Collection of any penalty and assessment shall be the responsibility of HCFA, except in the case of the Maternal and Child Health Services Block Grant, where the collection shall be the responsibility of the Public Health Service.

(b) A penalty and assessment imposed under this part may be compromised by the General Counsel, after consultation with the Inspector General, and may be recovered in a civil action brought in the United States district court for the district where the claim was presented, or where the respondent resides.

(c) The amount of a penalty and assessment when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States, or by a State agency, to the respondent.

(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(d) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

§ 100.129 Notice to other agencies.

Whenever a penalty and assessment, or suspension, imposed under this part becomes final, HCFA and the Public Health Service will notify the appropriate State or local medical or professional association, the appropriate Professional Standards Review Organization, the State Medicaid agency the appropriate Medicare carrier or intermediary, and the appropriate State or local licensing agency or organization (including the Medicare and Medicaid State survey agencies) that the penalty and assessment have become final and the reasons for them. The HCFA will also provide to the State Medicaid agency the notice required under section 1128(b) of the Social Security Act.

§ 100.130 Filing and service of papers.

(a) All papers in connection with a hearing must be filed with the ALJ in the form, and in the number of copies, that he determines. Papers are considered filed when they are received by the ALJ.

(b) All papers in connection with a hearing must be served on all parties (or their designated representatives) by personal delivery or by mail.

(c) Any notice required by this part which cannot be delivered because the addressee cannot be found, may be served in accordance with Rule 4, Federal Rules of Civil Procedure.

§ 100.131 Records to be public.

All documents contained in the records of formal proceedings for imposing a penalty and assessment or suspension under this part may be inspected and copied.

[FR Doc. 82-35099 Filed 12-29-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

Maritime Administration

46 CFR Parts 221 and 355

[CGD 82-103]

Change in Interpretation of Section 2 of the Shipping Act of 1916, as Amended for Coastwise Trading Purposes

AGENCY: Maritime Administration, (MARAD) and Coast Guard, DOT.

ACTION: Extension of time to file comments on petition for rulemaking.

SUMMARY: On November 4, 1982, the Maritime Administration and Coast Guard published in the **Federal Register** (46 FR 49990) an advance notice of proposed rulemaking seeking comments by January 3, 1983, on a proposed change in the interpretation of Section 2 of the Shipping Act of 1916, as amended for coastwise trading purposes. Requests have been received for an extension of the comment period. Notice is hereby given that the closing date for comments concerning the advance notice of proposed rulemaking is extended to the close of business on January 24, 1983.

DATE: Comments are due on or before January 24, 1983.

FOR FURTHER INFORMATION CONTACT:

Ms. Doris Lansberry, Office of the Chief Counsel, Maritime Administration, (202) 426–5711, or

Cmdr. John Distin, Maritime and International Law Division, United States Coast Guard (202) 426–1527.

Dated: December 27, 1982.

Clyde Lusk, Jr., RADM

Chief, Office of Merchant Marine Safety, Coast Guard.

By order of the Maritime Administrator, Department of Transportation.

Dated: December 27, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82-35476 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14/4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 Parts 15, 21, 22, 25, 41, 42, 43, 64, 66, 74, 76, 78, 83, 90, and 95

[Gen. Docket No. 82-812; FCC 82-539]

List of the Commission's Rules To Be Reviewed Pursuant to Section 610 of the Regulatory Flexibility Act During 1982–1983

AGENCY: Federal Communications Commission.

ACTION: Notice requesting comments.

SUMMARY: This action (Notice) invites public comment on the Commission's List of Rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 610. The purpose of the review is to determine whether such rules should be continued without change, or should be amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of small entities. Upon receipt of comments from the public, said comments will be evaluated and action will be taken to rescind or amend the Commission's rules, as required.

DATES: Comments may be filed on or before February 28, 1983.

FOR FURTHER INFORMATION CONTACT: Donald L. McClure or Maurice Talbot, Office of General Counsel, (202) 254–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 15

Communications equipment, Radio.

47 CFR Part 21

Domestic Public Fixed Radio, Communications Common Carriers.

47 CFR Part 22

Mobile Radio, Communications Common Carriers.

47 CFR Part 25

Satellites, Communications Common Carriers, Government procurement, Securities.

47 CFR Part 41

Communications Common Carriers, Telegraph, Telephone.

47 CFR Part 42

Record Preservation, Communications Common Carriers.

47 CFR Part 43

Communications Common Carriers, Reporting requirements.

47 CFR Part 64

Communications Common Carriers, Claims, Foreign relations, Civil Defense, Computer technology, Telephone, Credit.

47 CFR Part 66

Communications Common Carriers, Administrative practice and procedure Telephone.

47 CFR Part 74

Television, Research, Radio, Education.

47 CFR Part 76

Cable Television, Political candidates, Administrative practice and procedure.

47 CFR Part 78

Cable Television, Communications equipment.

47 CFR Part 83

Vessels, Radio, Marine safety, Great Lakes, Telegraph, Telephone.

47 CFR Part 90

Radio, Administrative practice and procedure.

47 CFR Part 95

Radio, Communications equipment.

Adopted: December 8, 1982.

Released December 13, 1982.

1. On July 29, 1981, the Federal Communications Commission released its Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) Plan for periodic review of all rules issued by the agency which have, or will have, a significant economic impact upon a substantial number of small entities. See 46 FR 39183 (July 31, 1981). Attached to the Commission's plan was a table outlining a broad schedule for reviewing FCC regulations toward the ends specified by the RFA during the next five years. The Notice in Gen. Docket No. 81–706 implemented the first year of the five year plan. See 46 FR 56466 (November 17, 1981). The RFA Plan has been revised to accomplish the review of the Commission's Rules over the next three years (1982–1985) thereby decreasing the original term of review by one year. The revised RFA Plan will be published in the **Federal Register** during FY 1983.

2. In accordance with the revised RFA Plan, the staff has reviewed the subparts of the Commission's regulations targeted for review from November 1982 through October 1983. The attached Appendix lists specific rules or closely related groups of rules which are to be examined pursuant to Section 610(c) of the RFA during the second year of the Commission's RFA review. The public is invited to comment on these rules for regulatory flexibility puposes. Comments should address the following: (1) The nature of the economic impact the rule(s) has (or have) on the commenting party, (2) the continued need for the rule(s), (3) the complexity of the rule(s); (4) the extent to which the rule(s) overlap(s), duplicate(s) or conflict(s) with other Federal rules, and, to the extent feasible, with state and local governmental rules; (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule(s); (6) any other matters that would facilitate an informed review of the specified regulations.

3. The Commission with the assistance of the Regulatory Review Working Group (RRWG) is undertaking a broad integrated review of all rules and policies with the objective being to eliminate those which no longer serve the public interest. The annual review being conducted in accordance with the RFA is an integral part of the Commission's overall effort to review all of its rules.

4. Commenting parties should submit one original and one copy of each filing to the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.[1] Comments should specify the docket number of this proceeding and the name of the reviewing Bureau or Office.

5. Interested parties may file comments on or before February 28, 1983.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix—List of Rules for Review Pursuant to Section 610(c) of the Regulatory Flexibility Act of 1980, 5 U.S.C. Sec. 610(c) for 1982–1983 Common Carrier Bureau

Part/Subpart and Title Description

21 Domestic Public Fixed Radio Services
A General

Need

These rules provide general information regarding the Domestic Public Fixed Radio Services.

Legal Basis

47 U.S.C. Sec. 307–310

[1] The original will be placed in the public docket and the Secretary will forward the copy to the appropriate Bureau or Office.

Section No. and Title Description

21.0 Scope and authority.
21.2 Definitions.

Part/Subpart and Title Description

21D Technical Operation

Need

These rules provide general information regarding the Domestic Public Fixed Radio Services.

Legal Basis

47 U.S.C. Sec. 307–310

Section No. and Title Description

21.200 Station inspection.
21.201 Posting of station authorization.
21.203 Posting of operator licenses.
21.204 FCC publication required for reference.
21.205 Operator requirements.
21.206 Inspection and maintenance of antenna structure marking and lighting.
21.207 Transmitter measurements.
21.208 Station records.
21.209 Communications concerning safety of life and property.
21.210 Operation during emergency.
21.211 Suspension of transmission.
21.212 Equipment, service and maintenance tests.
21.213 Station identification.
21.214 Operation of stations at temporary fixed locations.

Part/Subpart and Title Description

22 Public Mobile Radio Services
A General

Need

These rules provide general information regarding the Public Mobile Radio Services.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

22.0 Scope and authority.
22.2 Definitions.

Part/Subpart and Title Description

22B Applications and Licenses

Need

These rules prescribe general filing requirements and application procedures for the Public Mobile Radio Services.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

22.3 Station authorization required.
22.4 Eligibility for station license.
22.5 Formal and informal applications.
22.6 Filing of applications, fees, and number of copies.
22.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio and Offshore Radio.
22.11 Miscellaneous forms shared by all domestic public radio services.
22.13 General application requirements.
22.15 Technical content of applications.
22.17 Demonstrations of financial qualifications.
22.20 Defective applications.
22.21 Inconsistent or conflicting applications.
22.22 Repetitious applications.
22.23 Amendment of applications.
22.25 Application for temporary authorizations.
22.26 Receipt of application.
22.27 Public notice period.
22.28 Dismissal and return of applications.
22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.
22.30 Opposition to applications.
22.31 Mutually exclusive applications.
22.32 Consideration of applications.
22.35 Comparative evaluation of mutually exclusive applications.
22.39 Transfer of control or assignment of station authorization.
22.40 Considerations involving transfer or assignment applications.
22.43 Period of construction.
22.44 Forfeiture of station authorization.
22.45 License period.

Parts/Subpart and Title Description

25 Satellite Communications
A General

Need

These rules provide general information regarding Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–744

Section No. and Title Description

25.101 Basis and scope.
25.103 Definitions.

Part/Subpart and Title Description

25B Communications Satellite Procurement Regulations.

Need

These rules prescribe general filing requirements and application procedures for Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–744

Section No. and Title Description

25.151 Scope, purpose and application of this subpart.
25.156 Definitions.
25.160 Emergencies.
25.161 Contract requirements.
25.162 Persons required to give prior notification.
25.163 Contents of notification.
25.164 Who may sign the notification.
25.165 Form of notification, number of copies, etc.
25.166 Action upon notification.
25.167 Amendments.
25.169 Publication requirements.
25.171 Methods of procurement.
25.172 Formal advertising.
25.173 Two-step procurement.
25.174 Negotiation.
25.176 Small business.
25.177 Maintenance of records.
25.178 Inspection.

Part/Subpart and Title Description

25C Technical Standards

Need

These rules prescribe technical standards for Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–704

Section No. and Title Description.

25.201 Definitions.
25.202 Frequencies, frequency tolerance and emission limitations.
25.203 Choice of sites and frequencies.
25.204 Power limits.
25.205 Minimum angle of antenna elevation.
25.206 Station identification.
25.207 Cessation of emissions.
25.208 Power flux density limits.
25.209 Antenna performance standards.
25.251 Special requirements for coordination.
25.252 Maximum permissible interference power.
25.253 Determination of coordination distance for near great circle propagation mechanisms.
25.254 Computation of coordination distance contours for propagation modes associated with precipitation.
25.255 Guidelines for performing interference analyses for near great circle propagation mechanisms.
25.256 Guidelines for performing interference analyses for precipitation scatter modes. [Reserved]

Part/Subpart and Title Description

25E Applications and Authorizations

Need

These rules prescribe application procedures for developmental operation in Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–704

Section No. and Title Description.

25.390 Developmental operation.

Part/Subpart and Title Description

25H Authorization to own stock in the Communications Satellite Corp.

Need

These rules concern authorization to own stock in the Communications Satellite Corporation.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–704

Section No. and Title Description.

25.501 Scope of this subpart.
25.502 Definitions.
25.505 Persons requiring authorization.
25.515 Method of securing authorization.
25.520 Contents of application.
25.521 Who may sign applications.
25.522 Full disclosures.
25.523 Form of application, number of copies, fees, etc.
25.525 Action upon applications.
25.526 Amendments.
25.527 Defective applications.
25.530 Scope of authorization.
25.531 Revocation of authorization.

Part/Subpart and Title Description

41 Telegraph and Telephone Franks

Need

These rules pertain to the offering of telegraph and telephone franks.

Legal Basis

47 U.S.C. Sec. 210

Section No. and Title Description

41.1 Definition of terms as used in this part.
41.11 Services to which rules apply.
41.12 Persons to whom rules apply.
41.13 Carriers services, and persons to which rules do not apply.
41.21 Amount of free service permitted.
41.22 Name of person.
41.31 Records to be maintained and reports to be filed.
41.32 Existing franks not conforming declared void.

Part/Subpart and Title Description

42 Preservation of Records of Communications Common Carriers

Need

These rules pertain to the preservation of records of communications common carriers.

Legal Basis

47 U.S.C. Sec. 154, 220

Section No. and Title Description

42.01 Applicability
42.1 Scope of the regulations in this part.
42.2 Designation of supervisory official.
42.3 Protection and storage of records.
42.4 Index of records.
42.5 Preparation and preservation of reproductions of original records.
42.6 Destruction of records.
42.7 Premature destruction.
42.8 Extension of period of retention of telegraph messages.
42.9 List of records.

Part/Subpart and Title Description

43 Reports of Communication Common Carriers and Certain Affiliates

Need

These rules pertain to the reports of communication common carriers and certain affiliates.

Legal Basis

47 U.S.C. Sec. 154(i), 211, 215, 219, 222, 396(h)

Section No. and Title Description

43.01 Applicability.
43.21 Annual reports of carriers and certain affiliates.
43.31 Monthly reports of communication common carriers.
43.42 Reports on pensions and benefits.
43.43 Reports of proposed changes in depreciation rates.
43.51 Contracts and concessions.
43.52 Reports of negotiations regarding foreign communication matters.
43.53 Report regarding division of international telegraph communication charges.
43.54 Reports regarding services performed by telegraph carriers.
43.61 Reports of overseas telecommunications traffic.
43.71 Reports of public coast station operators.
43.72 Reports of operators in the Multipoint Distribution Service.
43.74 Ser. rendered free or at reduced rates pur. to Sec. 396(h) of the Act; reports relative thereto.

Part/Subpart and Title Description

64 Miscellaneous Rules Relating to Common Carriers
A Traffic Damage Claims

Need

These rules relate to traffic damage claims.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 308, 403, 405, 605, 2 U.S.C. Sec. 451
64.1 Traffic damage claims.

Part/Subpart and Title Description

64C Furnishing of Facil. to Foreign Govts. for Int'l. Commun.

Need

These rules relate to furnishing of facilities to foreign governments for international use.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.301 Furnishing of facilities to foreign governments for international communications.

Part/Subpart and Title Description

64D Procedures for Handling Priority Services in Emergencies

Need

These rules relate to handling of priority services in emergencies.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.401 Procedures for the use and restoration of leased intercity private line services in emergencies.
64.402 Procedures for using a precedence system for public correspondence service provision by the Comm. CC.

Part/Subpart and Title Description

64E Use of Recording Devices by Telephone Companies

Need

These rules relate to use of recording devices by telephone companies.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 308, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.501 Recording of telephone conversations with telephone companies.

Part/Subpart and Title Description

64G Furnishing of Enhanced Services and Customer-Premises Equipment

Need

These rules relate to furnishing of enhanced services and customer-premises equipment by common carriers.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 308, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.702 Furnishing of enhanced services and customer-premises equipment.

Part/Subpart and Title Description

64H Extension of Unsecured Credit for Interstate and Foreign Commun.

Need

These rules relate to extension of unsecured credit for communications services to candidates for federal office.

Legal Basis

47 U.S.C. Secs. 151, 201–205, 214, 218, 219, 303, 308, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.801 Purpose.
64.802 Applicability.
64.803 Definitions.
64.804 Rules gov. the exten. of unsec. credit to cand. or pers. on behalf of such cand. for Fed. ofc. (etc)

Part/Subpart and Title Description

66 Applications Relating to Consolidation, Acquisition, or Control

Need

These rules pertain to applications relating to consolidation, acquisition or control of telephone companies.

Legal Basis

47 U.S.C. Sec. 221

Section No. and Title Description

66.11 Contents of applications.
66.12 Supporting data and exhibits required with the application.
66.13 Publication and posting of notices.
66.14 General provisions.
66.15 Procedure.

Office of Science and Technology

Part/Subpart and Title Description

15 Radio Frequency Devices
D Low Power Communication Devices: General Requirements

Need

These rules prescribe certification, specification and operational requirements for low power communications devices.

Legal Basis

47 U.S.C. Secs. 301, 302, 303.

Section No. and Title Description

15.101 Introduction.
15.102 Cross reference.
15.103 Interference.
15.104 Eavesdropping prohibited.
15.105 Class B emission prohibited.
15.111 Operation below 1600 kHz.

15.112 Alternative provisions for operation between 160–190 kHz.
15.113 Alternative provisions for operation between 510–1600 kHz.
15.114 Interim requirements for cordless telephone terminal operating 26.97–27.2 MHz.
15.115 Interim requirements for operation between 26.97 and 27.27 MHz.
15.116 Operation of a non-voice device between 26.99–27.26 MHz.
15.117 Operation between 49.82–49.90 MHz.
15.118 Technical specification for the band 49.82–49.90 MHz.
15.119 Alternative tech. specs. for the band 49.82–49.90 MHz.
15.120 Operation above 70 MHz.
15.131 Certification required for devices that are marketed or built in quantity greater than 5.
15.132 Labelling and identification requirements.
15.133 Certification and identification required for home built device.
15.135 Certification procedure: Device manufactured between 1957 and 1975.
15.136 Location of certificate on device manufactured between 1957 and 1975.
15.141 Measurement procedure.
15.142 Range of measurements.
15.143 Report of measurements.

Part/Subpart and Title Description

15E Low Power Communication Devices: Specific Devices

Need

These rules prescribe certification, specifications, and operational requirements for specific low power communication devices.

Legal Basis

47 U.S.C. Sec. 301, 302, 303.

Section No. and Title Description

15.151 Cross reference.
15.152 Interference from a low power communication device.
15.153 Class B emission prohibited.
15.154 Eavesdropping prohibited.
15.161 General technical provisions.
15.162 Operation in the band 88–108 MHz.
15.163 Equipment authorization required.
15.164 Identification.
15.171 General technical provisions.
15.172 Operation in the band 38–41 MHz.
15.174 Operation in the band 88–108 MHz.
15.175 Custom built telemetering device in the band 88–108 MHz.
15.176 Operation in the band 174–216 MHz.
15.177 Equipment authorization required.
15.178 Identification.
15.179 Report of Measurements.
15.181 General technical provisions.
15.182 Operation above 70 MHz: Devices manufactured prior to July 15, 1963.
15.183 Operation above 70 MHz: Devices manufactured between 1963 and 1971.
15.184 Operation above 70 MHz: Devices manufactured after March 24, 1971.
15.185 Equipment authorization required.
15.186 Identification.
15.187 Report of measurements.
15.191 General technical provisions.
15.192 Alternative provisions.
15.193 Certification required.
15.194 Identification.

Broadcast Bureau[1]

Part/Subpart and Title Description

74 Experimental, Auxiliary, and Special Broadcast Services, etc.
A Experimental Television Broadcast Stations

Need

These rules prescribe licensing policies, procedures, technical and operational requirements for experimental TV broadcast stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.101 Experimental television broadcast station.
74.102 Purpose.
74.103 Frequency assignment.
74.112 Supplementary statement with application for construction permit.
74.113 Supplementary reports with application for renewal of license.
74.131 Licensing requirements, necessary showing.
74.132 Power limitations.
74.133 Emission authorized.
74.134 Multiple ownership.
74.151 Equipment changes.
74.161 Frequency tolerance.
74.162 Frequency monitors and measurements.
74.163 Time of operation.
74.164 Station inspection.
74.165 Station and operator licenses; posting of.
74.166 Experimental TV broadcast station operator requirements.
74.167 Antenna structure, marking and lighting.
74.168 Additional orders.
74.181 Logs.
74.182 Charges.
74.183 Station indentification.
74.184 Rebroadcasts.

Part/Subpart and Title Description

74B Experimental Facsimile Broadcast Stations

Need

These rules prescribe licensing policies, procedures, technical and operational requirements for experimental facsimile broadcast stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.201 Fascimile broadcast station..
74.202 Frequency assignment.
74.212 Supplementary statement with application for construction permit.
74.213 Supplemental report with renewal application.
74.231 Licensing requirements, necessary showing.
74.232 Power Limitations.
74.233 Emission authorized.
74.234 Mutliple ownership.
74.251 Equipment changes.
74.261 Frequency tolerance.
74.262 Frequency monitors and measurements.
74.263 Time of operation.
74.264 Station inspection.
74.265 Station and operator licenses; posting of.
74.266 Experimental facsimile broadcast station operator requirements.
74.267 Antenna structure, marking and lighting.
74.268 Additional orders.
74.281 Logs.
74.282 Charges.
74.283 Station identification.
74.284 Rebroadcasts.

Part/Subpart and Title Description

74C Developmental Broadcast Stations

Need

These rules prescribe licensing policies, procedures, technical and operational requirements for developmental broadcast stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.301 Development broadcast station.
74.302 Frequency assignment.
74.312 Supplementary statement with application for construction permit.
74.313 Supplemental report with renewal application.
74.331 Licensing requirements; necessary showing.
74.332 Power limitations.
74.333 Emission authorized.
74.351 Equipment changes.
74.361 Frequency tolerance.
74.362 Frequency monitors and measurements.
74.363 Time of operation.
74.364 Station inspection.
74.365 Station and operator licenses; posting of.
74.366 Developmental broadcast station operator requirements.
74.367 Antenna structure, marking and lighting.
74.368 Additional orders.
74.381 Logs.
74.382 Program service; charges prohibited; announcements.
74.383 Station identification.
74.384 Rebroadcast.

Part/Subpart and Title Description

74G Television Broadcast Translator Stations

Need

These rules prescribe licensing policies, technical and operational requirements for television broadcast trans. stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

[1] The Broadcast Bureau and Cable Bureau have been combined to form the Mass Medial Bureau effective November 30, 1982. See *Order*, FCC 82–445, released: October 13, 1982.

Section No. and Title Description

74.701 Definitions.
74.702 Channel assignments.
74.703 Interference.
74.705 TV Broadcast station protection.
74.707 Low power TV and TV translator station protection.
74.709 Land mobile station protection.
74.731 Purpose and permissible service.
74.732 Eligibility and licensing requirements.
74.733 UHF translator signal boosters.
74.734 Attended and unattended operation.
74.735 Power limitation.
74.736 Emission and bandwidth.
74.737 Antenna location.
74.750 Transmitters system facilities.
74.751 Equipment changes.
74.761 Frequency tolerance.
74.762 Frequency measurements.
74.763 Time of operation.
74.764 Station inspection.
74.765 Posting of station and operator licenses.
74.766 Low power TV and TV translator operator requirements.
74.767 Antenna structure, marking and lighting.
74.768 Additional orders.
74.769 Copies of rules.
74.780 Broadcast regulations applicable to low power TV stations.
74.781 Station records.
74.783 Station identification.
74.784 Rebroadcasts.

Part/Subpart and Title Description

74I Instructional Television Fixed Service

Need

These rules specify the terms, conditions, and requirements for the licensing and operation of a station in the instructional television fixed service to satisfy the cultural and instruct. needs of students enrolled in accred. schools.

Legal Basis

47 U.S.C. sec. 154, 303

Section No. and Title Description

74.901 Definitions.
74.902 Frequency assignments.
74.903 Interference.
74.931 Purpose and permissible service.
74.932 Eligibility and licensing requirements.
74.933 Remote control operation.
74.934 Unattended operation.
74.935 Power limitations.
74.936 Emissions and bandwidth.
74.937 Antennas.
74.938 Transmission standards.
74.939 Special rules governing ITFS response stations.
74.950 Equipment performance and installation.
74.951 Modification of transmission systems.
74.952 Acceptability of equipment for licensing.
74.961 Frequency tolerance.
74.962 Frequency monitors and measurements.
74.963 Time of operation.
74.964 Station inspection.
74.965 Posting of station and operator licenses.
74.966 ITFS station operator requirements.
74.967 Antenna structure, marking and lighting.
74.968 Additional orders.
74.969 Copies of the rules.
74.970 Modulation limits.
74.971 Modulation monitors and measurements.
74.981 Logs.
74.982 Station identification.
74.984 Retransmissions.

Part/Subpart and Title Description

74L FM Broadcast Translator Stations and FM Broad. Booster Stations

Need

These rules prescribe licensing policies, technical and operational requirements for FM broadcast trans. and booster stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.1201 Definitions.
74.1202 Frequency assignment.
74.1203 Interference.
74.1231 Purpose and permissible service.
74.1232 Eligibility and licensing requirements.
74.1234 Unattended operation.
74.1235 Power limitations.
74.1236 Emissions and bandwidth.
74.1237 Antenna locations.
74.1250 Transmitters and associated equipment.
74.1251 Modification of transmission systems.
74.1261 Frequency tolerance.
74.1262 Frequency monitors and measurements.
74.1263 Time of operation.
74.1264 Station inspection.
74.1265 Posting of station license.
74.1266 FM broadcast translator and booster operator requirements.
74.1267 Antenna structure, marking and lighting.
74.1268 Additional orders.
74.1269 Copies of rules.
74.1281 Station records.
74.1283 Station identification.
74.1284 Rebroadcasts.

Cable Bureau [2]

Part/Subpart and Title Description

76 Cable Television Service
F Nonduplication Protection & Syndicated Exclusivity

Need

These rules specify limitations and restrictions that are imposed on cable TV system operators with respect to the carriage of specified television signals along with exceptions to such rules.

Legal Basis

47 U.S.C. Sec. 152, 153, 154(i), 301, 307, 308, 309

Section No. and Title Description

76.92 Stations entitled to nonduplication protection.
76.94 Notification requirements and extent of protection.
76.95 Exceptions.
76.97 Waiver petitions.
76.99 Grandfathering.

Part/Subpart and Title Description

76G Cablecasting

Need

These rules specify that cable TV system operators engaged in Cablecasting must provide equal opportunities to political candidates to cablecast under certain prescribed conditions.

Legal Basis

47 U.S.C. Sec. 152, 153, 154(i), 301, 307, 308, 309

Section No. and Title Description

76.205 Origination cablecasts by candidates for public office.
76.209 Fairness doctrine; personal attacks; political editorials.
76.213 Lotteries.
76.215 Obscenity.
76.221 Sponsorship identification; list retention; related requirements.

Part/Subpart and Title Description

76I Forms and Reports

Need

These rules impose certain reporting and forms development requirements on cable system operators.

Legal Basis

47 U.S.C. Sec. 152, 153, 154(i), 301, 307, 308, 309

Section No. and Title Description

76.400 Operator, mail address, & operational status changes.
76.403 Cable television system reports.
76.406 Computation of cable television annual fee.

Part/Subpart and Title Description

78 Cable Television Relay Service
A General

Need

These rules define terms associated with cable television relay service (CARS) and prescribe licensing and operational requirements.

Legal Basis

47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

Section No. and Title Description

78.1 Purpose.
78.3 Other pertinent rules.
78.5 Definitions.

Part/Subpart and Title Description

78B Applications and Licenses

[2] The Broadcast Bureau and Cable Bureau have been combined to form the Mass Medical Bureau effective November 30, 1982. See *Order*, FCC 82-445, released October 13, 1982.

Need

These rules prescribe eligibility for licensing requirements and applications procedures necessary to obtain authorization to operate a cable TV relay service.

Legal Basis

47 U.S.C., 152, 153, 154, 301, 303, 307, 308, 309

Section No. and Title Description

78.11 Permissible service.
78.13 Eligibility for license.
78.15 Contents of applications.
78.16 Who may sign applications.
78.17 Amendment of applications.
78.18 Frequency assignments.
78.19 Interference.
78.20 Acceptance of applications; public notice.
78.21 Dismissal of applications.
78.22 Objections of applications.
78.23 Equipment tests.
78.25 Service or program tests.
78.27 License conditions.
78.29 License period.
78.31 Temporary extension of license.
78.33 Special temporary authority.
78.35 Assignment or transfer of control.

Part/Subpart and Title Description

78C General Operating Requirements

Need

These rules prescribe general operating requirements for cable TV relay station.

Legal Basis

47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309

Section No. and Title Description

78.51 Remote control operation.
78.53 Unattended operation.
78.55 Time of operation.
78.57 Station inspection.
78.59 Posting of station and operator licenses.
78.61 Operator requirements.
78.63 Inspection and maintenance of tower marking.
78.65 Additional orders.
78.67 Copies of rules.
78.69 Station records.
78.75 Equal employment opportunities.

Part/Subpart and Title Description

78D Technical Regulations

Need

These rules specify technical requirements to include emission and power controls and antenna systems required for cable TV relay services.

Legal Basis

47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309

Section No. and Title Description

78.101 Power limitations.
78.103 Emissions and emission limitations.
78.104 Authorized bandwidth and emission designator.
78.105 Antenna systems.
78.107 Equipment and installation.
78.109 Equipment changes.
78.111 Frequency tolerance.
78.113 Freqency monitors and measurements.
78.115 Modulation limits.

Private Radio Bureau

Part/Subpart and Title Description

83 Stations on Shipboard in the Maritime Services
E Standard Technical Requirements

Need

These rules specify technical requirements to include frequency tolerance and emission levels for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.131 Authorized frequency tolerance.
83.132 Authorized classes of emission.
83.133 Authorized bandwidth.
83.134 Transmitter power.
83.135 Suppression of interference from receiving apparatus.
83.136 Emission limitations.
83.137 Modulation requirements.
83.138 Special requirements for ship radar transmitters.
83.139 Acceptability of transmitters for licensing.
83.140 Type acceptance of equipment.
83.141 Special requirements for survival craft stations.
83.142 Apparatus for generating automatically the radiotelephone alarm signal.
83.143 Narrow-band direct-printing radiotelegraphy equipment.
83.144 Special requirements for emergency indicating radiobeacon stations, Class B.
83.145 Special requirements for Emergency Position indicating Radiobeacon Stations, Class A.
83.146 Special requirements for emergency indicating radiobeacon stations, Class C.

Part/Subpart and Title Description

83F Operator Requirements

Need

These rules prescribe requirements for station operators on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.151 Graded values of commercial radio operator authorizations.
83.152 Operator required.
83.153 Location of operator.
83.155 Operator(s) required by Title III of Communications Act of 1934.
83.156 Operator(s) required by the safety convention.
83.157 Licensed persons required by the Great Lakes Radio Agreement.
83.158 Qualified operator required for ships subject to Radiotelephone Act.
83.159 Operator requirements for noncompulsory stations.
83.160 Limitations applicable to commercial radio operator permits.
83.161 Control by operator.
83.162 Adjustment of transmitting apparatus.
83.164 Activities not requiring an operator authorization.
83.165 Posting of operator authorization.

Part/Subpart and Title Description

83G General Operating Requirements

Need

These rules prescribe general operating requirements to include cooperative use of frequencies and avoidance of interference for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.173 Authority of the master.
83.174 Secrecy of communication.
83.175 Intercommunication in mobile service.
83.176 Priority of communications to be observed.
83.177 Order of priority of communications.
83.178 Unauthorized transmissions.
83.179 Control by coast or government station.
83.180 Cooperative use of frequency assignments.
83.181 Prevention of interference.
83.182 Suspension of transmission.
83.183 Hours of service of ship stations.
83.184 Maintenance of station logs.
83.185 Stations in the maritime mobile-satellite service.
83.186 Operational conditions on use of associated portable ship units.

Part/Subpart and Title Description

83H Watches and Auto Alarms for Safety Purposes

Need

These rules prescribe watches and automatic alarms for safety purposes for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.201 Watch required during silence periods.
83.202 Watch required on vessels subject to the Communications act.
83.203 Watch required on vessels subject only to the safety convention.
83.204 Provisions governing radiotelegraph watch.
83.205 Compulsory use of radiotelegraph auto alarm.
83.206 Watch required by the Great Lakes Radio Agreement.
83.207 Watch required by the vessel bridge-to-bridge Radiotelephone act.

Part/Subpart and Title Description

83 I General Purpose Watches

Need

These rules prescribe general purpose watch requirements for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.221 Watch on 500 kHz.
83.223 Watch on 2182 kHz.
83.224 Watch on 156.8 MHz.

Part/Subpart and Title Description

83J Distress, Alarm, Urgency and Safety

Need

These rules prescribe distress, alarm, urgency and safety procedures for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.231 Applicable regulations.
83.232 Authority for distress transmission.
83.233 Frequencies for use in distress.
83.234 Distress signals.
83.235 Distress calls.
83.236 Distress messages.
83.237 Radiotelegraph distress call and message transmission procedure.
83.238 Radiotelephone distress call and message transmission procedure.
83.239 Acknowledgment of receipt of distress message.
83.240 Form of acknowledgment.
83.241 Information furnished by acknowledging station.
83.242 Transmission of distress message by a station not itself in distress.
83.243 Control of distress traffic.
83.244 Notification of resumption of normal working.
83.245 Radiotelegraph and radiotelephone alarm signals.
83.246 Use of alarm signals.
83.247 Urgency signals.
83.248 Urgency message.
83.249 Safety signals.
83.250 Safety message.
83.251 Bridge-to-bridge communication procedure.
83.252 Equipment to facilitate search and rescue operations.
83.253 Stations in the maritime mobile-satellite service.
83.254 Class C EPIRB operational procedures.

Part/Subpart and Title Description

83M Nature of Ser. Prov. by Ship Sta. and Shipboard Mar.-Util. Stat.

Need

These rules prescribe service requirements for all ship stations and marine utility stations.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.302 Points of communication.
83.303 Service requirements for all ship stations.
83.304 Service requirements for Title III, Part II vessels.

Part/Subpart and Title Description

90G Private Land Mobile Radio Services: Applications and Authorizations

Need

These rules prescribe procedures and requirements for the filing of applications for authority to operate private land mobile radio stations.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.111 Scope.
90.113 Station authorization required.
90.115 Ineligibility of foreign governments.
90.117 Application for radio station or radio system authorization.
90.119 Application forms.
90.121 Canadian registration.
90.123 Full disclosure.
90.125 Who may sign applications.
90.127 Filing applications.
90.129 Supplemental information to be routinely submitted with applications.
90.131 Amendment or dismissal of applications.
90.135 Modification of license.
90.137 Applications for operation at temporary locations.
90.138 Applications for itinerant frequencies.
90.139 Preliminary processing of applications.
90.141 Resubmitted applications.
90.143 Grants of applications.
90.145 Special temporary authority.
90.147 Mailing address furnished by licensee.
90.149 License term.
90.151 Requests for waiver.
90.153 Assignment of station authorization.
90.155 Time in which station must be placed in operation.
90.157 Discontinuance of station operation.
90.159 Temporary permit.

Part/Subpart and Title Description

90H Policies governing the assignment of frequencies

Need

These rules prescribe policies under which the Commission assigns frequencies for use in private land mobile radio services.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.171 Scope.
90.173 Policies governing the assignment of frequencies.
90.175 Frequency coordination requirements.
90.176 Interservice sharing.
90.177 Protection of certain radio receiving locations.
90.179 Cooperative use of radio stations in the mobile and fixed services.
90.185 Multiple licensing of radio transmitting equipment in the mobile radio service.

Part/Subpart and Title Description

90I General Technical Standards

Need

These rules specify technical standards to include type acceptance, power, emission, modulation and bandwidths.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.201 Scope.
90.203 Type acceptance required.
90.205 Power.
90.207 Types of emission.
90.209 Bandwidth limitations.
90.211 Modulation requirements.
90.212 Provisions relating to the use of scrambling devices and digital voice modulation.
90.213 Frequency tolerance.
90.215 Transmitter measurements.
90.217 Exemption from technical standards.

Part/Subpart and Title Description

90J Nonvoice and Other Specialized Operations

Need

These rules specify requirements for non-voice and other specialized operations to include; telemetry, radioteleprinter and radio facsimile.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.231 Scope.
90.233 Secondary base/mobile non-voice signaling operations.
90.235 Secondary fixed tone signaling and alarm operations.
90.237 Interim provisions for operation of radioteleprinter and radio-facsimile devices.
90.238 Telemetry operations.
90.239 Interim provisions for operation of automatic vehicle moitoring (AVM) systems.
90.241 Radio call box operations.
90.242 Travelers' information stations.
90.243 Mobile relay stations.
90.245 Fixed relay stations.
90.247 Mobile repeater stations.
90.249 Control stations.

Part/Subpart and Title Description

90N Operating Requirements

Need

These rules prescribe general operating requirements to include points of communications, methods of station identification and record keeping for private land mobile radio service.

Legal Basis

47 U.S.C. Sec. 154, 303

Section No. and Title Description

90.401 Scope.

90.403 General operating requirements.
90.405 Permissible communications.
90.407 communications permitted during emergency situations.
90.409 Emergency operations of public safety and spoecial emergency mobile stations at fixed locations.
90.411 Civil defense communications in the public safety and special emergency radio services.
90.413 Civil defense communications in the taxicab radio service.
90.415 Prohibited uses.
90.417 Interstation communication.
90.419 Points of communication.
90.421 Operation of mobile units in vehicles not under the control of the licensee.
90.423 Operation on board aircraft.
90.425 Station identification.
90.427 Prcautions against unauthorized operation.
90.429 Control point and dispatch point requirements.
90.431 Unattended operation.
90.433 Operator license requirements.
90.435 Posting of operator license.
90.437 Posting of station license.
90.439 Inspection of stations.
90.441 Inspection and maintenance of tower marking and associated control equipment.
90.443 Content of station records.
90.445 Form of station records.
90.447 Retention of station records.
90.449 Answers to a notice of violation.

Part/Subpart and Title Description

900 Transmitter Control

Need

These rules spoecify permissible methods of transmitter control and interconnection of radio systems authorized and used in private land mobile radio services.

Legal Basis

47 U.S.C. Sec. 154, 303

Section No. and Title Description

90.460 Scope.
90.461 Direct and remote control of transmitters.
90.463 Transmitter control points.
90.465 Control of systems of communications.
90.467 Dispatch points.
90.469 Unattended operation.
90.471 Points of operation in internal transmitter control systems.
90.473 Operation of internal transmitter control systems throgh licensed fixed control points.
90.475 Operation of internal transmitter control systems in specially equipped systems.
90.476 Interconnection of fixed stations and certain mobile stations.
90.477 Restrictions on interconnected systems.
90.483 Permissible methods and requirements of interconnecting private & public systems of communication.

Part/Subpart and Title Description

95 Personal Radio Services
D Citizens Band (CB) Radio Service

Need

These rules define the Citizens Bank Radio Service and specify terms and conditions for operation.

Legal Basis

47 U.S.C. Sec. 154, 303

Section No. and Title Description

90.401 Citizens Band (CB) Radio Service Rules.

[FR Doc. 82-35290 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-716; RM-4102; RM-4140]

TV Broadcast Stations in Anchorage and Seward, Alaska; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: In response to a filed request, action taken herein extends the time for filing comments and reply comments in a proceeding involving the assignment of VHF Television Channel 5 and/or 9 to Anchorage, and the substitution of Channel 8 for (unused) Channel 9 at Seward, Alaska.

DATES: Comments must be filed on or before January 12, 1983, and reply comments on or before January 27, 1983.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Anchorage and Seward, Alaska); BC Docket No. 82-716, RM-4102, RM-4140.

Order Extending Time for Filing Comments and Reply Comments

Adopted: December 15, 1982.

Released: December 23, 1982.

1. On October 14, 1982, the Commission adopted a notice of proposed rule making, 47 FR 49416, published November 1, 1982, in response to petitions filed by the State of Alaska and by Pioneer Broadcasting Co., Inc. The notice proposed the assignment of VHF Television Channel 5 and/or 9 to Anchorage and the substitution of Channel 8 for (unused) Channel 9 at Seward, Alaska. Comments are presently due on December 13, and reply comments on December 28, 1982.

2. On December 9, 1982, counsel for the State of Alaska Division of Telecommunications System (Division of Telecommunications) filed a request seeking an extension of time for filing comments and reply comments to and including January 12, and January 27, 1983, respectively. Counsel states that he has been informed that the further investigation must be conducted into the need for a full service educational noncommercial VHF station to satisfy the LEARN/Alaska Network requirements in the Anchorage area for the distribution of instructional programming. Counsel adds that the determination will involve coordination and decision making by several agencies. For these reasons, counsel states that comments cannot be completed in sufficient time to file by the present due date. We are also told by counsel that he has informed each of the petitioners of his intent to file this request and that they have no objection to the extension.

3. Although the request did not meet the filing deadline as specified in § 1.46 of the Commission's Rules, it appears that the circumstances noted in paragraph 2 justify the extension. Since the Commission believes that it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, we shall give interested parties an opportunity to comment by granting the additional time as requested.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in Docket 82-716 (RM-4102 and RM-4140) are extended to and including January 12, and January 27, 1983, respectively.

5. This action is taken pursuant to authority found in sections 4(1), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 82-35431 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 76

[CT Docket No. 82-434]

Amendment Relative to Elimination of the Prohibition on Common Ownership of Cable Television Systems and National Television Networks; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of reply comment period.

SUMMARY: This action extends the deadline for filing reply comments in CT Docket No. 82–434, concerning elimination of the prohibition on common ownership of cable TV systems and national TV networks. This action was taken so that interested parties may comment on an office of Plans and Policy staff report, *Measurement of Concentration in Home Video Markets.*

DATE: Reply Comments must be filed on or before February 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Robert Ratcliffe, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION.

Order Extending Deadline For Filing Reply Comments

Adopted: December 23, 1982.

Released: December 23,1982.

1. On December 23, 1982, a staff report of the Office of Plans and Policy, entitled *Measurement of Concentration in Home Video Markets,* was submitted into CT Docket No. 82–434. The staff report deals with some of the issues raised by the Commission in its Notice of Proposed Rulemaking in CT Docket No. 82–434, 47 FR 39212 (1982).

2. Because of the complexity of the issues relating to concentration of ownership raised in the Office of Plans and Policy Report and their possible bearing upon the outcome of the proposals in CT Docket No. 82–434, the Mass Media Bureau believes it appropriate to give the public a full opportunity for comment. The comment period in this proceeding closed December 14, 1982. The Notice of Proposed Rulemaking provided for a forty-five day reply comment period. In order to give interested parties the full forty-five day period to comment on the Report, we believe the reply comment period should commence with filing of the Report in the Docket.

3. Accordingly, it is ordered that effective December 23, 1982, the deadline for reply comments in this proceeding is extended to February 7, 1983. Action is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

[FR Doc. 82–35300 Filed 12–29–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 82–20; Notice 1]

Consumer Information Regulations Operation of Utility Vehicles on Paved Roadways

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to add a new requirement to the Consumer Information Regulations for "utility vehicles," i.e., multipurpose passenger vehicles which have special features for occasional off-road operation. Some of these features cause utility vehicles to handle and maneuver differently from ordinary passenger cars under certain driving conditions. Making sharp turns or abrupt maneuvers when operating utility vehicles, even on paved roads, may result in loss of control. To ensure that drivers are aware of the handling differences between utility vehicles and passenger cars, the proposed amendment would require manufacturers to place a prescribed sticker on the windshield or dashboard to alert operators. The proposed new regulation would also require manufacturers to place information in the vehicle Owner's Manual concerning the proper method of on- and off-pavement driving for utility vehicles.

DATES: Comments on this notice must be received on or before February 14, 1983. Proposed effective date is 60 days after publication of final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are from 8:00 a.m. to 4:00 p.m. (EDT), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. F. Cecil Brenner, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: This notice addresses a safety concern arising from the apparent lack of public awareness about the proper handling and operation of multipurpose passenger vehicles (defined in 49 CFR 571.3) which have special features for off-road operation or, more simply, "utility vehicles." These features typically include relatively short wheelbase, a narrow track, high ground clearance, a high center of gravity, stiff suspension system, and four-wheel drive. Examples of utility vehicles in current production include: AMC Jeeps, Chevrolet Blazer, Ford Bronco, Plymouth Trail Duster, Dodge Ram Charger, VW Thing, Toyota Land Cruiser, and the GMC Jimmy.

Research indicated that utility vehicles are disproportionately more highly represented in rollover accidents than are passenger cars. A study conducted by the Highway Research Institute of the University of Michigan found that utility vehicles rollover at a rate at least five times higher than that experienced by the average passenger car. ("On-Road Crash Experience of Utility Vehicles", see NHTSA Docket 82–20.)

In addition, the same study and NHTSA fatal accident report data indicate that on a statistical basis, given a rollover accident, occupants are more likely to be killed in such vehicles than in passenger cars. Thus, the study indicated that the rates of death and disabling injury per accident could be twice as high with respect to utility vehicles.

Utility vehicles handle and maneuver differently from ordinary passenger cars under certain on-pavement driving conditions. For example, because of their higher center of gravity, narrower track and stiffer suspension, utility vehicles are more likely to roll over than passenger cars in case of sharp turns or abrupt maneuvers, even on paved roads and especially at high speeds. Sharp turns or abrupt maneuvers in these vehicles may result in loss of control or an accident.

The agency believes that these differences in safety statistics and apparent performance are due primarily to the lack of awareness by utility vehicle operators concerning the operational characteristics of vehicles with the design characteristics mentioned above, especially under conditions approaching the extreme limits of performance. The occurrence of accidents at observed rates is a clear indication that operators do not understand or appreciate the need for and methods of adjusting driving practice to compensate for the effects of the physical differences between their vehicles and passenger cars on the handling of their vehicles.

The agency has tentatively concluded that providing consumers with information about the handling of utility vehicles on paved roads would improve the safety record of those vehicles. Accordingly, the agency is proposing to

add a new requirement to the NHTSA Consumer Information Regulations (49 CFR Part 575). The propose amendment would require manufacturers to place a prescribed sticker on the windshield or dashboard of new utility vehicles to alert drivers concerning the special handling characteristics of those vehicles. Additionally, the proposed amendment would require manufacturers to include information in the vehicle Owner's Manual concerning the proper method of handling and maneuvering utility vehicles when driven on paved roads. The agency has recently reviewed the question of utility vehicle performance in connection with its review of a petition to open a defect proceeding with respect to a particular vehicle. The agency was unable to find that design characteristic of the subject vehicle alone warrant, based on evidence before the agency, opening of such a proceeding. This was concluded with respect to that vehicle, in light of the conclusion of related proceedings before the Federal Trade Commission and the agreement, by that manufacturer, to notify owners of existing vehicles, and provide for their use, such a label and warning as is contemplated herein, for application to new vehicles.[1]

NHTSA has examined the impacts of these proposed requirements and determined that this notice does not qualify as a major regulation within the meaning of Executive Order 12291 or as a significant regulation under the Department of Transportation regulatory policies and procedures. The agency has also determined that the economic and other impacts of this proposal are so minimal that a full regulatory evaluation is not required. The proposed requirement for a sticker and additional information in the vehicle Owner's Manual will result in only minimal costs to vehicle manufacturers and will not likely result in any cost to consumers.

The NHTSA has also considered the impacts of this proposal under the Regulatory Flexibility Act and hereby certifies that the proposed new requirements would not have a significant economic impact on a substantial number of small entities. As just discussed, the cost of the proposed requirements would be extremely small. Accordingly, there would be virtually no economic effect on any small organizations or governmental units which purchase utility vehicles. Moreover, few, if any, of the motor vehicle manufacturers would qualify as small entities.

[1] Jeep C-J5, See petition of Louis Kerlinsky, P81-018.

Finally, the NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718, 725, 728 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued on December 23, 1982.

Raymond A. Peck, Jr.,
Administrator.

PART 575—[Amended]

In consideration of the foregoing, it is proposed that a new section 575.105 be added to 49 CFR Part 575, Consumer Information Regulations, to read as follows:

§ 575.105 Utility Vehicles

(a) *Purpose and scope.* This section requires manufacturers of utility vehicles to alert owners that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when those vehicles are operated on paved roads.

(b) *Application.* This section applies to multipurpose passenger vehicles which have special features for occasional off-road operation ("utility vehicles").

(c) *Required information.* Each manufacturer shall prepare and affix a vehicle sticker as specified in paragraph 1 of this subsection and shall provide in the vehicle Owner's Manual the information specified in paragraph 2 of this subsection:

(1) A sticker shall be affixed to the instrument panel, windshield frame or in some other location in each vehicle prominent and visible to the driver. The sticker shall be printed in a typeface and color which are clear and conspicuous. The sticker shall have the following or similar language:

> This is a multipurpose passenger vehicle which will handle and maneuver differently from an ordinary passenger car, in driving conditions which may occur on streets and highways and off the road. As with other vehicles of this type, if you make sharp turns or abrupt maneuvers, especially at high speeds, you may lose control and crash. You should read driving guidelines and instructions in the Owner's Manual, and WEAR YOUR SEATBELTS AT ALL TIMES

The language on the sticker required by this paragraph may be modified as is desired by the manufacturer to make it appropriate for a specific vehicle design, to ensure that consumers are adequately informed concerning the unique propensities of a particular vehicle model.

(2)(i) The vehicle Owner's Manual shall include the following statement in its introduction:

> As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident. Be sure to read

"on-pavement" and "off-road" driving guidelines which follow.

(ii) The vehicle Owner's Manual shall include the following statement in an "on-pavement" driving section:

Utility vehicles have higher ground clearance and narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2WD vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turning maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident.

[FR Doc. 82-35433 Filed 12-27-82; 4:28 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Ex Parte No. 241 (Sub-No. 1]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Proposed removal of rule.

SUMMARY: The Commission is reopening this proceeding (Investigation of adequacy of railroad freight car ownership, car utilization, distribution rules and practices) to assess the need to retain 49 CFR 1033.15 (Rule 15), a car service rule. We will consider whether Rule 15 is necessary to the preservation of reciprocal switching agreements.

DATE: Comments must be received on or before January 31, 1983.

ADDRESS: An original and 15 copies of all comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: In its prior decision in this proceeding, 362 I.C.C. 844 (1980), (45 FR 49942, July 28, 1980 as corrected at 47 FR 47394, October 26, 1982), the Commission rescinded all of its mandatory car service rules except Rule 15 (§ 1033.15). Rule 15 was retained because it had been incorporated into the demurrage recordkeeping rules contained in 49 CFR Part 1254 and, therefore, established certain reporting requirements under those rules. Because of the relation of Rule 15 to the demurrage rules, the Commission found that a determination concerning rescission of Rule 15 should be delayed until completion of a review of the demurrage rules.

The demurrage rules were reviewed in Ex Parte No. 285, *Maintenance of Records Pertaining to Demurrage, Retention, and Other Related Accessorial Charges by Rail Common Carriers of Property*, served December 29, 1982, (published elsewhere in this issue), and have been rescinded. Thus, Rule 15 is no longer needed to satisfy the reporting requirements of those rules. However, as we stated in Ex Parte No. 285, rescission of Rule 15 requires further analysis with regard to possible problems related to reciprocal switching, which could result from rescission. We are reopening Ex Parte No. 241 (Sub-No.1) for the limited purpose of considering these problems.

Paragraph (b), (c), and (d) of Rule 15 define who has first responsibility for supplying cars and who the serving carrier must look to for car supply when unable to supply cars from its own fleet. We seek comment on whether retention of these paragraphs enhances or is necessary to the preservation and promotion of reciprocal switching, which in turn, promotes competition between carriers for traffic and gives shippers shipping options at points of interchange.

At points where a serving carrier would lose its opportunity to perform line-haul service and reap the resulting line-haul revenues if it switches the traffic to a second carrier's line the first carrier still has some incentive—in the form of per diem payments—to participate in reciprocal switching if it can supply its own cars. We seek comments on whether the requirements of Rule 15 help to ensure that the serving carrier has such an incentive. The rule requires shippers to request cars from the carrier on whose line they are situated, and guarantees that carrier the right to provide the cars.

If serving carriers are not guaranteed the right to supply their own cars, would the carriers to which the cars are to be switched (that is, the carriers performing the major part of the line-haul movement) attempt to supply their cars to shippers on the serving carriers' lines, depriving the serving carriers of their opportunity to supply cars and receive per diem? If this occurs would the serving carrier refuse to perform the switch or cancel reciprocal switching agreements? Would the right of other carriers to retaliate adequately deal with any such problem?

We invite comments on these issues.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources. Nor will this action have a significant impact on a substantial number of small entities. Comments, however, are invited on these issues also.

List of Subjects in 49 CFR Part 1033

Railroads.

(49 U.S.C. 10101a, and 5 U.S.C. 553)

Dated: December 20, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35359 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1170 and 1002

Ex Parte No. MC-161 (Sub-No.1)

Employee Protection; Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments on notice of proposed rulemaking.

SUMMARY: At 47 FR 53297, November 24, 1982, the Commission proposed rules to establish procedures for determining the eligibility of individual employees for protection under the provisions of the Bus Regulatory Reform Act of 1982, and for publishing a periodic listing of jobs available with class I motor passenger carriers. In this notice, the Commission grants a request that the comment deadline be extended by 15 days from the original December 27 deadline.

DATES: Comments must be received by January 11, 1983.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-161 (Sub-No.1), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: James L. Brown, (202) 275-7898, or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: The American Bus Association (ABA) has filed a written request that the time for filing comments in this proceeding be extended until January 11, 1983. ABA contends that this additional time is necessary for the preparation of comprehensive comments during the holiday season.

The requested 15-day extension of time for the filing of comments in this proceeding is unwarranted. The extension should provide adequate time for all interested parties to prepare data and comments without unduly delaying the proceeding. Any further requests for an extension of time for the filing of comments in this proceeding will be denied.

It is ordered the request of the American Bus Association for an extension of time for the filing of comments in Ex Parte No. MC–161 (Sub-No. 1) is granted. Comments in this proceeding must be received by January 11, 1983.

Decided: December 23, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35362 Filed 12–29–82; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 1:00 P.M. on January 28, 1983 in the Conference Room of the Supervisor's Office located in Custer, South Dakota. The purpose of this meeting is to elect officers, acquaint new Board members with the allotment management plans, range betterment funds as well as to obtain views on the Board's functions for the year.

The meeting will be open to the public. Persons who wish to attend should notify Craig Whittekiend, Black Hills National Forest, phone 605/673–2251.

Dated: December 23, 1982.

James R. Mathers,

Forest Supervisor.

[FR Doc. 82–35396 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Nezperce National Forest Grazing Advisory Board; Meeting

The Nezperce National Forest Grazing Advisory Board will meet at 1:00 p.m., February 1, 1983, at the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The meeting will move to the Grangeville Elk's Club for a no-host dinner at 7:00 p.m.

The purpose of the afternoon meeting is to discuss range betterment funds and review allotment management plans. The Idaho Fish and Game Department will review their big game management plans.

The evening meeting will include a discussion of the upper limit for the number of livestock a permittee may have. The U.S. Fish and Wildlife Service will also discuss the wolf recovery study.

The meeting is open to the public. Comments and discussion from the public may be introduced after agenda items have been covered. Persons who wish to attend should notify Thomas L. Griffith, (208) 983–1950. Written statements may be filed with the board before or after the meeting.

Tom Kovalicky,

Forest Supervisor.

December 21, 1982.

[FR Doc. 82–35397 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Revised Notice of Intent To Prepare an Environmental Impact Statement; Quartz Hill Plan of Operations for exploration Activities; 1980–1983 Amendments 2, 3, and 4; Tongass National Forest, Ketchikan, Alaska

This notice revises the Notice of Intent published in the September 27, 1982, issue of the **Federal Register**. The USDA-Forest Service is in the process of preparing an Environmental Impact Statement for the 1980–83 Plan of Operations, Amendments 2, 3, and 4, for U.S. Borax and Chemical Corporation exploration activities in the Quartz Hill area. The project is located near Wilson Arm and Boca de Quadra in the Misty Fiords National Monument.

The previous notice estimated that the draft environmental impact statement would be completed by November 1982 and the final environmental impact statement by February 1983. This notice establishes new estimated dates for completion of the EIS process. The draft EIS is now expected to be completed by February 1983, and the final EIS is expected to be completed by May 1983. All other information contained in previous notice remains the same.

Dated: December 23, 1982.

J. Lamar Beasley,

Acting Chief, Forest Service.

[FR Doc. 82–35438 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on Friday, January 21, 1983, at 1:00 p.m. at the San Juan National Forest Office, Conference Room, 701 Camino del Rio, Durango, Colorado. The Board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The agency for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of effects of the Draft San Juan National Forest Land and Resource Plan on allotment management plans and utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify H. E. Bond, San Juan National Forest (303–247–4874) prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: December 22, 1982.

P. C. Sweetland,

Forest Supervisor.

[FR Doc. 82–35398 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Targhee Forest Grazing Advisory Board; Meeting

The Targhee National Forest Grazing Advisory Board meeting will be held February 9, 1983, at 1:00 p.m. at the Supervisor's Office, Targhee National Forest, 420 North Bridge St., St. Anthony, ID 83445.

The purpose of the meeting will be for the Board to make recommendations to the Forest Supervisor on range allotment planning and the use of range betterment funds scheduled for fiscal year 1983.

In accordance with the Federal Advisory Committee Act, (Pub. L. 92–463) this meeting is open to the public. Forest Supervisor John Burns requests that comments from non-board members be withheld until the conclusion of the business meeting.

For additional information, contact Phil Lee or Val Gibbs at the Targhee National Forest Supervisor's Office or telephone 208–624–3151.

John E. Burns,

Forest Supervisor.

[FR Doc. 82–35399 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Meat Import Limitations; First Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Public Law 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1983 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

In accordance with the requirements of the Act, I have made the following estimates:

1. The estimated aggregate quantity of meat articles prescribed by subsection 2(c) as adjusted by subsection 2(d) of the Act for calendar year 1983 is 1,119 million pounds.

2. The first quarterly estimate of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1983 is 1,224 million pounds.

Done at Washington, D.C. this 28 day of December, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82-35551 Filed 12-28-82; 5:11 pm]

BILLING CODE 3410-10-M

CIVIL RIGHTS COMMISSION

Arkansas Advisory Committee; Agenda and Notice of 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 Arkansas Advisory Committee to the Commission will convene at 10:00 a.m. on January 27, 1983 and will adjourn at 12 noon on January 28, 1983, at the Riverfront Hilton Inn, Two Riverfront Place, North Little Rock, Arkansas 72114. The purpose of this meeting will be to conduct the Advisory Committee discussion of program activities for fiscal year 1983, and to conduct a press conference to release the Committee's report on block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marcia McIvor, 1229 Lakeridge, Fayetteville, Arkansas 72701, (501) 442–0600 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 27, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35464 Filed 12-29-82; 8:45 am]

BILLING CODE 6335-01-M

Delaware Advisory Committee; Agenda and Notice of 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 3:00p and will end at 5:00 p, on February 10, 1983, at the Boggs Federal Office Building, 9th and King Streets, in Room 3207, Wilmington, Delaware, 10803. The purpose of this meeting is to report on the National Conference of State Advisory Committee Chairpersons; status reports on migrant project; civil rights in Delaware and program planning for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Patsy B. Blackshear, 2705 Riva Road, Annapolis, Maryland, 21401, (202) 724–4256 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C., (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35301 Filed 12-29-82; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of 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 Ohio Advisory Committee to the Commission will convene at 10:00a and will end at 3:00p, on January 22, 1983, at the Christopher Inn, 300 East Broad, Columbus, Ohio, 43215. The purpose of this meeting will be to conduct orientation for the newly appointed advisory members and to discuss program planning for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio, 45229, (513) 221–5656 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35302 Filed 12-29-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Rod From Venezuela; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration; Commerce.

ACTION: Final Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that the Department of Commerce has determined that carbon steel wire rod from Venezuela is being sold or is likely to be sold in the United States at less than fair value within the meaning of the antidumping law. The United States International Trade Commission will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a United States industry.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Case History

On February 8, 1982, we received a petition in proper form from Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp.,

Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co. filed on behalf of the U.S. industry producing carbon steel wire rod. The petitioners alleged that carbon steel wire rod from Venezuela is being sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act).

On March 1, 1982, upon examining the petition as required under section 732 of the Act, we determined that there existed sufficient grounds upon which to initiate an antidumping investigation (47 FR 9259).

On March 25, 1982, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is being materially injured or is threatened with material injury by reason of imports of carbon steel wire rod from Venezuela which are alleged to be sold at less than fair value. The ITC published notice of its determination on April 1, 1982 (47 FR 13927).

On March 15, 1982, we presented a questionnaire concerning the allegations to CVG-Siderurgica del Orinoco, C.A. (Sidor), the sole producer and/or exporter from Veneuzuela of the subject product.

The petitioners alleged that sales of the subject product to the United States had been made during calendar year 1981, the time period initially chosen as the period of investigation. Subsequently, Sidor informed us that although several shipments of its merchandise had entered the United States during 1981, the actual sales for these entries were made in late 1980. Accordingly, the period of investigation was extended to include these sales.

However, Sidor refused to include in its response to our questionnaire any of the requested sales information. Since the requested information was essential to this investigation, we therefore used the best information otherwise available in making our preliminary determination, in accordance with section 776(b) of the Act.

On July 19, 1982, we preliminarily determined that carbon steel wire rod from Venezuela was being, or was likely to be, sold in the United States at less than fair value (47 FR 31910). In our preliminary determination we afforded interested parties an opportunity to submit written views and to request a public hearing. No written views were submitted nor was a public hearing requested.

On August 31, 1982, the Department of Commerce (the Department) initialed a proposed agreement to suspend this investigation. The basis for the suspension was a proposed agreement between the Department and Sidor to cease exports of the subject product to the United States.

On the same date, in compliance with the procedural requirements of section 734(e) of the Act, we notified the petitioners of, and consulted with them regarding, the proposed agreement. At that time, we explained how the proposed agreement would be performed and enforced, how the agreement would meet the requirements of subsections 734(b) and (d) of the Act, and offered to answer any questions. Petitioners also received copies of the proposed agreement on that date and all parties to the investigation were permitted to submit comments and information for the record. No comments were received, however. In addition, the ITC was notified of the proposed agreement.

On October 1, 1982, we determined that the criteria for suspending an investigation were met. The Department and Sidor signed the agreement on that date. On October 7, 1982, notice of the suspension of investigation was published in the **Federal Register** (47 FR 44362).

On October 25, 1982, Sidor requested that this investigation be continued pursuant to section 734(g) of the Act. Therefore, we are making this final determination.

Scope of Investigation

The product covered by this investigation is carbon steel wire rod which is a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, valued over four cents per pound, currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Methodology of Fair Value Comparison

A comparision was made between the United States price and the foreign market value of the imported merchandise.

United States Prices

Purchase price was used to represent United States price because, according to the best information available, the price of carbon steel wire rod to unrelated purchasers in the United States was agreed to before the merchandise was imported into the United States.

Purchase price, as defined in section 772(b) of the Act, was calculated by dividing the total value (f.o.b. port of exportation) of carbon steel wire rod imported into the United States from Venezuela in 1981 by the total volume (in metric tons) of the same imports. The source of this information was Department of Commerce import statistics.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, the price of such or similar merchandise sold for consumption in the home market of Venezuela was used to determine foreign market value.

The petition included evidence of the price at which several home market sales were made. These sales prices included freight from the mill to the customer. We deducted the freight to arrive at an ex-mill price, and used the weighted average of these ex-mill prices to represent foreign market value.

Result of Comparison

We compared foreign market value with United States price calculated as above. The comparison results in a dumping margin of 40 percent.

ITC Notification

We have referred this case to the ITC so that it may determine whether these imports are materially injuring a U.S. industry. That determination is due within 45 days of the publication of this notice.

As section 735(c)(1)(A) of the Act requires, 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 it confirms that it will not disclose such information either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Adminstration.

If the final determination of the ITC is negative, the suspension agreement shall have no force or effect and the investigation shall be terminated. If the final determination of the ITC is affirmative, the agreement shall remain in force. The Department will not issue an antidumping order in the case as long as the agreement remains in force, the agreement continues to meet the requirements of sections 734 (b) and (d) of the Act, and the parties to the agreement carry out their obligations

under the agreement in accordance with its terms.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

December 17, 1982.

[FR Doc. 82-35436 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Negative Countervailing Duty Determination; Industrial Nitrocellulose From France

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of industrial nitrocellulose, as described in the "Scope of Investigation" section of this notice. However, the estimated net subsidy is *de minimis* and therefore our preliminary determination is negative. If this investigation proceeds normally, we will make our final determination by February 21, 1983.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in France of industrial nitrocellulose, as described in the "Scope of Investigation" section of this notice.

For purposes of this investigation we preliminarily determine that while preferential financing from Credit National, and grants from the Ministry of Defense and DATAR, confer benefits to Societe Nationale des Poudres et Explosifs (SNPE), the estimated net subsidy is *de minimis*, and therefore our preliminary determination is negative.

Case History

On September 14, 1982, we received a petition from counsel for Hercules, Incorporated, filed on behalf of the U.S. industry producing industrial nitrocellulose. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in France of the subject merchandise.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on October 4, 1982, we initiated a countervailing duty investigation (47 FR 44807). We stated that we expected to issue a preliminary determination by December 8, 1982. We subsequently determined that the investigation is "extraordinarily complicated." as defined in section 703(c) of the Act, and postponed our preliminary determination for two weeks until December 22, 1982 (47 FR 53441).

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On October 29, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening material injury of, a U.S. industry.

We presented questionnaires concerning the allegations to the government of France and to counsel for SNPE in Washington, D.C. On November 17, 1982, we received the responses to the questionnaires. A supplemental response was received on December 15, 1982.

Scope of Investigation

The merchandise covered by this investigation consists of industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen, not to be confused with explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. It is extremely flammable, so it is stored and shipped wet with alcohol. Industrial nitrocellulose comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing ink. This product is currently classified as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the *Tariff Schedules of the United States Annotated.* Explosive grade nitrocellulose is classified differently.

SNPE is the only producer and exporter in France of the subject merchandise which was exported to the United States. The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

Based on our analysis to date of the petition and the responses to our questionnaires, we have preliminarily determined the following.

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided under the programs described below to manufacturers, producers, or exporters in France of the industrial nitrocellulose included in this investigation.

(A) *Preferential financing—Credit National.*—Credit National (CN) is a semi-public credit institution, with special legal status, which issues medium- and long-term loans to French industry. Loan funds are raised by offering bonds in the public marketplace. These bonds are guaranteed by the government of France.

In addition, CN has participated in bank loans to French industries through such means as assuring the banks that they can rediscount the loans with CN. In effect, this constitutes a guarantee. In most cases, CN acts as only part of a loan syndicate. The terms of any loans CN makes on behalf of the French government are set by the French government.

There is some evidence suggesting that CN loans are available to all industries and regions. However, we are unable to establish that these loans are not given at the direction of the government of France, or that CN loans are generally available. Therefore, we preliminarily determine that these loans confer a subsidy within the meaning of the countervailing duty law, to the extent that they were provided at preferential, below-market rates.

The subsidy rate for any loan or loan guarantee from CN bank syndicates in which CN participated for which principal was still outstanding in 1981, and which was made at a rate below the commercial benchmark for a comparable loan in the year of issue, is calculated by comparing what a company would pay a commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benefits in the year the loan was made, using a risk-free interest rate as the discount rate. In other words, we determined the subsidy value of a

preferential loan as if the benefits had been bestowed in the year the loan was given. For the commercial benchmark, we used the monthly financial statistics on the secondary market yields of private bonds in France published by the Organization for Economic Cooperation and Development (OECD). For the discount rate, we used the average annual yield of public and semi-public sector bonds on the secondary market published by the OECD because it represents the best estimate of the risk-free rate in France. Dividing the present value of the 1981 benefit by all SNPE's 1981 sales, we calculated and *ad valorem* benefit of 0.043 percent.

(B) *Grants from the Ministry of Defense.*—In its 1979 annual report, SNPE indicates that the company had received FF 56 million, most of it in the form of an advance from the Ministry of Defense. The purpose of this advance was to partially finance the up-grading of the pyrotechnical safety arrangements in the government plants transferred to SNPE during the reorganization of the industry. Counsel for SNPE reports that while a portion of the funds took the form of a non-repayable grant, the majority of the funds were received in exchange for additional equity in the company. As discussed in the section entitled "Reorganization of the Explosive Powders and Substances Industry" in this notice, we have preliminarily determined that government equity participation in SNPE does not confer countervailable benefits. However, we preliminarily determine that those funds which were received in the form of a non-repayable grant and used by SNPE in plants involved in the production of industrial nitrocellulose confer a benefit within the meaning of the countervailing duty law.

The subsidy rate for this program is calculated according to the Department's usual methodology for grants. As indicated in several recent determinations, our allocation technique is a present value analysis which is based on the concept that a sum of money to be received in the future does not have the same value as that sum received today. *See* Appendix 2 to *Final Countervailing Duty Determinations: Certain Steel Products from Belgium*, 47 FR 39316–39317 (1982). The present value of any series of payments under this program is calculated using a risk-free discount rate. For France, we used the average annual yield of public and semi-public sector bonds on the secondary market published by the OECD because it represents the best estimate of the risk-free rate in France. Dividing the present value of the 1981 benefit by SNPE's 1981 industrial nitrocellulose sales, we calculated an *ad valorem* benefit of 0.327 percent.

(C) *Regional development incentives.*—The government of France provides a series of tax and non-tax regional incentives to French and foreign businesses to establish new, or to expand existing businesses in certain French regions.

The Delegation a l'Amenagement du Territoire et l'Action Regionale (DATAR) coordinates the programs of various government agencies and ministries. The Department has information which indicates that for incentive purposes, France is divided into four zones. Each zone, or part of a zone, is eligible for different types and levels of assistance. The assistance includes development grants, non-industrial grants, research and development grants, decentralization indemnities, and job training subsidies. Since there appears to be a regional preference in the manner in which programs are administered and funding allocated, we preliminarily determine that assistance provided through DATAR constitutes subsidies within the meaning of the Act.

SNPE reports the receipt of a grant in 1979, designated for the Bergerac plant, for the purpose of improving production. Using the Department's usual methodology for grants, we calculated an *ad valorem* benefit of 0.056 percent.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine that the French government is not providing subsidies to manufacturers, producers or exporters of industrial nitrocellulose under the following programs.

(A) *Reorganization of the Explosive Powders and Substances Industry.*—The government of France, as authorized by Law No. 575 of July 3, 1970, established guidelines and regulations for the reorganization of the explosive powders and substances industry. This action was taken pursuant to the requirements of the Treaty of Rome. According to Article 37 of the Treaty, European Community Member States were required to

> adjust any state monopolies of a commercial character so as to ensure that * * * no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States. The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.

Prior to the enactment of Law No. 575, Service des Poudres, a division of the French Ministry of Defense, retained monopoly control over the manufacture of and trade in powders and explosives, including industrial nitrocellulose, the merchandise subject to this investigation. In order to avoid any possible violation of the Treaty, in 1971 the government of France established the public corporation Societe Nationale des Poudres et Explosifs, transferred to it all of the industrial and commercial activities of Service des Poudres, and received shares of SNPE in return. The government of France remains the majority shareholder in SNPE, holding over 99 percent of its outstanding stock.

As a result of the reorganization of the explosive powders and substances industry and the incorporation of SNPE, petitioner alleges that the government of France has subsidized SNPE as follows:

(1) Equity participation

(a) *Acquisition of assets.*—Petitioner alleges that SNPE acquired all its land, equipment, and other assets—including its plants at Bergerac, St. Medard, Sorgues, Vonges and Le Bouchet—from the Ministry of Defense in 1971 without any cost to it, thereby constituting a "provision of capital on terms inconsistent with commercial considerations," as defined by section 771(5)(B)(i) of the Act.

Counsel for SNPE indicates that the transfer of operations and assets from Service des Poudres to SNPE occurred in several stages over the past 10 years in accordance with the applicable rules governing the transfer of corporate assets in France. The valuation of those assets and the mechanism by which the transfer occurred were monitored by the President of the Commerce Court in Paris. In exchange for the commercial activities and industrial facilities of Service des Poudres, SNPE issued equity to the government of France in amounts equal to the value of the transferred assets.

(b) *Facilities modernization.*—Prior to the reorganization of the industry, the government of France had instituted a program for the modernization of the facilities of Service des Poudres. Included in that modernization program were plans to upgrade all facilities so that they would be in compliance with the regulations governing pyrotechnical safety, security and environmental protection. SNPE has continued the required modernization program. The costs of that program have been covered

by the government, which has received equity shares from SNPE in return.

As previously stated, petitioner alleges that the various government of France equity infusions into SNPE confer a countervailable benefits equal to the entire amount of the equity infusions. Counsel for SNPE claims that the equity infusions are the result of a mandated divestiture of the government's commercial operations, and thus do not confer subsidies on the company.

It is well settled that neither government equity ownership *per se*, nor any secondary benefit to the company reflecting the private market's reaction to government ownership, confers a subsidy. Government ownership confers a subsidy only when it is on terms inconsistent with commercial considerations. We have no evidence at present which indicates that the equity infusions were on terms inconsistent with commercial considerations.

Therefore, we preliminarily determine that SNPE has not received benefits which constitute subsidies within the meaning of the countervailing duty law resulting from equity participation by the government of France.

(2) Composition of SNPE's workforce

When SNPE was incorporated, all military and civilian personnel of Service des Poudres were placed at the disposal of the president of the company, as authorized by Article 5 of Law No. 575 dated July 5, 1970. After a period of one year, those employees had the option of either: (a) Being placed again at the disposal of the Minister of National Defense; or (b) being recruited by SNPE in accordance with the provisions of the labor laws. Employees with government civil service status in the facilities transferred to SNPE had the option of retaining their status. If that option were elected, then those employees would continue to be subject to the terms applicable to government employees in any facility which falls under the jurisdiction of the Minister of National Defense.

Petitioner alleges that SNPE is relieved of the payment of certain wage costs due to the fact that a portion of its workforce maintains civil service status. According to the 1982 Report of the Auditor General's Office, there are still a number of government workers employed at SNPE. In all cases, however, SNPE is responsible for the payment of the salaries and benefits of all its employees. In fact, SNPE has experienced increases in personnel expenditures resulting from the employment of workers with civil service status. Because of the recent salary raises granted by the Minister of Defense to workers with such status, SNPE was required to grant similar increases to those non-status workers represented by the Union of Chemical Industries.

Therefore, based upon information currently available, we preliminarily determine that no countervailable benefits are conferred as a result of SNPE's employment of workers with civil service status.

(B) *Research and Development (R & D) Assistance.*—SNPE reported receiving funding for R & D projects from the French government through the Direction Generale a la Recherche et a la Technologie (DGRT), formerly the Delegation Generale a la Recherche Scientifique et Technique, a subdivision of the Ministry of Research and Industry.

Information indicates that DGRT funding is awarded neither on a regional nor industry-specific basis, and research results are made publicly available. Therefore, we preliminarily determine that the amounts received through these programs do not confer subsidies within the meaning of the Act.

(D) *Labor Programs.*—SNPE indicates that it has participated in the following labor programs:

- *Contract Emploi-Formation*—Under this program, the government of France provides funds for the training of young people first entering the job market.
- *Reduction of Benefit Costs*—Under this program, companies may reduce by 50 percent for up to one year the amount of payments made to the government for health insurance, pensions and family allowances on behalf of those young people who are given new jobs.

Inasmuch as assistance under these programs is available to all industrial sectors and not specific to any particular region in France, we preliminarily determine that no countervailable benefit exists.

III. Programs Preliminarily Determined Not to be Used

We preliminarily determine that the following programs are not used by the manufacturers, producers, or exporters of the product subject to this investigation.

(A) *Fonds de Developpement Economique et Social (FDES).*—Created by the French Parliament in 1955, FDES is a fund which provides loans to businesses and corporations in order to further the French government's economic, social, industrial, and regional development objectives.

Based upon our investigation, we preliminarily determine that SNPE has not had any FDES loans outstanding in 1981.

(B) *Caisse des Depots et Consignations (CDC).*—CDC is a government institution that invests funds deposited in the Caisses d'Epargne (the French savings banks), pension funds, and insurance company deposits. CDC makes both short- and long-term loans to various industries.

Based upon our investigation, we preliminarily determine that SNPE has not had any CDC loans outstanding in 1981.

(C) *Fonds Special d'Adaptation Industrielle (FSAI).*—FSAI was established in 1978 to promote job creation and industrial diversification in various industries in France.

Based upon our investigation, we preliminarily determine that SNPE has not received any funds from the FSAI.

(D) *Loan Guarantees.*—Based upon our investigation, we preliminarily determine that SNPE has not received any loan guarantees from the French government, or any financial institution controlled or directed by the government.

(E) *Fonds National de l'Emploi (FNE).*—FNE was established in 1963 to provide vocational training programs, and relocation and early retirement allowances to workers that are confronted with industrial changes brought about by economic development.

Based upon our investigation, we preliminarily determine that SNPE has not received any funds from the FNE.

(F) *Early Retirement and Layoff Benefits.*—French corporations have certain statutory and contractual obligations to pay severance to their employees in case of interruption or cessation of employment. There are several French government early retirement plans designed to compensate for the effects of mass layoffs.

We have no evidence that SNPE has received benefits under these early retirement plans.

(G) *National Agency for Energy Conservation (NAEC).*—The NAEC provides grants to industries in France for the purpose of conserving energy. SNPE indicates that it has received funds from this program for the installation of energy saving equipment, heating and cooling systems, boilers, and water distribution systems at its Le Bouchet, Pont-de-Buis, St. Medard, Sorgues and Toulouse plants. All of these funds, however, were expressly designated and used solely for plants other than Bergerac, the only SNPE

plant involved in the manufacture of industrial nitrocellulose.

(H) *Grants from the River Dock Agency.*—Various grants are awarded by the local River Dock Agencies to industries in France for the purpose of disposal of industrial wastes. SNPE indicates that it has received funds from this program for the regeneration and treatment of waste acids at its Sorgues plant. All of these funds, however, were expressly designated and used solely for plants other than Bergerac, the only SNPE plant involved in the manufacture of industrial nitrocellulose.

(I) *Local Business Tax Deductions.*—Under the direction of the French tax authority ("Direction Generale des Imports"), all French industries are eligible for reductions of local business taxes ("taxe professionelle") for the purpose of expansion of business activities. SNPE has received tax reductions in 1980 for expansion at its Angoulene plant. All of these funds, however, were expressly designated and used solely for plants other than Bergerac, the only SNPE plant involved in the manufacture of industrial nitrocellulose.

IV. Programs for Which Additional Information is Needed

We preliminarily determine that additional information is needed for the following programs alleged by the petitioner to provide countervailable benefits to the manufacturers, producers, or exporters in France of the merchandise subject to this investigation.

(A) *Reduced Input Costs.*—Petitioner alleges that SNPE benefits from reduced costs of inputs purchased from other institutions owned or controlled by the government of France. In its questionnaire response, SNPE indicates that it purchases gas, electric power, nitric acid, and oleum from unrelated government-controlled institutions at arm's length.

We will seek additional information on the costs of these inputs to SNPE and to other industries of similar size and demand.

(B) *Subvention d'equipment (Equipment Subsidies).*—Petitioners allege that SNPE has received grants from the government of France for the purchase of capital equipment. The cumulative value of these grants appears in SNPE's 1981 balance sheet under the heading "Subvention d'equipment." Counsel for SNPE indicates that these funds are available to all industrial sectors in France for projects such as pollution control, energy conservation and waste disposal, and are administered through various local governmental agencies.

We will seek additional information on the agencies which serve as the sources of funds that are accounted for in SNPE's financial statement.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Summary of Preliminary Benefits

We preliminarily determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to SNPE, the only known manufacturer, producer or exporter in France of industrial nitrocellulose in an amount equal to 0.426 percent *ad valorem*. However, because the net subsidy rate is *de minimis*, our preliminary countervailing duty determination is negative.

ITC Notification

In accordance with section 703(e) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9 a.m. on January 25, 1983, at the U.S. Department of Commerce, Room 3708, 14th 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 3099B, at the above address within 10 days of this notice's publication. 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 must be submitted to the Deputy Assistant Secretary by January 18, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.43, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: December 22, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-35437 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Argentina; Preliminary Results of Administrative Review and Proposed Amendment To Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review and Proposed Amendment to Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Argentina. The review covers the period March 13, 1981 through December 31, 1981. As a result of the review, the Department has reason to believe that the Government of Argentina possibly breached the agreement. The Department is proposing an amendment to the agreement to ensure compliance with its terms in the future. Interested parties are invited to comment on these preliminary results and proposed amendment to the suspension agreement.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 16697) a notice of suspension of countervailing duty investigation regarding leather wearing apparel from Argentina. The Department noted that the suspension agreement between the Government of Agrentina and the Department met the criteria provided in sections 704(b) and (d) of the Tariff Act of 1930 ("the Tariff Act"). The Government of Argentina requested that the investigation be continued, and on April 23, 1981, the Department published in the **Federal Register** (46 FR 23090) a notice of final affirmative countervailing duty determination. In the notice suspending the investigation, the Department announced its intent to conduct an administrative review of the suspension agreement within twelve months, as provided in section 751 of the Tariff Act. The Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather and parts and pieces of leather wearing apparel. The review covers the period March 13, 1981 through December 31, 1981, and the two programs found to constitute subsidies in the final determination, preferential pre-export financing and the reembolso program.

Analysis of Programs

Preferential pre-export financing is a program that makes funds available to exporters, at an interest rate of one percent, in pesos indexed to U.S. dollars. The funds are provided by the Central Bank of Argentina and are lent by private commercial banks to individual corporate borrowers. In the final affirmative determination, the Department found the program countervailable. In the course of the review, we found that one such loan was provided to Commercio Internacional, one of several exporters of leather wearing apparel to the United States, during the review period; and two such loans were provided to the same exporter in February, 1982. Commercio Internacional received a benefit of 0.19 percent *ad valorem* from the loan received during the review period.

The reembolso is a rebate upon export of indirect and direct taxes paid on merchandise as a percentage of f.o.b. invoice price. In the final affirmative determination, the Department found a countervailable overrebate of indirect taxes of 3.02 percent *ad valorem*. The overrebate was determined to be the difference between a 20 percent level of payments to exporters and a 16.98 percent level of indirect taxes allowable under the U.S. countervailing duty law.

Adopting the results of the final affirmative determination, the Argentine government set the reembolso rate at 16.98 percent. This rate was made retroactively applicable to all exports of leather wearing apparel on or after January 28, 1981. Effective January 30, 1981, the government eliminated certain import and other indirect taxes. This reduced the level of allowable indirect taxes to 14.65 percent of the f.o.b. invoice price. Since the reembolso was now 16.98 percent, the Argentine government was overrebating the indirect taxes in the amount of 2.33 percent during most of the review period.

Effective December 24, 1981, the Government of Argentina lowered the reembolso rate to 10 percent thereby eliminating the overrebate.

For shipments of parts and pieces of leather wearing apparel the reembolso payments were set at 10 percent of the f.o.b. invoice price during the whole review period. Therefore, no subsidy was conferred.

Compliance with Agreement

The overrebate of indirect taxes through December 23, 1981 is a possible breach of subparagraph B(1) of the suspension agreement which prohibited reembolos payments constituting a subsidy on shipments of leather wearing apparel to the United States on or after January 28, 1981. We have received official notification from the Argentine government establishing a 5 percent rate of reembolso for al exports of leather wearing apparel and zero percent for parts and pieces thereof, effective July 6, 1982. The three loans provided to Comercio Internacional are possible breaches of subparagraph B(2) of the suspension agreement which provided that no preferential pre-export financing would be provided on shipments of leather wearing apparel to the United States on or after January 28, 1981. The Ministry of Economy of Argentina has provided Central Bank Communique "c" 504 prohibiting preferential pre-export financing on all shipments of leather wearing apparel to the United States, effective November 23, 1982.

The Argentine government has certified that no new or equivalent programs have been instituted with regard to these exports, in accordance with subparagraph B(3) of the agreement.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, from March 13, 1981 through December 23, 1981, the Government of Argentina, by overrebating indirect taxes, provided a net subsidy of 2.33 percent of the f.o.b. invoice price on shipments of leather wearing apparel to the United States. The Argentine government also provided a net subsidy of 0.19 percent *ad valore* through preferential pre-export financing. The aggregate net subsidy during the period was 2.52 percent *ad valorem*.

Although the agreement was possibly breached, such breaches do not constitute intentional violations. Therefore, in accordance with § 355.32(b) of the Commerce Regulations, the Department entered into discussions with the Argentine government and the petitioner to consider an amendment to the suspension agreement. The proposed amendment in Annex I of this notice is a result of those discussions. During the process of negotiating the amendment, we have informed the petitioner of all developments and provided opportunities to comment on the proposed amendment. The Ministry of Economy is prepared to provide immediate notification of any changes in the reembolso rate and in indirect tax rates to the department. In addition, the Ministry of Economy agrees to provide, and indeed has already provided, documentation that the Central Bank has prohibited preferential re-export loans on shipments of leather wearing apparel to the United States.

Finally, the Department is determined not to allow the review of suspended investigations to degenerate into a continual negotiating process. Therefore, we preliminarily determine that, if the proposed amendment is put into effect and if we subsequently discover a breach of the amended agreement, we will make no attempt to renegotiate the agreement and will issue a countervailing duty order on this merchandise.

Interested parties may submit written comments on these preliminary results and proposed amendment within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made not later than 5 days after the date of publication. The Department will publish the final results of this administrative review, and possible amendment to the agreement, including the results of its analysis of any issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 21, 1982.

Annex I—Proposed Amendment to Suspension Agreement of January 28, 1981 Leather Wearing Apparel From Argentina

Paragraph B is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the word "The" in subparagraph 2.

Paragraph B is amended by striking the word "Government" and inserting the words

"Ministry of Economy" after the word "The" in subparagraph 3.

Paragraph B is amended by inserting the following new subparagraph after the word "above." in subparagraph 3:

"4. The Department agrees to suspend the countervailing duty investigation with respect to leather wearing apparel from Argentina."

Paragraph C is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the word "The".

Paragraph C is amended by inserting the following new subparagraphs after the word "and" in subparagraph 1:

"2. Immediately provide copies of any resolutions, decrees or legislation governing the changes in the level of reembolso payments or of the indirect taxes rebated by these payments on any shipments of leather wearing apparel to the United States, as soon as such changes occur; and

"3. Provide documentation that the Central Bank prohibits the preferential pre-export financing provided directly or indirectly on any shipments of leather wearing apparel to the United States; and

"4. Notify the Department within 15 days after the end of each quarter (March, June, September, December) that the government remains in compliance with the terms of this agreement as provided in paragraph B subparagraphs (1), (2) and (3) of the agreement; and"

Paragraph C is amended by striking the present subparagraph number 2 and inserting in lieu thereof the number 5.

Paragraph C is amended by inserting the following new subparagraph after the word "Act." in subparagraph 5.

"6. The suspension agreement for leather wearing apparel will remain in effect until the conditions of the section 751(c) of the Act are met, unless the Department determines that paragragh D of the agreement applies."

Paragraph D is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the words "Department determines that the".

Paragraph D is amended by inserting the words "as provided for in section 704(i) of the Act" after the words "under the Agreement" and after the words "no longer practicable".

Paragraph E is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the word "The".

Signed in Washington, D.C. on this — day of ——, 1982, for the Argentine Ministry of Economy.

Santiago Murray,

Minister Counselor, Economic and Commercial Embassy of the Argentine Republic.

I have determined that the amendment to the suspension agreement is necessary to safeguard against any future breaches of the agreement and ensures that the provisions of the agreement can be monitored effectively. Therefore, I have determined that the amendment to the suspension agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

U.S. Department of Commerce.

By Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-35378 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

California Coastal Management Program; Appeal by Union Oil Company

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On December 17, 1982, the Secretary of Commerce received an appeal by the Union Oil Company (Union) from an objection by the California Coastal Commission to Union's certification that its Exploration Plan to drill two wells within the boundaries of the Santa Barbara Channel Islands National Marine Sanctuary is consistent with the California Coastal Management Program. This appeal has been filed pursuant to section 307(c)(3) (A) and (B) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR 930.120 *et seq.* Interested persons are advised that they may submit comments to the Secretary of Commerce on the issues raised by the parties to this appeal within 30 days from the date of this notice. Such comments should be sent to Peter Tweedt, Acting Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven St. NW., Washington, D.C. 20235. Copies of comments should also be sent to the following persons:

1. Timothy R. Thomas, Union Oil Company of California, 461 South Boyston St., Los Angeles, CA 90017.
2. Linda Breeden, California Coastal Commission, 631 Howard St., 4th Floor, San Francisco, CA 94105.
3. Reid T. Stone, Regional Manager, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Los Angeles, CA 90017.

Access to Union's notice of appeal and accompanying public information, and to the public information contained in comments by Federal and state agencies, is available to the public at the following State and Federal offices:

1. California Coastal Commission, 631 Howard St., 4th Floor, San Francisco, CA 94105.

California Coastal Commission, South Central District, 735 State St., Suite 612, Santa Barbara, CA 93101.

California Coastal Commission, South Coast District, 240 W. Broadway, Suite 380, P.O. Box 1450, Long Beach, CA 90802.

2. Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, Room 270, 3300 Whitehaven St. NW., Washington, D.C. 20235.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: December 27, 1982.

JoAnn Chandler,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 82-35462 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-08-M

Issuance of Permit

On October 27, 1982, Notice was published in the **Federal Register** (47 FR 47626), that an application had been filed with the National Marine Fisheries Service by Mr. Gregory Dean Kaufman and Mr. Roger Kevin Wood, Pacific Whale Foundation, P.O. Box 1083, Makena, Maui, Hawaii 96753, for a permit to take humpback whales (*Megaptera novaeangliae*) by inadvertent harassment for the purpose of scientific research.

Notice is hereby given that on December 21, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Scientific Research Permit to Gregory D. Kaufman and Roger Kevin Wood for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region,

300 South Ferry Street, Terminal Island, California 90731.

Dated: December 21, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 82-35461 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-22-M

Virgin Islands Coastal Management Program, Washington Coastal Management and Coastal Energy Impact Programs, and Ohio Coastal Energy Impact Program and Estuarine Sanctuary (Old Woman Creek); Intent To Evaluate

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of intent to evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces its intent to evaluate the performance of the Virgin Islands Coastal Management Program, and the Washington Coastal Management and Coastal Energy Impact (CEIP) Programs in February 1983; and the Ohio Coastal Energy Impact Program and Estuarine Sanctuary (Old Woman Creek) in March 1983. These reviews will be conducted pursuant to Section 312 of the Coastal Zone Management Act (CZMA) which requires a continuing review of the performance of the states with respect to coastal management, and their adherence to the terms of financial assistance awards funded under the CZMA. Coastal zone management is funded under Section 306, CEIP is funded under Section 308, and the Estuarine Sanctuary Program under Section 315 of the CZMA. The reviews involve consideration of written submissions, a site visit to the state, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits. Notice of these meetings will be issued by each state. Copies of each state's most recent performance report, as well as the OCRM's notification letter and supplemental information request to the state, are available upon request from the OCRM. A subsequent notice will be placed in the **Federal Register** announcing the availability of the Final Findings based on each evaluation once these are completed. For further information contact Darrell H. (Bill) Stearns, Acting Evaluation Officer, Office of Ocean and Coastal Resource Management, Page Building 1, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (telephone: 202/634-4245).

Dated: December 27, 1982.

Peter Tweedt,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 82-35463 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to EAN-TECH, INC. having a place of business at Daly City, California an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Multi Slab Gel Casting and Electrophoresis Apparatus," U.S. Patent Application 6-402,353 (dated July 27, 1982). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be sumitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: December 21, 1982.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-35317 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to EAN-TECH, INC. having a place of business at Daly City, California an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Electrofocusing in Buffers," U.S. Patent 4,139,440 (dated February 13, 1979). Copies of the Patent may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: December 21, 1982.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-35319 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of commerce, intends to grant to EAN-TECH, INC. having a place of business at Daly City, California and exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Isoelectric Focussing-Polynucleotide/Polyacrylamide Gel Ectrophoresis," U.S. Patent Application 6-402,352 (dated July 27, 1982). Copies of the Patent Application may be obtained from the Office of Government Inventions and

Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: December 21, 1982.

George Kudravetz,

Manager, Office of Government Inventions and Patents National Technical Information Service, Department of Commerce.

[FR Doc. 82-35320 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of the Interior

6–293,027 Removal of Suspended Solids from Water

6–316,259 Apparatus for Controlling the Level of Fluid in a Tank

6–318,710 Removal of Heavy Metals from Water

6–325,269 Removal of Heavy Metals from Water

6–327,539 High Temperature Hydrolysis of Aluminum Sulfate Solution

6–327,544 Recovery of Gallium from Acid Process Solutions

6–259,349 Composite Membrane for Reverse Osmosis

6–299,439 Recovery of Metals from Geothermal Brine

6–310,583 Treatment of Superalloys for Recovery of Metal Values

6–324,174 Method and Apparatus for Determining the Petroleum Content in a Rock Mass to Determine the Methane Gas Content of the Rock Mass

6–324,759 Oxygen Injection in Reverse Osmosis Desalination

6–340,925 Production of Metal Powder

6–348,117 Recovery of Potassium from Ores

6–376,851 Suspended Sediment Sensor

6–383,060 Concentrating and Reclaiming Magnetic Fluids

Department of Agriculture

6–352,662 Encapsulation by Entrapment Within Polyhydroxy Polymer Borates

Department of the Interior

6–391,315 Liquid-Liquid Extraction of Cobalt

6–391,316 Apparatus for the Efficient Mixing of Liquids and Gases

6–396,924 Desulfurization of Carbonaceous Materials

6–397,735 Recovery of Tungsten from Brines

6–401,994 Apparatus for Supporting a Plurality of Seismometers

6–411,155 Method for Separation of High-Copper and Low-Copper Aluminum-Silicon Alloys

6–416,191 Removal of Arsenic from Aqueous Solutions

6–416,192 Method of Enhancing the Removal of Methane Gas and Associated Fluids from Mine Boreholes

Department of Agriculture

6–423,402 Microemulsions from Vegetable Oil and Aqueous Alcohol with 1-Butanol Surfactant as Alternative Fuel for Diesel Engines

6–427,229 Microemulsions from Vegetable Oil and Aqueous Alcohol with Trialkylamine Surfactant as Alternative Fuel for Diesel Engines

6–366,754 Method and Apparatus for Edgewise Compression Testing of Flat Sheets

6–345,512 Salt-Tolerant Microbial Xanthanase and Method of Producing Same

6–352,426 Process for the Decolorization of Pulp Mill Bleach Plant Effluent

Department of Health & Human Services

6–375,553 Lysis of Trypanosoma Cruzi

Department of Agriculture

6–407,232 Implantation Device for Use in Vivo Stimulation and Collection of Monocytes from Peritoneum of Vertebrate

6–396,521 Apparatus to Regulate Dispensing of Agricultural Chemicals by Rope Wick Applicators

6–314,323 Altered Brining Properties of Produce by a Method of Pre-Brining Exposure of the Fresh Produce to Oxygen or Carbon Dioxide

6–356,870 Control of Sicklepod, Showy Crotalaria, and Coffee Senna with a Fungal Pathogen

6–356,864 Control of Prickly Sida, Velvetleaf, and Spurred Anoda with Fungal Pathogens

6–378,317 Rope Wick Chemical Recovery Apparatus

6–385,204 A Process for Producing Durable Press Fabrics Through Phosphorylation

6–385,163 A Method for Separating Closed Bolls of Cotton By Maturity

6–377,509 Control of Mycotoxin Production by Chemically Affecting Fungal Growth

Department of the Interior

6–251,404 (4,358,160) Air Diversion and Dust Control System for Longwall Shearers

Department of Agriculture

6–258,483 (4,359,534) Conversion of D-Xylose to Ethanol by the Yeast Pachysolen Tannophilus

[FR Doc. 82-35403 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From India, Effective January 1, 1983, Under a New Bilateral Agreement

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool, and man-made fiber textile products imported from India, effective on January 1, 1983.

SUMMARY: On December 21, 1982, the Governments of the United States and India signed a new four-year Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement beginning on January 1, 1983 and extending through December 31, 1986. The agreement establishes, among other things, levels of restraint for cotton, wool, and man-made fiber textile products in Group II (Categories 330–359, 431–459, and 630–659) and in individual Categories 335, 336, 338, 339, 340, 341, 342, 347, 348, and 363) during the agreement year which begins on January 1, 1983 and extends through December 31, 1983. In the letter published below, the Chairman, Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of textile products in the foregoing categories,

produced or manufactured in India and exported during the twelve-month period which begins on January 1, 1983, in excess of the designated levels.

A detailed 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 27, 1982.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 21, 1982, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced of manufactured in India, and accompanied by a visa, in excess of the indicated twelve-month levels of restraint:

Category and Twelve-Month Level of Restraint

330–359, 431–459, and 630–659—100,000,000 square yards equivalent
335—130,000 dozen
336—235,895 dozen
338/339/340—1,065,780 dozen
341—2,332,595 dozen
342—310,866 dozen
347/348—200,000 dozen
363—15,000,000 numbers

Floor coverings in T.S.U.S.A. Numbers 360.06, 360.10, 360.15, 360.76, 360.78, 361.42, 361.45, and 361.54, exported on and after January 1, 1983, do not require an export visa or certification for exemption.

In carrying out this directive, cotton, wool, and man-made fiber textile products in all of the foregoing categories, and in Categories 360–362, 369, 464–469, 665–669, produced or manufactured in India and exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject, as applicable, to the levels set forth in this directive.

Cotton textile products in Categories 336, 338/339/340, 341, and 347/348, produced or manufactured in India and exported during 1982, which are accompanied by the elephant certification and which are in excess of the special levels of restraint established for those categories during 1982, shall also be charged to the levels set forth in this directive.

The levels of restraint set forth above are subject to adjustment in the future, as applicable, according to the provisions of the bilateral agreement of December 21, 1982, between the Governments of the United States and India which provide, in part, that: (1) Group and specific limits may be exceeded by designated percentages for swing, carryover, and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed 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).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool, and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-36474 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Establishing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Republic of Korea, Effective on January 1, 1983

December 23, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Korea and exported during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, under a new agreement.

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982 between the Governments of the United States and the Republic of Korea establishes levels of restraint, among other categories, for Categories 331, 333/334, 335, 338/339, 340, 341, 347/348, 353/354/653/654, 410, 433/434, 440, 443, 444, 445/446, 447, 604, 605 pt., 633/634/635, 638/639, 640, 641, 643, 645/646, 648, 659 pt., and 669 pt. for the agreement year beginning on January 1, 1983. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated amounts during the agreement year beginning on January 1, 1983. The levels of restraint for Category 640 (other than dress shirts), and 645/646 have been reduced to account for overshipment charges.

A detailed 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 23, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 331, 333/334, 335, 338/339, 340, 341, 347/348, 353/354/653/654, 410, 433/434, 440, 443, 444, 445/446, 447, 604, 605 pt., 633/634/635, 638/639, 640, 641, 643, 645/646, 648, 659 pt., and 669 pt., produced or manufactured in Korea, in excess of the indicated levels of restraint:

Category	Twelve-month level of Restraint
331	442,809 dozen pairs.
333/334	58,560 dozen.
335	59,796 dozen.
338/339	561,025 dozen.
340	181,659 dozen.
341	113,172 dozen.
347/348	270,807 dozen.
353/354/653/654	213,162 dozen.
410	4,433,199 square yards.
433/434	16,858 dozen of which not more than 12,871 dozen shall be in Category 433 and not more than 6,601 dozen shall be in Category 434.
440	208,124 dozen.
443	26,838 dozen.
444	3,945 dozen.
445/446	50,918 dozen.
447	81,395 dozen.
604	535,474 pounds.
605 pt.[1]	2,120,000 pounds.
633/634/635	1,391,219 dozen of which not more than 175,732 dozen shall be in Category 633; not more than 809,532 dozen shall be in Category 634; and not more than 614,636 dozen shall be in Category 635.
638/639	5,540,884 dozen.
640 pt.[2]	3,747,,933 dozen.
640 pt.[3]	2,375,498 dozen.
641	1,006,747 dozen.
643	59,612 dozen.
645/646	3,238,018 dozen.
648	317,152 dozen.
659 pt.[4]	2,331,463 pounds.
669 pt.[5]	1,590,000 pounds.

[1] In Category 605, only TSUSA numbers 316.5500 and 316.5800.
[2] In Category 640, only TSUSA numbers 379.3130, 379.3334, 379.9535, 379.9540, 379.9639.
[3] In Category 640, all TSUSA numbers in the category except those listed in footnote 2.
[4] In Category 659, only TSUSA numbers 703.0500, 703.1000, and 703.1515.
[5] In Category 669, only TSUSA numbers 348.0065, 348.0075, 348.0565, and 348.0575.

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 331 and 410, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 331 and 410 that have been exported prior to January 1, 1983, shall not be subject to this directive.

The levels set forth above are subject to adjustment according to the provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textiles Agreement of December 14, 1982 which provide, in part, that: (1) During any agreement year specific limits and sublimits may be exceeded by designated percentages, provided a corresponding reduction in square yards equivalent is made in one or more other specific levels; (2) under specified conditions specific limits and sublimits may be adjusted for carryover and carryforward not to exceed 10 percent; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any adjustments under the foregoing provisions of the agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (49 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter willl be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35224 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Amending the Export Visa and Exempt Certification Mechanisms for Certain Cotton, Wool, and Man-Made Fiber Textile Products From India Under a New Bilateral Agreement

December 28, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Effective on January 1, 1983, under the terms of a new bilateral textile and apparel agreement between the Governments of the United States and India, the visa and exempt certification mechanisms established for certain cotton, wool, and man-made fiber textile products, produced or manufactured in India, are being amended:

(1) To discontinue use of the elephant certification previously used to identify apparel products made from handloomed fabrics, but not wholly by hand. Such goods, exported on and after January 1, 1983, will be visaed using the circular visa in the same manner as other goods subject to the ceilings of the bilateral agreement are currently required to be visaed.

(2) To include a revised definition pertaining to "India Items" overall and more precise definitions of certain individual items. The new list is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

SUMMARY: On December 21, 1982, the Governments of the United States and India exchanged notes establishing a new Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, which includes provision for visa and exempt certification mechanisms which differ in several respects from those established under the previous agreement.

EFFECTIVE DATE: January 1, 1983 for goods subject to the terms of the bilateral agreement which have been exported on and after that date.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On October 22, 1982, a notice was published in the **Federal Register** (47 FR 47056) announcing termination on December 31, 1982, of the export visa and exempt certification mechanisms established for certain cotton, wool, and man-made fiber textile products, produced or manufactured in India. The date of termination of these requirements coincided with the expiration of the existing bilateral agreement between the Governments of the United States and India. Because the two governments have signed a new agreement in the meantime, it has not been necessary formally to terminate the existing visa and exempt certification mechanisms. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile

Agreements directs the Commissioner of Customs to amend the directive of November 26, 1979, further to include the modifications agreed under the new agreement.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 28, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 26, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption, of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India, for which the Government of India had not issued an appropriate export visa or certain specified certifications.

Effective on January 1, 1983, the directive of November 26, 1979 is further amended to discontinue use of the elephant-shaped certification previously used to identify apparel products made from handloomed fabrics, but not wholly by hand. Such goods, exported on and after January 1, 1983, shall be visaed using the circular visa presently used for goods subject to the ceilings of the bilateral agreement in order to be entered into the United States for consumption, or withdrawn from warehouse for consumption. The list of "India Items" has been revised and is enclosed.

Floor coverings in T.S.U.S.A. Numbers 360.06, 360.10, 360.15, 360.76, 360.78, 361.42, 361.45, and 361.54, exported on and after January 1, 1983, do not require an export visa or certification for exemption.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool, and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Enclosure.

Agreed List of Traditional Folklore Handicraft Textile Products of India—"India Items"

Headnote

"India Items" are traditional folklore handicraft textiles products made in the cottage industry. They comprise clothes, clothing, accessories, and decorative furnishings whose shape and design are traditionally and historically India.

These products should not include zip fasteners and must be ornamented in the characteristic Indian folk styles using one of the following methods:

(a) Handpainting (including Kalamkari) or handprinting or handicraft tie and dye or handicraft Batik,

(b) Embroidered or crochetted ornamentation,

(c) Applique work of sequins, glass or wooden beads, shells, mirrors or ornamental motif of textile and other materials,

(d) Extra weft ornamentation of cotton, silk, zari (metal thread in gold/silver), wool or any other fibre yarn.

Exceptions: Churidar pyjama, salwar, and gararra need not be ornamented.

Definitions

1. Kurta: A loose, almost straight cut tunic of any length from the hips to the ankles with quarter, half or full length narrow or loose sleeves, with or without buttons at the neck or cuff but without out-turned shirt-style cuffs or out-turned shirt collar.

2. Churidar Pyjama or Churidar Set: A pair of trousers, loose at waist, with either draw string or hooks and tapering to a tight fit from mid-calf to ankle. It is traditionally a Moghul costume worn by Indian women since the 16th century along with a Kurta and Dupatta (an oblong scarf).

3. Jawahar Jacket: A loose-fitting coat or vest of waist or hip length with or without buttons traditionally worn over kurtas or kameez by men and women.

4. Pherron: A full-length loose dress with long loose sleeves. Intricate embroidery depicting floral designs is done around neck of this costume.

5. Angharkha: A traditional garment extending from the neck to knee length or below with long sleeves but no out-turned collar. It has a full frontal opening with decorative string or ribbon used as closures at the sides or center. This garment can be of quilted material also.

6. Bagal Bandini: A garment similar to Angharkha, hip length or longer, with a wrap-around effect and tied at the sides.

7. Ghagra/Lahnga: An ankle-length, very wide skirt with draw-string or hooks at the waist.

8. Pavadai: An ankle-length gathered skirt, often in two-piece ensemble, as an accessory worn with sari or Dupatta.

9. Choli: A short blouse ending at or above the waist, with or without sleeves, without an out-turned collar.

10. Lungi or Lungi Set: A long garment worn as a wrap around the lower half of the body, with or without a Kurta, or a loose fit blouse or a Choli.

11. Salwar: Loose-fitting trousers secured with drawstring or hooks, with legs that are straight or baggy with extra fullness at the thighs.

12. Gararra: A trouser, straight from waist to knee, and shaped like a gathered skirt below the knee.

13. Dupatta: A scarf usually about 4 ft. long, wrapped by women along with Kurta and Churidar. This also includes other types of scarves worn in varied sizes, the characteristics being the same as above.

14. Ohdhani: An oblong cloth about 6 to 7 ft. long and 3 to 4 ft. wide with overall embroidery or a woven jacquard weave with traditional designs like himroo shawl or made-up of a fabric decorated with cotton/silk/zari or any other fiber yarn used to cover the body.

15. Chola: An ankle-length, loose-fit, long Kurta traditional worn by religious priests.

16. Safa: Headwear made up of printed or embroidered fabrics.

17. Aba: An over-garment, close-fit at the upper part, with a Ghagra type skirt touching the ankles.

18. Burka: Loose-fitting over-garment worn by Muslim women which covers the head and extends to the ankles.

19. Jama: A coat, close-fitting above the waist, long-sleeved and with a full gathered skirt. The coat has a sloping cross—over neckline fastened near the armpit but no out-turned collar.

20. Patka: A long traditional stole with Indian designs ornamented with art work of various types.

21. Tamba/Tambi: Loose-fit trousers usually worn in North India.

22. Thailis: Totebags, purses, pouch bags, and similar accessories to traditional Indian dresses.

23. Toran: A long embroidered strip of cloth elegantly embroidered with plain or applique work embroidery, used for decorating the entrance doors of Indian residences. This represents a wide variety of fine embroidered pieces connected with folk art, particularly from Kathiawar in Gujarat (West Coast of India).

24. Phulkari: Decorative, embroidered, rough-spun cotton fabric with close darning stitch employed with strands of untwisted silk to make the flower-like embroidered.

25. Thombai: Cylindrical hanging with hand-made applique work of hand-printed-hand-painted/hand-embroidered fabrics. These are traditionally used in South Indian temples as decorative hangings from ceilings or in doorways for gala affairs.

26. Puri Chatta: Flat, highly decorative umbrella with applique work.

27. Gabba: embroidered floor covering using waste rags. Usually embroidered or made in applique work on old woolen blankets or jute base with cotton backing peculiar to Kashmir region.

28. Shamiana: Canopy or awning used as ceiling decoration.

29. Kalamkari: Hand painted/printed (wax resist) wall pieces depicting mythological characters.

30. Chakla: Wall hangings with folk embroidered, with or without mirror work, framed or unframed. The stitches are interspersed and interplaced.

31. Batik wall pieces: Wall hangings made of cotton fabrics hand painted with batik technique. The designs are usually mythological narrations.

32. Chahdani Posh: A protective covering used normally in rural areas to keep tea or coffee pots warm.

33. Takia Gilaf: A cushion cover in oblong, square, round or other shape using indigenous materials and motifs.

34. Ghandai/Gaddiposh: A decorative floor covering also used sometimes as a cover on wooden Takhat (sort of Divan).

35. Temple Hangings: Made of hand woven, hand-painted/printed traditional textiles with Indian motifs.

36. Gulubanhdk: Traditionally decorative piece of cloth worn around the neck, with Indian traditional art work.

37. Kamarbandh: Traditional decorative item worn round the waist.

38. Mathapatti: A decorative piece used to decorate the forehead in varying lengths and widths.

39. Bazuband: A decorative piece worn round the arm.

[FR Doc. 82-35496 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

December 22, 1982.

The USAF Scientific Advisory Board ad hoc committee on Software will meet at Los Angeles Air Force Station, Los Angeles, CA, on January 19–20, 1983. The purpose of the meeting will be to plan the Committee's activities and make assignments for the summer study report. The meeting will convene at 8:30 a.m. and adjourn at 5:30 p.m. on each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-35432 Filed 12-29-82; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement as Part of the Ste. Genevieve, Missouri Study

AGENCY: St. Louis District, US Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) as part of the Ste. Genevieve, Missouri study.

SUMMARY: 1. *Proposed Action:* The study addresses the feasibility of providing flood protection for the nationally significant historic community of Ste. Genevieve, Missouri, from two sources: Mississippi River backwater flooding (primary source) and local Gabouri Creek flash flooding (secondary source). The architectural and historical significance of Ste. Genevieve is evidenced by the fact that the town is a Registered National Historic Landmark. This 18th Century community has the largest single concentration of original French Colonial structures in the Western Hemisphere and has been the subject of numerous scientific and popular investigations.

2. *Alternatives:* Alternatives being studied include combinations of levees and floodwalls that parallel the Mississippi River and flank the North and South Gabouri Creeks in the town, levees that parallel the Missisippi River but are located away from the town out on the Mississippi River floodplain, a nonstructural plan which would relocate historic structures and a no action plan.

3. *Scoping Process:*

a. *Public Involvement Program:* Numerous public and private agencies and individuals have been involved with the study including City of Ste. Genevieve officials, levee district officials, local industries and commercial interests, local historic preservation interests, Ste. Genevieve County officials, Southeast Missouri Regional Planning Commission, appropriate State of Missouri officials including the State Historic Preservation Officer. On the Federal level, a number of agencies have been contacted including the Department of Agriculture, National Park Service, US Fish and Wildlife Service, US Environmental Protection Agency, National Trust for Historic Preservation, and Advisory Council on Historic Preservation.

A public meeting was held on 7 June 1974 for problem identification and a public information meeting was held on 5 July 1979. A final public meeting is planned for January 1984 to obtain comments from the public on alternative plans that have been developed.

b. *Significant Issues:* Significant issues addressed in the DEIS will include analysis of the architectural-historic resources, fish and wildlife habitat, endangered species, flood protection, relocations, land use changes and the impacts that the proposed action will have on the environment.

c. *Lead Agency and Cooperative Agency Responsibilities:* The St. Louis District, US Army Corps of Engineers is the lead agency responsible for the preparation of the DEIS.

d. *Environmental Review and Consultation Requirements:* The completed DEIS will be distributed to the appropriate Federal, state, and local agenices, and representatives of interested groups and individuals. It will contain records of compliance with appropriate laws and regulations.

4. *Scoping Meeting:* Separate scoping meetings will not be scheduled because of the project's advanced planning stage. Federal, state, and local agencies and interested private groups and individuals have been consulted during the course of the study and will continue to be consulted.

5. *Draft Environmental Impact Statement Preparation:* The DEIS is scheduled to be completed in December 1983.

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by contacting: Mr. Jack F. Rasmussen, Chief, Planning Division, US Army Corps of Engineers, St. Louis District, 210 Tucker Blvd., North, St. Louis, MO 63101.

Dated: December 20, 1982.

Gary D. Beech,

Colonel, CE, Commanding.

[FR Doc. 82-35316 Filed 12-29-82; 8:45 am]

BILLING CODE 3710-GS-M

Corps of Engineers; Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Water Supply Impoundment Structure on Beaverdam Swamp in Gloucester County, Virginia

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. Proposed Action: Gloucester County proposes to build an earth fill impoundment structure across Beaverdam Swamp, a tributary of the Ware River, north of the Town of Gloucester, Virginia. The impounded lake would have a normal pool area of approximately 750 acres with a maximum depth of approximately 30 feet. As a water supply reservoir, the lake could supply a maximum safe yield of 2.5 million gallons per day with a minimum downstream release of one million gallons per day. A significant portion of the area to be flooded consists of wetlands.

2. Alternatives: Alternatives which will be investigated include, but will not be limited to site alternatives in and around Gloucester County, groundwater, conservation and no project.

3. Scoping Process: Informal pre-application scoping meetings were held with State and Federal agencies in the spring of 1982. Significant issues which have already been identified include wetland destruction and mitigation, impacts to anadromous fishes and watershed development. A public notice requesting written scoping comments will be published in the near future.

4. Public Meetings: The public notice mentioned above will also announce the date and location of a public scoping meeting.

5. DEIS Availability: It is estimated that the DEIS will be available to the public for review and comments in the summer of 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Bob Hume, U.S. Army Engineer District, Norfolk, 803 Front Street, Norfolk, Virginia 23510, (804) 441–3657–COM, 827–3657–FTS.

Dated: December 21, 1982.

Ronald E. Hudson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-35342 Filed 12-29-82; 8:45 am]

BILLING CODE 3710-EN-M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Flood Control on Leaf and Bowie Rivers at Hattiesburg and Petal, Mississippi, as Part of the Pascagoula River Basin Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. *Proposed Action:* The proposed action is to prepare a DEIS to evaluate the environmental impact of providing for flood control on the Leaf and Bowie Rivers at Hattiesburg and Petal, Mississippi, as part of the Pascagoula River Basin Study.

2. *Alternatives:* The following basic alternatives will be evaluated:

a. No action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Selective clearing of overbank areas and channel snagging.

c. Improved flood forecasting methods.

d. Evacuation of some homes and businesses from the more frequently flooded low flood plain areas and subsequent resettlement of affected individuals.

3. *Scoping Process:*

a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS will be determined through the scoping process. The agencies and individuals views and concerns will be obtained through personal, telephone, and mail contacts in lieu of a formal scoping meeting.

b. Coordination with the U.S. Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in March 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Dr. M. Susan Ivester, PD–ES, U.S. Army Engineer District, Mobile, PO Box 2288, Mobile, Alabama 36628.

Dated: December 17, 1982.

Ronald A. Trikrizman,

Colonel, CE, District Engineer.

[FR Doc. 82-35404 Filed 12-29-82; 8:45 am]

BILLING CODE 3710-CR-M

Intent To Prepare Environmental Impact Statement for Construction of Disposal Site, Placement of Dredged Material, and Installation of Outfall Pipeline; Grays Harbor

AGENCY: U.S. Army Corps of Engineers, Seattle District, DOD.

ACTION: Preparation of an environmental impact statement (EIS) for constructing a disposal site, placement of dredged material, and installation of an outfall pipeline.

SUMMARY: The Port of Grays Harbor has applied to the Corps of Engineers for a Section 10/404 permit to construct a disposal site for material dredged from public marine terminals in Grays Harbor. (Public Notice No. 071–0YB–2–006713.) In order to assess the potential impacts of the proposed disposal and alternatives to the disposal, the Corps of Engineers has determined that preparation of an EIS is necessary. The proposed plan calls for the dredging of 62,000 cubic yards (c.y.) from a 98-acre freshwater wetland area, which would then be used, along with 126,000 c.y. of upland fill, to construct a berm around the site. A 400-foot-long outfall line will be installed to provide drainage of the disposal area. Purpose of the project is to provide a reliable disposal area for dredged material and, when filled, provide an upland area for industrial development that will help offset the cost of disposal operations.

The Corps of Engineers has three alternative courses of action available:

1. The Section 10/404 permit could be denied. This option would prohibit all disposal and inwater construction activity, as well as avoid environmental impacts associated with the proposed action.

2. The permit could be issued as described in the public notice.

3. The permit could be issued with special conditions that would mitigate adverse impacts resulting from the proposed action.

Alternatives to the proposed action currently being considered by the Port of Grays Harbor include no action and use of alternative disposal sites.

a. *No Action.* This alternative would require no further involvement by the Corps of Engineers. The Port of Grays Harbor would either have to discontinue dredging in Grays Harbor or use a site or sites other than the one proposed.

b. *Use of Alternate Disposal Sites.* Alternative disposal sites already in use include Port of Grays Harbor Slip No. 2, Rennie Island, the existing South shore disposal site, upland sites, and Point Shehalis. Alternative disposal methods and sites not previously used include ocean disposal, ocean beach nourishment, estuary habitat development, unconfined inwater estuary disposal Port of Grays Harbor Slip No. 1, Industrial Development District No. 1, Jalo area, and the South Jetty near the entrance to Grays Harbor.

Criteria for site comparison include size, economic feasibility, distance from dredging project, consistency with comprehensive plans and zoning, environmental considerations, usability of the site for contaminated sediments, and disposla during adverse weather.

Significant issues to the addressed in the draft EIS include: the need for the proposed action, fisheries food-web impacts and ecosystem function due to removal of wetland habitats, water quality impacts due to disposal of dredged material, long-term water quality impacts due to removal of shallow water and wetland areas, and potential impacts to cultural resources of the area.

Other environmental review and consultation requirements include preparation of a Section 404(b)(1) analysis by the Corps of Engineers and

acquisition by the applicant of Washington State water quality certification.

PUBLIC INVOLVEMENT: A public scoping meeting will be scheduled to clarify issues of major concern and identify studies that might be needed in order to analyze and evaluate project impacts. Announcement of this scoping meeting will be mailed, along with an information package, to all persons identified as having interest in this action. Further meetings may be scheduled as needed.

DRAFT EIS AVAILABILITY: The draft EIS for this proposed action should be available by late 1983.

ADDRESS: Questions and/or comments on this proposed action or the draft EIS should be directed to: Mr. Fred Weinmann, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C–3755, Seattle, Washington 98124, Telephone (206) 764–3624.

Dated: December 21, 1982.

Norman C. Hintz,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 82–35406 Filed 12–29–82; 8:45 am]

BILLING CODE 3710–EN–M

Intent To Prepare Draft Environmental Impact Statement for Construction of Coal and Grain Handling Facility Adjacent to Theodore Ship Channel, and off Mobile Bay West, Mobile County, Alabama

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. *Description of Proposed Action:* The proposed action is to prepare a DEIS relative to a permit application by North American Gulf Terminals, Inc., for proposed construction of a bulk coal and grain handling facility to be located adjacent to the north side of the Theodore Ship channel and the western shore of Mobile Bay, Mobile County, Alabama. This handling facility includes ship mooring area, barge fleeting and unloading area, docks, grain storage area, and railroad access.

2. *Alternatives to the Proposed Action:* In responding to this permit application, the U.S. Army Corps of Engineers has available three alternatives. These are: issue the permit, issue the permit with conditions, or deny the permit. Alternatives to the proposed action to be considered would be associated with the proposed design of the facility which includes different ship berth alignments, fewer or more ship berths, and location of deep draft facilities along the bay shoreline rather than along the canal.

3. *Description of the Scoping Process:* Public participation on this permit application has involved circulation of Public Notice No. AL81–00439–B on December 22, 1981, as well as a public hearing held on October 25, 1982. Numerous comments have been received from agencies, environmental groups, and other interests. Additionally, news media in the regional and local areas have published significant amounts of information on the program.

The DEIS will undergo the public review process as required by the National Environmental Policy Act. Significant issues to be addressed will be possible impacts of the proposed action and alternatives to air quality, drainage, water quality, general environment, and human safety of the project area and outlaying areas. A public hearing may be held upon completion of the DEIS, if interests indicate that a public hearing will improve the decision-making on this action. A notice informing the public as to time and location will be issued at least 30 days prior to such hearings.

4. *Scoping Meeting:* No additional scoping meetings are scheduled.

5. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in July 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. James B. Hildreth, PD–EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: December 22, 1982.

Patrick J. Kelly,

Colonel, CE, District Engineer.

[FR Doc. 82–35405 Filed 12–29–82; 8:45 am]

BILLING CODE 3710–CR–M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reductions Act (44 U.S.C. Chapter 35): (1) Claim for Exemption from Submission of Certified Cost or Pricing Data, DD Form 633–7; (2) request for extension of form approval from February 28, 1983 to February 28, 1984; (3) the form is needed to provide the prospective contractor a basis for claiming exemption from Pub. L. 87–653 with the minimum amount of sales data necessary for the contracting officer to determine that the exemption requirements are satisfied; (4) respondents will be prime contractors and subcontractors; (5) total annual responses are expected to be about 4,000; and (6) the expected amount of time required to complete the form is .5 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503; and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from A. F. Williams, OPI, Room 2A340, Pentagon, Washington, D.C. 20301, telephone (202) 697–1481.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 27, 1982.

[FR Doc. 82–35468 Filed 12–29–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Research Grants on Law and Government Studies in Education

AGENCY: Department of Education.

ACTION: Application Notice for the Program of Research Grants on Law and Government Studies in Education.

The Director of the National Institute of Education (NIE) invites major grant preapplications and small grant applications for new awards in Fiscal Years 1983 and 1984 under NIE's Program of Research Grants on Law and Government Studies in Education.

The purpose of this program is to support research projects on how legislative, administrative, and judicial policies and governmental organizations affect education. Authority for this program is contained in Section 405 of the General Education Provisions Act (20 U.S.C. 1221e).

Any institution of higher education, State, local, or intermediate educational agency, public or private nonprofit or for-profit agency, organization, group, individual, or any combination of these, is an eligible applicant. A grant to a for-profit organization is subject to any special conditions that the Secretary of Education may prescribe.

Closing Dates

The dates by which a preapplication or a small grant application must be received are listed below. These dates are grouped according to the type of grant to be applied for and the administrative stages for processing each type of grant application. Two types of grant awards are available under this program: major grants, i.e., applications for more than $10,000 for direct costs, and small grants, i.e., applications for $10,000 or less for direct costs.

MAJOR GRANTS

Preapplications due	Comments returned	Full applications due	Decisions announced
Mar. 15, 1983...	Apr. 4, 1983...	May 9, 1983...	August 1983
Jan. 4, 1984.....	Mar. 2, 1984..	Apr. 19, 1984.	July 1984

SMALL GRANTS

Applications due	Decisions announced in
Apr. 4, 1983	August 1983
Jan. 4, 1984	July 1984

Preapplication and Small Grant Application Information

An application for a major grant is made in two stages. An applicant for a major grant is required to submit a preapplication and may submit an application only after receipt of NIE comments on the preapplication. Consideration of a preapplication is designed to strengthen a full application submitted later and to discourage the submission of a proposal having little chance of award. However, no applicant who has submitted a preapplication will be denied the opportunity to present an application regardless of the NIE comments made on the preapplication.

An application for a small grant is made in a single-stage. No preapplication is required.

The National Institute of Education will publish a Grant Announcement on the Program of Research Grants on Law and Government Studies in Education designed to provide more information to prospective applicants on the nature of the program, the availability of funds, expected number of awards, eligibility and review criteria, and preapplication and small grant application instructions. However, the information contained in the Grant Announcement is only intended to aid the applicant in applying for assistance. Nothing in the Announcement is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations governing the program. Persons who wish to receive a copy of the Grant Announcement may request one by sending a self-addressed mailing label to the Program on Educational Policy and Organization, Mail Stop 19, National Institute of Education, 1200 19th St., N.W., Washington, D.C. 20208. Telephone: 202–254–6070. (A stamped envelope is not usable.)

Instructions for Transmittal of Preapplications and Small Grant Applications

Applicants should note carefully the instructions for the transmittal of application included below:

Transmittal of preapplications and small grant applications: Preapplications and small grant applications for new awards must be mailed or hand-delivered on or before the closing dates given in this document for the two types of grants.

Preapplications and small grant applications delivered by mail: Preapplications and small grant applications sent by mail should be addressed to: Proposal Clearinghouse, National Institute of Education, 1200 19th St., N.W., Washington, D.C. 20208. Display in the lower left hand corner of the package the words, "Law and Government Studies in Education: 'Preapplication,' 'Full,' or 'Small'." Preapplications and small grant applications will be accepted only if they are mailed on or before the appropriate closing dates and proof of mailing is provided.

A preapplication or a small grant application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If a preapplication or small grant application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

An applicant is encouraged to use registered or at least first class mail.

Each applicant whose preapplication or small grant application does not meet the closing dates shown above will be notified that the late application will not be considered in the immediate review cycle, but will be held over for consideration in the next competition scheduled, or returned if the applicant prefers.

Preapplications and small grant applications delivered by hand: A hand-delivered preapplication or small grant application must be taken to the Proposal Clearinghouse, National Institute of Education, 1200 19th St., N.W., Washington, D.C. The Proposal Clearinghouse will accept a hand-delivered preapplication or small grant application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays. A preapplication or small grant application that is hand-delivered will not be accepted after 4:30 p.m. on the closing dates shown above, but it will be held over and considered in the next scheduled cycle of the competition or returned upon request.

Available Funds

An estimated $800,000 is budgeted for fiscal year 1983 for funding both small and major grants. Approximately 6–10 major grants and 8–10 small grants will be awarded during Fiscal Year 1983.

The Director of NIE will award grants and small grants. A major grant will be awarded for a project in which direct costs exceed $10,000. While a project supported by a major grant under this program may take up to five years' duration, with multi-year work to be funded in 12-month increments, the Secretary of Education retains the authority to fund projects for a shorter period. In previous competitions under this program, the length of the usual funding period for a major grant has been up to three years. Nonetheless, initial funding in most cases will not exceed 12 months with subsequent funding contingent on satisfactory performance and the availability of funds.

A small grant will be awarded for a project in which direct costs do not exceed $10,000. A project supported by a small grant under this program may take up to 12 months to complete.

Grant awards are contingent on the availability of funds. the estimates in this notice do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is othewise specified by statute or regulations.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Research Grants Program on Law and Government Studies in Education (34 CFR Part 720).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78); and

(c) The National Institute of Education General Provisions Regulations (34 CFR Parts 700 and 702).

Further Information

For further information contact: Dr. Jo Ann McGeorge, Law and Government Studies Team, Program on Educational Policy and Organization, National Institute of Education, Room 714K, Mail Stop 19, 1200 19th St., N.W. Washington, D.C. 20208. Telephone: 202–254–6070.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: December 27, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 35472 Filed 12–29–82 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Receipt of State Applications for Fiscal Year 1983.

SUMMARY: The Secretary gives notice of the closing date for receipt of State applications for Fiscal Year 1983 funds under the State Student Incentive Grant (SSIG) Program. This program, through matching formula grants to States for student awards, provides a nationwide delivery system of grants for students with substantial financial need.

A State that desires to receive SSIG funds for any fiscal year must have an agreement with the Secretary as provided for under the authorizing law, and must submit an application through the State agency that administers its program of student grants.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, provided they have executed the required agreement.

Authority for this program is contained in Title IV, Part A, sections 415A to 415D of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070c–1070–3)

Closing Date for Transmittal of Applications: Applications for Fiscal Year 1983 SSIG funds must be mailed or hand-delivered by January 31, 1983.

Applications Delivered by Mail: Applications sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, S.W., Washington, D.C. 20202 and marked for the attention of Ms. Lanora G. Smith, Acting Chief, State Student Incentive Grant Program, Room 4020, ROB #3. The Department of Education requires proof of mailing. Proof of mailing consists of one of the following: (1) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legibly dated U.S. Postal Service postmark; or (3) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. State Agencies should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, State Agencies should check with their local post offices. The Department of Education encourages State Agencies to use registered or at least first-class mail.

Applications Delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, 7th and D Streets, S.W., Room 4020, Regional Office Building #3, Washington, D.C. Hand-delivered applicationns will be accepted between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary requires an annual submission of an application for receipt of SSIG funds. In preparing an application, each State Agency should be guided by the table of allotments provided in the application package.

Basic State Allotments, to the extent needed by the States, are determined by formula and are not subject to negotiations. The States may also request a share of reallotments, in addition to their basic allotments, contingent upon the availability of such funds from allotments to any States unable to use all their basic allotments. In fiscal year 1982, all 50 States, the District of Columbia, Puerto Rico, and the Virgin and Pacific Islands participated in the SSIG student assistance delivery network.

Application Forms and Information: The required application form for receiving SSIG funds will be mailed to officials of appropriate State Agencies at least 30 days before the closing date. This form contains the basic allotment tables with the amount computed for individual States under the SSIG Program authorization, as well as instructions for requesting Federal funds. The amounts available to State Agencies are limited by the statutory allotment formula and the level of appropriations for the Program.

Applications must be prepared and submitted in accordance with the program regulations cited in this notice and the instructions provided in the application package.

However, the program information is only intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

Applicable Regulations: The following regulations are applicable to the State Student Incentive Grant Program:

(a) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 76, 77, and 78.

(b) The State Student Incentive Grant Program regulations 34 CFR Part 692.

For Further Information: Inquiries can be made of Ms. Lanora G. Smith, Acting Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, U.S. Department of Education, Washington, D.C. 20202; telephone (202) 472–4265.

(Catalog of Federal Domestic Assistance Number 84.069, State Student Incentive Grant Program)

Dated: December 27, 1982.

Edward M. Elmendorf,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 82–35473 Filed 12–29–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

West Valley Demonstration Project, Trespassing on DOE Property

AGENCY: Department of Energy.

ACTION: Designation of West Valley Demonstration Project as Off-Limits Area.

SUMMARY: The Department of Energy hereby designates part of the West Valley Demonstration Project (WVDP) site near West Valley, New York an Off-Limits Area in accordance with 10 CFR Part 860, making it a Federal crime under 42 U.S.C. 2278a for unauthorized persons to enter into or upon that part of the WVDP site. If unauthorized entry into or upon the site is into an area enclosed by a fence, wall, roof, or other standard barrier, conviction for such unauthorized entry may result in a fine of not more than $5,000 or imprisonment for not more than one year or both. If unauthorized entry into or upon the site is into an area not enclosed by a fence, wall, roof, or other standard barrier, conviction for such unauthorized entry may result in a fine of not more than $1,000.

FOR FURTHER INFORMATION CONTACT: William Luck, (202) 252–6975.

SUPPLEMENTARY INFORMATION: Pursuant to Section 229 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2278a), Section 104 of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), as implemented by 10 CFR Part 860 published in the **Federal Register** on July 9, 1975 (40 FR 28789, 28790), and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7151), the Department of Energy hereby gives notice that part of the WVDP site is designated an Off-Limits Area and prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.3 and 860.4 into or upon that part of the WVDP site in Cattaraugus County, New York, which is reserved for the exclusive use and possession of the Department of Energy pursuant to the Department of Energy—New York State Energy Research and Development Authority Cooperative Agreement effective October 1, 1980, as amended on September 18, 1981, designated as the "Project Premises" and as more particularly described as follows:

Approximately 158.8 acres of land situated in the Town of Ashford, Cattaraugus County, State of New York, located north of Buttermilk Road, formerly part of the 3300 acre parcel known as the Western New York Nuclear Service Center. Said site consists of all land and improvements including the process plant and project facilities within the perimeter of an eight foot chain link fence, including the Nuclear Regulatory Commission Licensed Burial Area but excluding the 15.5± acre rectangular area situated in the southeastern portion of the site known as the State Licensed Low Level Burial Area.

Notices stating the pertinent prohibitions of 10 CFR 860.3 and 860.4 and penalties of 10 CFR 860.5 will be posted at all entrances of said tract and at intervals along its perimeter as provided in 10 CFR 860.6.

Dated at Washington, D.C. this 22d day of December, 1982.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 82-35297 Filed 12-29-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Austria

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/AT(EU)–60, two Triga fuel elements, containing a total of 390 grams of uranium, enriched to 20% in U-235, and one fission chamber, containing one gram of uranium, enriched to 93% in U-235, for use in the Triga reactor at Vienna University.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-35335 Filed 12-29-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–CA–332, to the Department of Fisheries and Oceans, Winnipeg, Canada, 20 micrograms of thorium-229, and 250 milligrams of uranium-236, for use as analytical tracers in research.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-35334 Filed 12-29-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU(SD)–44, from Switzerland to France, 220 kilograms of heavy water, for use as moderator material in the

high flux reactor ILL at the Institute Laue Langevin, Grenoble, France.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-35333 Filed 12-29-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP83-33-000]

Algonquin Gas Transmission Co.; Decrease in Rate

December 23, 1982.

Take notice that, on December 16, 1982, Algonquin Gas Transmission Company ("Algonquin Gas") filed a decrease in its Rate Schedule STB Demand Handling Charge to reflect a lower investment in facilities than had been estimated in its application in Docket Nos. CP81-315-000, *et al.*, filed May 1, 1981. According to the filing, the original application, relating to storage service under Algonquin Gas' Rate Schedule STB, proposed an initial Monthly Demand Handling Charge of $16.59 based upon the $44.9 million cost of facilities estimated in the application, but actual facility costs were approximately $35.4 million or a $13.36 Monthly Demand Handling Charge requirement. The filing notes that the annual cost of service effect of the reduced facility cost is approximately $2.2 million which is also the annual amount of rate reduction. The Commission authorized the construction and operation of the proposed STB facilities, and the rendition of service as proposed, by its certificate order issued August 11, 1981 in Docket Nos. CP80-255-003 and CP81-315-000.

Algonquin Gas states that it proposes to make the reduced rate effective retroactively to November 16, 1982, when the new facilities were placed in service, by crediting appropriate amounts to the next billings for service following Commission acceptance of the filing.

Algonquin Gas has requested the Commission to approve its rate adjustment prior to January 7, 1983, when its bills for December 1982, service will be rendered.

Algonquin Gas states that it has served a copy of its filing on its Rate Schedule STB customers. In addition, copies of the filing are available for public inspection at Algonquin Gas' offices and at the Commission.

Any person desiring to be heard or to protest said filing should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, DC 20426, an intervention, motion or notice or a protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35410 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP72-122-016, et al.]

Colorado Interstate Gas Co., et al; Filing of Pipeline Refund Reports and Refund Plans

December 23, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 6, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket number	Type filing
October 29, 1982	Colorado Interstate Gas Company	RP72-122-016	Report.
November 4, 1982	Columbia Gas Transmission Corporation	RP81-83-008	Report.
December 8, 1982	Michigan Wisconsin Pipe Line Company	RP81-123-004	LFUT Report.
December 13, 1983	Natural Gas Pipe Line Company of America	RP81-120-004	LFUT Report.
December 13, 1982	Consolidated Gas Supply Company	RP81-114-005	LFUT Report.
December 13, 1982	Valero Interstate Transmission Company	RP82-22-003	Report.

[FR Doc. 82-35411 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-32-000]

Eastern Shore Natural Gas Co.; Tariff Filing

December 23, 1982.

Take notice that on December 16, 1982, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets for inclusion in its FERC Gas Tariff.

First Revised Sheet No. 1
First Revised Sheet No. 2
Twenty-Third Revised Sheet No. 5
Twenty-Third Revised Sheet No. 6
Twenty-Third Revised Sheet No. 10
Twenty-Third Revised Sheet No. 11
Twenty-Third Revised Sheet No. 12
First Revised Sheet No. 103
First Revised Sheet No. 104
First Revised Sheet No. 105
First Revised Sheet No. 210
Second Revised Sheet No. 246
Second Revised Sheet No. 247
Third Revised Sheet No. 248
First Revised Sheet No. 305

The changes proposed in these tariff sheets, to be effective January 16, 1983, would increase revenues from jurisdictional sales, storage and transportation services by approximately $595,869 annually, based upon the twelve month period ending September 30, 1982, as adjusted for

certain changes allowed by Commission regulations.

The rate increases reflected in the proposed tariff sheets are required to provide additional revenues sufficient to enable Eastern Shore to recover its jurisdictional cost of service.

The proposed tariff sheets also include certain revisions to Eastern Shore's PGA clause. Such revisions will allow Eastern Shore to track in its demand component of its two-part rate schedules CD–1, CD–E and G–1 rate changes from its sole pipeline supplier, Transcontinental Gas Pipe Line Corporation.

Copies of this filing have been mailed to each of Eastern Shore's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Jan. 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35412 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-33-000 and RP83-6-000, et al.]

El Paso Natural Gas Co.; Informal Settlement Conference

December 23, 1982.

Take notice that an informal settlement conference in the above-captioned docket will be convened at 9:30 a.m. on January 4 and 5, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35413 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-576-000]

Energy Conversions of America, Inc.; Order Denying Motion To Reject, Conditionally Granting Certain Waivers But Deferring Action on Initial Rates, and Granting Interventions

Issued December 23, 1982.

On June 4, 1982, Energy Conversions of America, Inc. (ENCOA) tendered for filing an unexecuted agreement and associated initial rate schedule applicable to purchases of electricity by Cincinnati Gas and Electric Company (CG&E) from a solid waste resource recovery facility to be constructed in the City of Cincinnati, Ohio. Construction of the facility is expected to begin late in 1982 or early in 1983, and commercial operation is scheduled for 1985. When completed, ENCOA will be the operator of a qualifying small power production facility as defined in section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and § 292.204 of the Commission's regulations.[1] ENCOA also is subject to the provisions of the Federal Power Act (FPA).[2]

At the time of ENCOA's submittal, the Ohio Commission had not yet issued regulations implementing section 210 of PURPA. Thus, in the absence of a negotiated rate or a State determination of avoided cost, ENCOA proposed a formulary rate intended to reflect the full avoided cost of CG&E. The formula incorporates both capacity and energy components. ENCOA provided sample calculations for the avoided cost components using data from a ten year CG&E forecast and a 1981 report of the Ohio Commission's staff.

In order to facilitate financing, ENCOA requested waiver of the notice requirements and a June 4, 1982, effective date. Additionally, ENCOA sought waiver of the Commission's regulations regarding cost of service documentation, accounting practices, reporting requirements, and annual charges, as well as waiver of regulations which implement statutory requirements concerning property dispositions and consolidations, securities issuances or assumptions of liability, the holding of interlocking positions, and related matters.

Notice of the filing was published in the **Federal Register** with responses due on or before June 30, 1982. CG&E filed a timely intervention. CG&E requested that the Commission reject ENCOA's rate filing on the grounds that ENCOA had failed to file cost data required by § 35.12(b) of the Commission's regulations and that ENCOA's filing did not comport with the guidelines for establishing rates which are set forth in § 292.304(e) of the regulations. Alternatively, CG&E requested a five month suspension and hearing, raising various issues concerning the justness and reasonableness of the proposed rate schedule.[3] CG&E also objected to the waiver requests by ENCOA.

On July 1, 1982, the City of Cincinnati, Ohio filed an untimely motion to intervene stating its intention to demonstrate the public good and benefit to be derived from the operation of the facility to be constructed by ENCOA. The Ohio Commission also sought permission to intervene out of time in the interest of protecting electric customers of CG&E.

On November 22, 1982, ENCOA filed a letter requesting the Commission to place this matter on the agenda for December 15, 1982, and to expedite as much as possible the determination of a rate. ENCOA asserted that it would also take further action at the State level.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), CG&E's timely motion to intervene and the absence of opposition within 15 days serves to make CG&E a party to this proceeding. We shall grant the untimely motions to intervene by Cincinatti and the Ohio Commission given their interests in the outcome of this proceeding, the early stages of the case, and the fact that no delay or prejudice to other parties should result.

Although, as noted, the Ohio Commission had not issued regulations implementing section 210 of PURPA at the time of ENCOA's filing, that Commission recently issued such regulations.[4] The Ohio Commission's

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[1] *See* Notice of Qualification, Docket No. QF82-139-000, filed May 10, 1982.

[2] ENCOA's facility will be a 72 megawatt qualifying small power production facility using biomass as its primary energy source. Section 210(e) of PURPA prohibits the Commission from exempting qualifying small power production facilities between 30 and 80 megawatts aggregate capacity from the provisions of the FPA.

[3] Among other things, CG&E contended: (1) That a rate based on full avoided cost is not warranted, (2) that specific components of the rate will not accurately reflect CG&E's avoided cost, (3) that the simultaneous purchase and sale provision allowing ENCOA to sell at CG&E's avoided marginal cost while purchasing at CG&E's embedded cost is not in the public interest, (4) that the rate schedule improperly refers to regulations of the Ohio Commission which, at the time of filing, had not yet been issued, (5) that the requirement for CG&E to continue service until ENCOA or the Commission consent to disconnection is unreasonable, and (6) that ENCOA has failed to request a hearing and interconnection order under sections 210 and 212 of the EPA.

[4] In the Matter of the Promulgation of Rules Pertaining to Cogeneration and Small Power

regulations concerning qualifying facilities require that:

> Each electric utility under the jurisdiction of this Commission shall negotiate the terms including cost terms, on which it will buy electricity from an owner of a QF with a capacity in excess of 100 kilowatts directly with the owner of the QF. *If* the parties reach an impasse in their negotiations either may request an informal conference with the Staff of this Commission. . . . If the impasse cannot be resolved at this level either party may file a formal application for the Commission to resolve the matter.[5]

Each utility under the jurisdiction of the Ohio Commission is also required to file a standard rate, regarding *all* qualifying facilities, regarding the "cost and terms under which the utility will provide supplementary power, backup power, interruptible power, and maintenance power. . . ." [6] However—

> To the extent that in negotiating with owners of QF's larger than a [*Sic*] 100 kilowatts a utility agrees to charge a different rate for the ancillary services from those rates set forth in its tariff, the party filing the application for approval of the contract shall supply reasons for the deviation.[7]

In its November 22, 1982 letter, ENCOA notes the Ohio Commission took a good deal of time to promulgate the regulations noted above; asserts that, prior to the Ohio regulations, CG&E repeatedly refused to recognize or negotiate any capacity charges as part of a rate for purchase of this facility's power; and takes the position that the Ohio Commission does not have jurisdiction over this rate. Finally, ENCOA stresses that further delay in consideration of its proposed rate can only result in further delay of the entire project.

As we stated in *Resources Recovery, Dade County, Inc.*, 18 FERC ¶ 61,243 (1982), and 19 FERC ¶ 61,188 (1982), "State Commission rates set in compliance with Section 210 of PURPA and this Commission's rules thereunder shall be considered to be just and reasonable rates under the Federal Power Act." For facilities the size of ENCOA's, the Ohio Commission has not set generic rates. Under the Ohio Commission's regulations, the parties must first attempt to negotiate a contract for sale of power from the qualifying facility. It appears that the State Commission itself will consider the matter in the absence of mutual agreement. Because this Commission has indicated that it will favorably view *either* a rate based upon negotiation alone or one based upon a proper State Commission determination of the purchasing utility's avoided cost, we believe it proper at this time to provide the opportunity for negotiation or State Commission intervention that is contemplated by the Ohio regulations.

We are not insensitive to ENCOA's desire to progress as rapidly as possible with this project. However, ENCOA has not yet pursued the procedure now available under the regulations of the Ohio Commission. In order to determine the appropriateness of the rates filed by ENCOA, it would be necessary for this Commission to initiate an evidentiary hearing. Such a proceeding, initiated prior to whatever action is taken at the State level, could result in duplicative or inconsistent efforts at the expense of a considerable delay in ultimate approval of a tariff by this Commission. Thus, pending the Ohio Commission's consideration of a negotiated rate or CG&E's avoided costs, we shall postpone consideration of ENCOA's proposed rate level.

However, in order to insure expeditious action by some regulatory body, we shall limit our deferral of action to ninety days from the date of issuance of this order. If the Ohio Commission has not acted [8] on a formal application for resolution of the rate dispute by that date, ENCOA may again request this Commission to proceed.

Despite our deferral of action as to the question of rate level, we are able at this time to make some general observations and conclusions. We may, thereby, deal with certain of ENCOA's requests and CG&E's objections.

CG&E has objected to ENCOA's submittal claiming that full avoided cost is an inappropriate standard. However, in *Resources Recovery, supra*, the Commission held that 30 to 80 megawatt small power production facilities would be governed by the same ratemaking standards as those required to be applied by the States to all other qualifying facilities (*i.e.*, a full avoided cost standard):

> Having undertaken a major rulemaking to arrive at the Section 210 rules, we do not believe that a further hearing is required in order to determine that this Commission shall accept as just and reasonable the ratemaking standards which it has required the State commissions to follow.

CG&E also challenges ENCOA's failure to request an interconnection order under sections 210 and 212 of the FPA. Again, CG&E's argument is misplaced inasmuch as our regulations implementing PURPA (§ 292.303(a) and (c)), in the interest of encouraging cogeneration and small power production, provide for the mandatory interconnection with and purchase from a qualifying facility by an electric utility.[9] As to CG&E's objections to the simultaneous purchase and sale provision, we note that the court of appeals has upheld the Commission's rules for rates for simultaneous purchase and sales from new capacity, 18 CFR 292.304(b)(4).[10] Insofar as CG&E's objections address generic principles established by prior rules, its contentions do not properly lie in this proceeding.[11]

In addition, CG&E opposes a provision in ENCOA's rate schedule which would require CG&E to continue service until this Commission or ENCOA consents to disconnection. We believe it appropriate to observe that this provision essentially mirrors § 35.15 of our regulations which, even in the absence of such language, would require timely notice and an opportunity for the Commission to act prior to any anticipated termination of service under a filed rate schedule. Thus, this provision does not appear to be improper.

While this order does not address the propriety of the rate level proposed by ENCOA, we nontheless disagree that any of the matters raised by CG&E justify rejection of the filing at this time. As we observed in *Resources Recovery, supra*, cost of service data applicable to a qualifying facility are largely irrelevant when considering the avoided costs of a purchasing utility. Because we consider it appropriate to waive the outstanding cost support requirements of § 35.12 of the regulations, we are able to conclude that ENCOA's filing substantially complies with our filing requirements.[12]

Production in Compliance with the Public Utility Regulatory Policies Act, Case No. 80-836-EL-ORD (Nov. 17, 1982).

[5] Supra, note 4, § II. Procedures, ¶ B.

[6] Id., ¶ A.

[7] Id., ¶ C. (Following Sub ¶ 2.).

[8] The Commission would anticipate that such action would be a final rate determination.

[9] We acknowledge that, as to both the full avoided cost standard and the requirement for interconnection in the absence of express findings under sections 210 and 212, the United States Court of Appeals for the District of Columbia Circuit has taken issue with our views and has remanded these questions for further consideration. However, that decision has been stayed pending further appellate review and the Commission's rules therefore remain in effect. *See American Electric Power Service Corp., et al.* v. *FERC*, 675 F.2d 1226 (D.C. Cir 1982), reh. denied, petition for certiorari granted (No. 82-226). In the event that circumstances change, the outcome of these judicial proceedings may have a bearing on our ultimate decision in this case.

[10] *Id.*

[11] We note that CG&E's objection to ENCOA's reference to regulations of the Ohio Commission has effectively been mooted. *See* note 4, *supra*.

[12] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

As discussed above, ENCOA seeks a variety of additional waivers in order to implement its proposal without becoming subject to inapplicable or unnecessary regulatory burdens. We need not address the requests for waiver of notice, given our decision to withhold action on the filed rate pending State Commission action. The requests may be renewed at a later date.

Concerning the request for waiver of the annual charge requirements and of various filing and reporting requirements requested by ENCOA, it is appropriate to address these matters, regardless of the underlying rate questions. Consistent with the Commission's treatment of identical waiver requests in *Resources Recovery, supra,* the Commission will grant waiver of the accounting and reporting requirements of Parts 41, 50, 101, and 141 of the regulations and of the annual charge requirement of Part 36 of the regulations. We shall deny waiver of Parts 33, 34, and 45 of the regulations which implement statutory requirements for prior approval as to property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions. However, also in accordance with our decision in *Resources Recovery,* ENCOA will be required to file only such information as will satisfy the minimum requirements of sections 203, 204, and 305 of the FPA.[13]

The Commission orders:

(A) The motion to reject ENCOA's filing is hereby denied.

(B) ENCOA's requests for waiver of Parts 33, 34, and 45 of the Commission's regulations are hereby denied as noted in the body of this order.

(C) ENCOA's requests for waivers of the outstanding Part 35 cost of service requirements and the requirements of Parts 41, 50, 101 and 141 of the regulations are hereby granted.

(D) The Commission hereby defers action on the rates proposed by ENCOA for 90 days as discussed in the body of this order.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

[13] In Docket No. ER82-225-000, the Commission stated: "Because this is an issue of first impression, we have not yet identified the specific information to be filed by RRD. We therefore encourage RRD to seek Staff suggestions or comments on its proposed filing. *See e.g.,* § 35.6 of our regulations."

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35414 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-13-001]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

December 23, 1982.

Take notice that Gas Gathering Corporation (GGC), on December 9, 1982, tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would increase the rate charged Transco by 16.40207 cents per Mcf from those rates presently in effect. The proposed changes are proposed to be made effective January 1, 1983. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost as of September 30, 1982, through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35415 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-80-000 and RP81-61-000]

Michigan Wisconsin Pipe Line Co.; Informal Settlement Conference

December 23, 1982.

An informal settlement conference will be convened in the above-captioned dockets at 1:00 p.m., on January 10, 1983, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35416 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-000]

Northern Natural Gas Co.; Informal Settlement Conference

December 23, 1982.

An informal settlement conference will be convened in the above-captioned docket at 10:00 a.m., on January 6, 1983, in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35417 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-56-000]

Northwest Pipeline Corp.; Settlement Conference

December 23, 1982.

Take notice that a settlement conference will be convened in the above-captioned docket at 10:00 a.m. on January 12, 1983, and at 10:00 a.m. on January 13, 1983, in rooms to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35418 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-86-000]

Panhandle Eastern Pipe Line Co.; Application

December 23, 1982.

Take notice that on November 15, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas, filed in Docket No. CP83-86-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and

necessity authorizing the transportation of shrinkage and fuel gas to a processing plant and the construction and operation of two taps on a 12-inch natural gas pipeline as well as approximately 80 feet of 12-inch pipeline which bypasses the processing plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a reserve dedication and processing agreement, dated August 31, 1981, and a plant agreement, dated October 22, 1982, Applicant proposes to construct and operate the facilities necessary to effect the delivery to and receipt of natural gas from an existing gas processing plant constructed by Blair Oil Company (Blair) which is adjacent to Applicant's pipeline in Carson County, Texas. The total estimated cost of the proposed facilities is $30,000 which would be financed with internally generated funds and short-term bank borrowing.

Applicant also seeks authorization to transport shrinkage and fuel gas that would be extracted and utilized in the Blair processing plant and the authority to transport liquefiables. It is asserted that the shrinkage volumes would be transported in accordance with contractual arrangements which require the payment to Applicant of 4.50 cents per Mcf per 100 miles with respect to gas from wells connected prior to January 1, 1982, and 3.10 cents per million Btu per 100 miles for gas from all other wells. In addition, Applicant would be reimbursed for the Btu content of gas consumed as shrinkage and fuel, it is explained.

As a result of the contractual arrangements, Applicant has obtained the right of first refusal to contract for any additional gas supplies, regardless of location, which may be produced by the producer/operator of the processing plant during the next 10 years, Applicant states. Upon the implementation of the authority sought hereby, Applicant proposes to credit its cost of service with the revenues received from the reimbursement for shrinkage and fuel gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35419 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-27-000]

Rodeffer Investments; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 23, 1982.

On November 27, 1981, Rodeffer Investments-Nursery Division (Applicant) 25160 Ethanac Rd., Sun City, California 92370, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On December 3, 1982, Applicant filed additional information to complete the application.

The topping-cycle cogeneration facility will be located in Sun City, California. The facility will consist of a steam turbine generator from which steam will be extracted for use in a multistage evaporation unit to purify irrigation water, for use in soil heating and for other miscellaneous heating applications. The electric power production capacity of the facility will be 7,500 kilowatts in the first phase of development and will increase to 15,000 kilowatts and then 22,500 kilowatts as other units are added. The primary energy source to the facility will be biomass in the form of waste wood. Installation of the facility will begin in December 1983.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35420 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-19-000]

St. Joe Minerals Corp.; Order Denying Request for Disclaimer of Jurisdiction and Granting in Part and Denying in Part Requests for Waivers

Issued December 23, 1982.

On June 21, 1982, St. Joe Minerals Corporation (St. Joe) filed a petition for a declaratory order or, alternatively, for a waiver of regulations. St. Joe requests that the Commission declare that it will not assume jurisdiction over St. Joe as a public utility under Part II of the Federal Power Act (FPA).[1] In the alternative, St. Joe requests that the Commission explicitly waive, insofar as they might apply to St. Joe, all reporting, filing, accounting, notice, and approval regulations under the FPA. Notice of the petition was published in the **Federal Register** on July 14, 1982.[2] No protests or petitions to intervene have been received.

Background

In its petition, St. Joe indicates that it is primarily a diversified international developer of natural resources, including lead, gold, silver, zinc, iron ore, oil, gas, and coal; and that it operates through its St. Joe Resources Company division, a zinc smelter at Monaca, Pennsylvania.

[1] 16 U.S.C. 824, *et seq.*

[2] 47 FR 30581.

To provide electricity for its smelter, St. Joe has two coal-fired generating units, each with a capacity of 55 MW. Of the 110 MW available, the smelter now requires about 40 MW and, in late 1982, will require 45 MW as a result of St. Joe's anticipated expansion of its smelting operation. The excess capacity of the gnerating facility is sold to two utilities, Duquesne Light Company (Duquesne) and GPU Service Corporation (GPU). Sales to Duquesne and GPU are expected to produce about $12 million in annual revenues for St. Joe during 1982.[3]

St. Joe owns and operations 13.8/138 kV and 13.8/69 kV step up transformation facilities and associated 69 kV and 138 kV transmission lines through which it is interconnected with Duquesne's integrated transmission grid.

Discussion

Section 201(e) of the FPA defines a "public utility" as "any person who owns or operates facilities subject to the jurisdiction of the Commission . . ." [4] Section 201(b) states that the Commission shall have jurisdiction over all facilities for the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce.[5]

In its petition, St. Joe recognizes that it qualifies as a "public utility" under the Federal Power Act, as defined above. St. Joe requests, however, that the Commission decline to assert jurisdiction on the basis that it will only sell a relatively small amount of power in interstate commerce and that such sales are only incidental to its normal business and are in the public interest.

On the basis of the facts presented, we find that St. Joe's transmission and sale of electric power at wholesale in interstate commerce make it a "public utility" as defined in section 201(e) of the FPA. Without reaching the question of the limits of the Commission's authority to decline jurisdiction, we do not find annual sales for resale of 65 to 70 MW to be *de minimis*, and we shall deny St. Joe's petition for an order declaring that the Commission will not assume jurisdiction over St. Joe as a public utility under the FPA.

In the alternative, St. Joe requests waiver of the Commission's regulations. As a public utility, St. Joe is subject to the Commission's various reporting, filing, accounting, notice, and approval regulations under the FPA. In its petition, St. Joe argues that subjecting it to the Commission's regulations because of its sale of surplus electricity from its smelter would be inappropriate. St. Joe contends that the Commission's regulations were intended for public service monopolies and not for industrial companies such as itself. St. Joe therefore requests waiver of the Commission's Uniform System of Accounts, various reporting requirements, filing fees and annual charges, and the regulations respecting property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions.[6]

St. Joe claims that its production of power for sale is incidental to its smelting operation, and that it expects to reduce and eventually eliminate sales from its plant as smelting operations expand. The revenues from these sales of excess power represent slightly more than one percent of St. Joe's total revenues. To subject St. Joe to the Commission's regulations on the basis of these sales would, in St. Joe's view, unacceptably complicate and impede the conduct of its natural resource business. In fact, St. Joe asserts that these sales are only practical if they do not subject it to regulation. For this reason, both the agreement with Duquesne, and the agreement with GPU, provide that St. Joe may terminate the agreement upon one month's written notice if the Commission asserts jurisdiction over the sales covered by the agreements.

The only transmission facilities which St. Joe owns are located on its property at the Monaca smelter site and they are used exclusively for its own smelting operations or for interconnection with Duquesne. St. Joe does not provide any transmission service to others on its transmission facilities.

Under the circumstances, we find St. Joe's sales of power to Duquesne and GPU under the aforementioned agreements to be in the public interest because: (1) they permit the use of two existing coal-fired generating units that otherwise would be underemployed and thereby promote continued and expanded zinc smelting operations at Monaca, benefiting the depressed economy of the area; and (2) they may well be replacing oil-fired generation and thus reducing both GPU's rates and national dependence on foreign oil sources. Therefore, on the basis of the combination of facts presented, particularly the temporary nature of the sales, we shall grant in part St. Joe's request for waiver of our regulations.

Section 205 of the FPA requires every public utility to file with the Commission schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission. This statutory requirement cannot be waived. Inasmuch as St. Joe has not yet submitted an initial rate schedule, we shall defer consideration of a waiver of the full filing requirements of Part 35 until such time as a rate submittal is tendered for filing.

St. Joe also requests a waiver of the Commission's Uniform System of Accounts, and the statements and reports governed by Parts 41, 50, and 141 of the regulations. Inasmuch as these requirements may be unnecessarily burdensome and may complicate and impede the conduct of St. Joe's normal business, we shall waive these regulations given the temporary nature of the sales. However, this waiver assumes that St. Joe will be able to provide evidence to show that the rate is just and reasonable.

Section 203 of the FPA requires that the Commission issue notice and provide an opportunity for hearing before it may approve any sale, lease, or other disposition of the whole of a public utility's facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $50,000, or before it may merge or consolidate such facilities. These statutory requirements may not be waived. We do not believe, however, that it is necessary to impose the full filing requirements of Part 33 of our regulations on St. Joe. Rather, we shall only require St. Joe to file such information as will satisfy the minimum requirements of Section 203 of the FPA. Further, we note that this section would not apply to any of St. Joe's facilities which are not involved in the

[3] On July 21, 1981, St. Joe and Duquesne entered into an agreement for capacity and energy exchanges as well as service schedules for minimum operating power, deferred delivery power, transformer loss power, and non-displacement power. On January 21, 1982, St. Joe and Duquesne entered into an additional agreement for the sale of power and energy by St. Joe to Duquesne. This power and energy is expressly for resale to GPU. Sales to GPU commenced on January 25, 1982.

[4] 16 U.S.C. 824(e).

[5] 16 U.S.C. 824(b).

[6] Specifically, St. Joe seeks waiver of §§ 2.2 through 2.17 ("General Policy and Interpretations"), Part 32 ("Interconnection of Facilities; Emergencies; Transmission to a Foreign Country"), and Parts 33, 34, 45, and 46 which require prior Commission approval as to property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions. In addition, St. Joe requests waiver of Parts 35 and 36 which require the filing of rate schedules and rate schedule changes and the payment of filing fees and annual charges. Finally, St. Joe requests to be relieved of the obligations (1) to maintain its financial records in accordance with the Commission's Uniform System of Accounts (Subchapter C of the regulations) and (2) to file various statements and reports with the Commission pursuant to sections 41, 50, 131, and 141 of the regulations.

transmission and sale for resale of electric energy in interstate commerce.

Section 204 of the FPA requires that a public utility may issue securities or assume a liability only if the Commission approves the issuance or assumption after making specific findings. Furthermore, Section 204 requires the Commission to provide an opportunity for hearing before granting an application and allows the Commission to condition or modify any such orders. Again, we do not believe that it is necessary to impose the full filing requirements of Part 34 of our regulations, but we shall require St. Joe to file notice of any proposed issuance or assumption, consistent with the provisions of Section 204 of the FPA. However, under the circumstances, we foresee no reason that the Commission would object to the issuance of securities or assumption of liability by St. Joe's.

Section 305(b) prohibits persons from holding the position of officer or director of a public utility and the position of officer or director of another public utility, of a bank, trust company, banking association, or firm that is authorized to underwrite or participate in the marketing of public utility securities, or of a supplier of electrical equipment to that public utility, unless the holding of such positions has been affimatively authorized by the Commission upon a showing by the applicant that neither public nor private interests will be adversely affected. The Commission cannot waive the statutory requirement that an appropriate showing be made under Section 305. However, the Commission believes, in this instance, that an abbreviated filing should protect both public and private interests and yet should also encourage St. Joe's sales to Duquesne and GPU. Accordingly, we shall waive the full requirements of Parts 45 and 46 of our regulations and shall instead require only the filing of an abbreviated statement identifying the interlock. We do not believe that authorizing the holding of these otherwise proscribed interlocks based upon the filing of an abbreviated application will adversely affect public or private interests. In order to protect against any potential harm, however, we shall reserve the right to require at any time a further showing that Commission authorization should continue and that neither public nor private interests will be adversely affected by the holding of such interlocks.

St. Joe also requests a waiver of §§ 2.2 through 2.17 of the Commission's General Policy and Interpretations and Part 131 of the regulations which lists the approved forms to be used in filing before the Commission. These parts of the regulations delineate the general administrative framework for submission of filings to the Commission and would only apply to St. Joe to the extent of the Commission's regulation of St. Joe. St. Joe has not indicated any particular burden that it anticipates would be imposed if it were to comply with these regulations. Therefore, since we believe these regulations are not burdensome and would not unnecessarily complicate or impede the conduct of St. Joe's natural resource business, we shall deny this request for waiver.

Next, St. Joe requests a waiver of Part 36 of our regulations which requires that the Commission assess public utilities a reasonable annual charge to reimburse the United States for the cost of administering Parts II and III of the FPA. Part 36 also requires the payment of filing fees. In light of the action we shall take with regard to waiver of our regulations, we believe that the imposition of any annual charge requirement is unnecessary. We shall, therefore, waive the applicability of section 36.1 of the regulations. However, we do not find our filing fees to be excessive or particularly burdensome. Therefore, we shall deny the request for a waiver of the filing fees.

Finally, St. Joe requests waiver of Part 32 of the regulations which establishes the filing requirements for requests for Commission orders (1) directing the interconnection of facilities; (2) establishing emergency connections; (3) authorizing the export of electric energy to a foreign country; and (4) approving construction of facilities at an international boundary. Waiver is unnecessary as to any outstanding regulations concerning emergency interconnections under section 202(c), export authorization, or construction at international borders since the Commission no longer retains jurisdiction with respect to these matters.[7] Furthermore, inasmuch as St. Joe is surrounded by the service area of Duquesne, to which it is already interconnected, and operates no integrated transmission system, the prospect of further interconnection is unforseeable. In the unlikely event that Part 32 were to apply to St. Joe, the requirements concerning interconnection contained therein do not appear to be burdensome. Therefore, the Commission will deny this request for waiver.

The Commission orders:

(A) St. Joe's request for a declaratory order stating that the Commission will not assume jurisdiction over St. Joe as a public utility under the FPA is hereby denied.

(B) St. Joe's request for waiver of the Commission's accounting regulations, specifically Parts 101, 41, 50, and 141, is hereby granted as conditioned above.

(C) St. Joe's request for waiver of Part 33 of our regulations regarding property dispositions and consolidations is hereby granted; *Provided that* St. Joe shall provide notice to and seek approval of the Commission prior to undertaking any such actions with respect to jurisdictional property.

(D) St. Joe's request for waiver of Part 34 of our regulations regarding the issuance of securities and assumptions of liability is hereby granted; *Provided that* St. Joe shall provide notice to and seek approval of the Commission prior to undertaking any such actions.

(E) Until further order of this Commission, any person now holding or who may hold an otherwise proscribed interlock involving St. Joe is authorized to hold such positions; *Provided that* such person files the application required in paragraph (F) below.

(F) Until further order of this Commission, the full requirements of Parts 45 and 46 of the Commission's regulations, except as noted below, are hereby waived with respect to those persons subject to paragraph (E) above, and those persons instead shall file a sworn application providing only the following information:

(1) Full name and business address: and

(2) All jurisdictional interlocks, identifying the affected companies and the positions held by that person.

(G) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlocks addressed above.

(H) St. Joe's request for waiver of the provision of section 36.1 of our regulations regarding annual charges is hereby granted.

(I) St. Joe's request for waiver of the provisions of section 36.2 of our regulations regarding filing fees is hereby denied.

(J) St. Joe's request for waiver of Part 2 of our regulations regarding General

[7] The authority under Section 202 of the FPA to establish emergency connections, authorize the export of electric energy to a foreign country, and approve construction of facilities at an international boundary is vested in the Secretary of Energy. *See* Department of Energy Organization Act, 42 U.S.C. 7101–7 (1978).

Policy and Interpretations is hereby denied.

(K) St. Joe's request for waiver of Part 32 of our regulations regarding interconnections is hereby denied.

(L) St. Joe's request for waiver of Part 131 of our regulations regarding forms is hereby denied.

(M) Within forty-five (45) days of the date of this order, St. Joe shall file an appropriate rate schedule(s) for the jurisdictional services being rendered. St. Joe's request for wavier of Part 35 of our regulations regarding rate schedule filings will be considered at that time as discussed above.

(N) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35421 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-30-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

December 23, 1982.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on December 15, 1982 tendered for filing certain revised tariff sheets to Original Volume No. 2 of its FERC Gas Tariff. The proposed changes would increase revenues from gathering area transportation service by approximately $9.0 million annually based upon the 12-month period ended June 30, 1982, as adjusted. The proposed effective date of this rate change is January 15, 1983.

Transco has requested that this filing be consolidated with its current rate filing in Docket No. RP83-11 and that the suspension period for this filing be shortened so that the gathering area transportation rates can become effective, after suspension, on April 22, 1983, the effective date of the rates in Docket No. RP83-11.

Transco states that the principal reasons for the rate changes are (1) to establish uniform formulas for determining off-shore and on-shore transportation rates in the gathering area of Transco's system and (2) to bring the rates for these transportation services in line with current costs.

Copies of the filing were served upon the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 2.14 and Rule 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35422 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2277-1]

Availability of Environmental Impact Statements Filed Dec. 20 Through Dec. 23, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382-5075 or 382-5076

Corps of Engineers:
- EIS No. 820808, Draft, COE, ID, Albeni Falls Dam, Continued Operation, Pend Oreille Lake/R. Bonner Co., Due: Feb. 18, 1983.
- EIS No. 820814, Final, COE, KY, Pineville Flood Damage Reduction Measures/US 35E Relocation, Bell Co., Due: Jan. 31, 1983.
- EIS No. 820809, DSuppl, COE, LA, Red R. Waterway Mississippi R. to Shreveport Navigation/Stabilization, Due: Feb. 17, 1983.

Department of Interior:
- EIS No. 820816, Draft, IBR, MT, Yellowstone River Diversion Project, Permits, Dawson County, Due: Mar. 1, 1983.

Department of Transportation:
- EIS No. 820806, Final, FHW, WV, US 22/ Weirton Bypass Construction, Brooke and Hancock Counties, Due: Jan. 31, 1983.
- EIS No. 820815, Final, FHW, AR, AR-29 Relocation, I-30 to AR-29, Hope, Hempstead County, Due: Jan. 31, 1983.
- EIS No. 820810, DSuppl, FHW, VI, St. Thomas Island Transportation Improvements, Charlotte Amalie, Due: Feb. 14, 1983.
- EIS No. 820819, Final, UMT, CA, Daly City Station Turnback Improvements, San Mateo & San Francisco Cos., Due: Jan. 31, 1983.

Department of Housing and Urban Development:
- EIS No. 820818, Draft, HUD, TX, Greenwood Valley Subdivision, Mortgage Insurance, Allen, Collin Co., Due: Feb. 14, 1983.

Nuclear Regulatory Commission:
- EIS No. 820813, Final, NRC, NH, Seabrook Station Units 1 and 2, Startup and Operation, License, Due: Jan. 31, 1983.

Department of Agriculture:
- EIS No. 820807, Draft, AFS, VT, Sugarbush Valley Winter Sports Area Expansion, Green Mountain NF, Due: Feb. 14, 1983.
- EIS No. 820811, Final, AFS, IL, Shawnee Hills National Recreation Area, Shawnee National Forest, Due: Jan. 31, 1983.
- EIS No. 820812, Final, SCS, PRO, Soil and Water Resources Conservation Act, 1982 Final Program Report, Due: Jan. 31, 1983.

Department of Defense, Navy:
- EIS No. 820804, Draft, USN, PRO, Decommissioned/Defueled Submarine Nuclear Reactor Plant, Disposal, Due: Mar. 31, 1983.

Amended Notices:
- EIS No. 810979, Draft, HUD, VA, Franklin Farms Community, Mortgage Insurance, Fairfax County, *Published FR 12/11/81—Officially withdrawn.
- EIS No. 820798, DSuppl, FHW, *NM, Juan Tabo Extension, Wagon Train Dr. to Central Ave., Bernalillo Co. *Published FR 12/23/82—Incorrect State, Due: Feb. 7, 1983.

Dated: December 28, 1982.

Michael L. Privitera,

Acting Director, Office of Federal Activities.

[FR Doc. 82-34011 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59108A TSH-FRL 2275-2]

S-Benzyl-N-Methyldithiocarbamate; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-9, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M Street SW., Washington, D.C. 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or

the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time period specified below, will not present any reasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-9

Date of Receipt: November 8, 1982.

Notice of Receipt: November 19, 1982 (47 FR 52225).

Applicant: Phillips Petroleum Company.

Chemical: S-Benzyl-N-Methyldithiocarbamate (Specific).

Use: Component of an industrial product (Generic).

Production Volume: 1000 pounds.

Worker Exposure: During manufacture, a maximum of 2 workers for up to 4 hours, and duringt processing a maximum of 1 worker for 7 hours.

Test Marketing Period: 12 months.

Commencing on: (*signature date*).

Risk Assessment: The Agency investigated data concerning effects on human health and the environment of structural analogs to the test market substance and found that the substance is related to substances that are toxic to aquatic organisms at moderate levels. The Agency has concluded that the amount reaching a receiving stream from use of the TME substance will be well below these levels. The calculated level of TME substance in effluent is at least an order of magnitude below levels of potential concern. Additional water treatment and the volume of water in the receiving stream further dilutes these possible concentrations to very low levels. This is based on the Agency assessment of use information supplied by the submitter and the typical disposal methods for the use specified on the application. No significant release to water from manufacturing or processing is expected.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: December 22, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-35368 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

[AAA-FRL 2276-1]

EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter, the names of, and other information concerning, those individuals and firms debarred, suspended, or voluntarily excluded from participation in EPA assisted programs. Assistance recipients and contractors under an EPA award may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive updated list is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Office of Regional Counsel in your Region.

DATE: This short list is current as of December 17, 1982.

FOR FURTHER INFORMATION CONTACT: A. Frank Dawkins of the EPA Compliance Staff, Grants Administration Division, at (202) 755-9140.

Dated: December 20, 1982.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division.

EPA MASTER LIST OF DEBARRED, SUSPENDED, AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status	From—	To—	Grounds	Agency
Ashland-Warren, Inc. (McMinville, TN)	82-0401	D	09-22-82	05-06-85	§ 32.200(a)(e)	FHwA.
Carpenter, Frank (Monroe, NC)	82-0403	S	09-23-82	Open	§ 32.200(a)(b)	EPA.
Crowell Constructors, Inc. (Fayetteville, NC)	82-0405	D	11-29-82	04-27-82	§ 32.200(a)(b)(e)(f)	FHwA.
Crowell, William W. (Fayetteville, NC)	82-0405	D	11-29-82	04-27-83	§ 32.200(a)(b)(e)(f)	FHwA.
Crowder Construction Company, Inc. (Charlotte, NC)	82-0402	S	09-23-82	Open	§ 32.200(a)(b)	EPA.
Crowder, Otis (Charlotte, NC)	82-0402	S	09-23-82	Open	§ 32.200(a)(b)	EPA.
Dees, Wilber E. (Fayetteville, NC)	82-0405	S	10-22-82	Open	§ 32.200(a)(b)(e)(f)	FHwA.
Dickerson Group, Inc. (Monroe, NC)	82-0403	S	09-23-82	Open	§ 32.200(b)	EPA.
Herbert G. Whyte, Associates, Inc. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200(b)(e)	EPA.
Houston, Arnold E., Jr. (Fayetteville, NC)	82-0404	S	10-21-82	Open	§ 32.200(a)(b)(f)	FHwA.
Johnson Bros. Utility & Paving Co., Inc. (Lillington, NC)	82-0406	S	10-22-82	Open	§ 32.200(a)(b)(e)(f)	EPA.
Johnson, McDuffie (Lillington, NC)	82-0406	S	10-22-82	Open	§ 32.200(a)(b)(e)(f)	FHwA.
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA)	82-0601, 82-0408	S	10-07-82	Open	§ 32.200(b)(c)(e)(i)	EPA.
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200(b)(e)	EPA.
Wirt, David (Douglasville, GA)	82-0601, 82-0408	S	10-07-82	Open	§ 32.200(b)(c)(e)(i)	EPA.
Wirt, Gordon D. (Douglasville, GA)	82-0408	S	12-07-82	Open	§ 32.200(c)(e)(i)	EPA.
Wirt, Judith C. (Douglasville, GA)	82-0408	S	12-07-82	Open	§ 32.200(c)(e)(i)	EPA.

[FR Doc. 82-35366 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. CC 81-351; Transmittal No. 13663]

American Telephone and Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services; Order

Adopted December 10, 1982.

Released December 15, 1982.

By the Deputy Chief, Common Carrier Bureau:

1. On December 3, 1982, we adopted an *Order* in this proceeding, Mimeo 1196, released December 7, 1982, extending the date for filing comments from December 6 to December 20, 1982. That extension was to allow time for consideration of a settlement proposal filed on December 1, 1982, by certain user parties to determine whether to solicit comments from American Telephone and Telegraph Company and other parties. Our analysis of the settlement proposal is continuing, and therefore, we will further extend the date for filing comments to January 17, 1983.

2. Accordingly, it is ordered, That the date for filing comments is deferred to not later than January 17, 1983.

3. It is further ordered, That the Secretary will cause this Order to be published in the **Federal Register.**

4. It is further ordered, That this Order is effective upon adoption.

Federal Communications Commission.

Leon M. Kestenbaum,

Deputy Bureau Chief, Policy, Common Carrier Bureau.

[FR Doc. 82-35423 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

December 16, 1982.

Working Group C: Available U.S. Options & Strategies.

Chairman: P. G. Ackerman, (213) 648-4134.

Date: Friday, January 14, 1983.

Time: 9:30 a.m.–4:00 p.m.

Location: Main Commerce (Herbert C. Hoover) Building, 14th and Constitution Avenue, NW., Room 1605, Washington, D.C. 20230.

Agenda: (1) Status Report—Working Group A (Schnicke).

(2) Review and Discussion.

(a) Orbit/Spectrum Resource Management (Weiss).

(b) Implementation Requirements (Tycz).

(c) Space Communication and ITU Negotiations (Frisbee).

(d) Brainstorming—All.

(3) Work Assignments—All.

(4) Next Meeting.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-35293 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

December 16, 1982.

Task Group B-1 of WORKING GROUP B: Legal Implications.

Chairman: Martin Rothblatt, (202) 463-2962.

Date: Friday, January 21, 1983.

Time: 1:30–4:30 p.m.

Location: Schnader, Harrison, Segal and Lewis, 1111 19th Street, NW., Suite 1000, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-35294 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

FCC Reports System Revised

October 8, 1982.

Beginning in November, 1982, FCC Reports *pamphlets* will be produced monthly instead of weekly.

Pamplets, averaging 150 pages, will contain decisons, alphabetized document titles and other descriptive data and include indexes accumulated from previous and current issues. This will enable researchers to utilize the latest issue to find documents printed in earlier pamphlets.

Subscription orders may be mailed to Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402. Single issues are also available. Prices are: Yearly domestic: $34.00; yearly foreign: $42.50; single copy domestic: $5.00; and single copy foreign: $6.25.

Included for your use is an order form. When ordering, please specify the file code and list I.D. of "2D–FCCR" for quick processing.

The FCC Reports *bound volume* and *cumulative index* are presently produced sporadically and sold as single publications. In the future, the bound volume will be published at the end of each fiscal year and will include textual matter and indexes from the previous 12 issues of the pamphlet. The cumulative index, a compilation of research aids from the bound volumes, will be published every three years. Both publications will continue to be sold as single copies. Price information for bound volumes and cumulative indexes may be obtained by contacting one of the GPO bookstores listed in this Notice.

Budgetary constraints necessitate that only essential documents be printed in the Reports. Rule making documents published in the Federal Register will not ordinarily be duplicated in the Reports. Only documents of precedential legal significance or historic value, those which clarify a policy or rule, or those documenting a significant deviation from past practices, will be published. The Reports contain final decisions of the Commission and the Review Board, initial decisions of Administrative Law Judges, and some staff decisions issued under delegated authority.

Questions and comments many be directed to Shirley Watson at 1919 M Street, N.W., Room 224, Washington, D.C., (202) 632-0426.

William J. Tricarico,

Secretary, Federal Communications Commission.

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To serve you better, the GPO operates 26 bookstores in 21 cities around the country. While the bookstores carry only a small percentage of the many thousands of titles in our active sales inventory, they do have the ones most in demand and can accept orders for any not carried in a store. Single issues of some of the more popular periodicals are available in the stores for over-the-counter sales.

The Retail Sales Outlet in Laurel, Maryland is a part of our Retail Distribution Division and has access to all titles currently in stock. Customers having an immediate need for one or more publications are encouraged to pick up their books at the Laurel Retail Sales Outlet where feasible. Before going to Laurel, please call our order desk at 202/783-3238 to check on the

price, stock number, and availability of the publication(s) desired.

All of our bookstores and the sales outlet accept MasterCard, VISA, or prepaid Superintendent of Documents deposit account charges. If one of our bookstores or the Laurel outlet is convenient to you, why not stop in and get acquainted. Our managers and their staffs will be happy to assist you and answer any questions you may have about our many publications and services. The addresses and phone numbers of the bookstores and the retail sales outlet are listed below.

Bookstores

Atlanta

Room 100, Federal Building, 275 Peachtree Street, NE., Atlanta, Georgia 30303, (404) 221–6947

Birmingham

9220–B Parkway East, Roebuck Shopping City, Birmingham Alabama 35206, (205) 254–1056

Boston

Room G25, John F. Kennedy Federal Building, Sudbury Street, Boston, Massachusetts 02203, (617) 223–6071

Chicago

Room 1463, 14th floor, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, (312) 353–5133

Cleveland

First Floor, Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199, (216) 522–4922

Columbus

Room 207, Federal Building, 200 North High Street, Columbus, Ohio 43215, (614) 469–6956

Dallas

Room 1C50, Federal Building, 1100 Commerce Street, Dallas, Texas 75242, (214) 767–0076

Denver

Room 117, Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–3964

Detroit

Patrick V. McNamara Federal Building, Suite 160, 477 Michigan Avenue, Detroit, Michigan 48226, (313) 226–7816

Houston

45 College Center, 9319 Gulf Freeway, Houston, Texas 77017, (713) 226–5453

Jacksonville

Room 158, Federal Building, 400 West Bay Street, P.O. Box 35089 Jacksonville, Florida 32202, (904) 791–3801

Kansas City

Room 144, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–2160

Los Angeles

ARCO Plaza, C-Level, 505 S. Flower Street, Los Angeles, California 90071, (213) 688–5841

Milwaukee

Room 190, Federal Building, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202, (414) 291–1304

New York

Room 110 26 Federal Plaza, New York, New York 10278, (212) 264–3825

Philadelphia

Room 1214, Federal Office Building, 600 Arch Street, Philadelephia, Pennsylvania 19106, (215) 597–0677

Pittsburgh

Room 118, Federal Office Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, (412) 644–2721

Pueblo

Majestic Building, 720 North Main Street, Pueblo, Colorado 81003, (303) 544–3142

San Francisco

Room 1023, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102, (415) 556–0643

Seattle

Room 194, Federal Office Building, 915 Second Avenue, Seattle, Washington 98174, (206) 442–4270

Washington, D.C. and vicinity

Government Printing Office, 710 North Capitol Street, Washington, D.C. 20402, (202) 275–2091

Department of Commerce

14th and E Streets, NW., Room 1604, First Floor, Washington, D.C. 20230, (202) 377–3527

Department of Health and Human Services

Room 1528, H.H.S. North Building, 338 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–7478

Department of State

2817, North Lobby, 21st and C Streets, NW., Washington, D.C. 20520, (202) 632–1437

International Communication Agency

1776 Pennsylvania Avenue, NW., Washington, D.C. 20547, (202) 724–9928

Pentagon

Main Concourse, South End, Washington, D.C. 20310, (703) 557–1821

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[FR Doc. 82-35296 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-C

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

December 22, 1982.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 7 and 18, 1983 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Groups I and III meetings.

Members of the general public may attend the meeting subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C. 20554, telephone (202) 632-3214.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-35298 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-557]

Reduction of the Information Required by Specified Application Forms

December 13, 1982.

As a part of its efforts to simplify the application process and to reduce paperwork, the Commission is in the process of reviewing all its broadcast application forms. Some forms have been revised (for example, FCC Forms 301, 303, 314, 315 and 346) and others will be revised in the near future. Still other forms must await revision until the completion of rulemaking proceedings considering the rules and policies underlying the questions asked in the present forms. Although a detailed review of all forms awaiting revision has not been completed, an initial review reveals questions seeking financial information that is not used or needed (for example, balance sheets and information on the cost of construction requested by license applications to cover construction permits) or that can be obtained more simply by certification. Finally, some forms still call for the filing of articles of incorporation or partnership agreements, although the Commission has eliminated this requirement in forms 301, 314 and 315.

The Commission is not revising the forms listed below at this time. As an interim measure, however, we are specifying questions to which the applicant need no longer respond. Moreover, we have specified those sections where certification of financial qualifications will suffice. Financial certification forms for commercial and noncommercial applicants are attached. The certification forms track the form adopted in the revised Forms 301, 314, 315 and 316.

1. *Form 302* "Application for New Broadcast Station License." Applicants need not respond to questions 4 and 5, Section I. If applicable, applicants should answer question 6 to the extent that it inquires as to contracts affecting ownership, but need not respond to the question to the extent that it seeks information on changes in capitalization.

2. *Form 308* "Application for Permit to Deliver Programs to Foreign Broadcast Stations." Applicants need not respond to question 3 to the extent that it requests copies of articles of incorporation or partnership agreements.

3. *Form 309* "Application for Authority to Construct or Make Changes in International, Experimental Television, Experimental Facsimile or Developmental Broadcast Station." Applicants need not submit Section III. Instead, they may submit an appropriate certification.

4. *Form 316* "Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License." Applicants need not respond to questions 10(a)(2), 10(a)(3) and 12. Applicants need not respond to question 11 to the extent that it seeks information as to the source of funds, the terms and conditions of payment, and a balance sheet of the assignee or transferee. Instead, an appropriate certification may be sumbitted. Further, the applicant need not specify the termination date of the contract.

5. *Form 330-P* "Application for Authority to Construct or Make Changes in an Instructional Television Fixed and/or Response Station(s) and Low Power Relay Station(s)." Applicants need not respond to Section II, questions 3(a) and 3(b), to the extent that they seek copies of articles of incorporation and by-laws or partnership agreements, or respond to question 4. Further, applicants need not submit Section III. Instead, they may submit an appropriate certification.

6. *Form 330-L* "Application for Instructional Television Fixed Station License." Applicants need not respond to questions 2(a) and 2(b).

7. *Form 330-R* "Application for Renewal of an ITFS and/or Response Station(s) and Low Power Relay Station(s) License." Applicants need not respond to question 7.

8. *Form 340* "Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station." Applicants need not respond to Section II, questions 3(c), 3(d) and 4. Further, applicants need not submit Section III. Instead, they may submit an appropriate certification.

9. *Form 341* "Application for a New Noncommercial Educational Broadcast Station License." Applicants need not respond to questions 5, 6(a) and 6(b), Section I.

10. *Form 345* "Application for Consent to Assignment of Broadcast Translator Station Construction Permit or License." Applicants need not respond to Section I, questions 8(b) and 8(c), and Section II, question 5.

11. *Form 347* "Application for TV or FM Broadcast Station Translator License." Applicants need not respond to questions 5(a), 5(b) and 5(c).

12. *Form 349-P* "Application for Authority to Construct or Make Changes in an FM Booster Station." Applicants need not respond to questions 6, 7(a), 7(b) and 8. Instead, they may submit an appropriate certification. No certification is required if the contemplated expenditures are $500 or less.

13. *Form 349-L* "Application for An FM Booster Station License." Applicants need not respond to questions 3(a), 3(b) and 3(c).

14. *Form 349-R* "Application for Renewal of FM Booster Station License." Applicants need not respond to questions 3 and 4.

Action by the Commission December 8, 1982. Commissioners Fowler (Chairman), Quello, Fogarty, Jones, Rivera and Sharp, with Commissioner Dawson concurring in the result.

William J. Tricarico,

Secretary, Federal Communications Commission.

To be used by commercial applicants.

Financial Qualifications

Note: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facilities for three months without revenue.

Yes ☐ No ☐

2. The applicant certifies that:

(a) It has a reasonable assurance of a present firm intention for each agreement to furnish capital or purchase capital stock by parties to the application, each loan by banks, financial institutions or others, and each purchase of equipment on credit;

(b) It can and will meet all contractual requirements as to collateral, guarantees, and capital investment.

(c) It has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions, and equipment manufacturers) have sufficient net liquid assets to meet these commitments.

Yes ☐ No ☐

To be used by applicants that qualify as noncommercial entities under Sections 73.503 and 73.621 of the Commission's Rules.

Financial Qualifications

Note: If this application is for a change in an operating facility, do not fill out this section.

1. Is this application contingent upon receipt of a grant from the National Telecommunications and Information Administration?

Yes ☐ No ☐

2. Is this application contingent upon the receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political subdivision?

Yes ☐ No ☐

Note: If either 1 or 2 is answered "yes" your application cannot be granted until all of the necessary funds are committed or appropriated. In the case of grants from the National Telecommunications and Information Administration, no further action on your part is required. If you rely on funds from a source specified in question 2, you must advise the F.C.C. when the funds are committed or appropriated. This should be accomplished by letter amendment to your application, in triplicate, signed in the same manner as the original application, and clearly identifying the application to be amended.

3. Except as indicated in questions number 1 and 2, above, the applicant certifies that:

(a) It has a reasonable assurance of present commitments from each donor, from each party agreeing to furnish capital, from each bank, financial institution or others agreeing to lend funds, and from each equipment supplier agreeing to extend credit.

Yes ☐ No ☐

(b) It can and will meet all contractual requirements as to collateral, guarantees, and capital investment or donations:

Yes ☐ No ☐

(c) It has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions, and equipment manufacturers) have sufficient net liquid assets to meet these commitments:

Yes ☐ No ☐

4. The applicant certifies, except as noted above, that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facilities for three months without revenues.

Yes ☐ No ☐

[FR Doc. 82-35292 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-807, File No. BPCT-820615KH, etc.]

Miller Broadcasting Inc., et al.; Hearing Designation Order

Adopted: November 29, 1982.
Released: December 16, 1982.

In re Applications of: Miller Broadcasting, Inc. Lawence, Kansas, BC Docket No. 82-807, File No. BPCT-820615KH; V. Sturwold et al. d.b.a. Kansas Family TV, Ltd. Lawrence, Kansas, BC Docket No. 82-808, File No. BPCT-820819KE; Horizon Communications 38, Ltd. Lawrence, Kansas, BC Docket No. 82-809, File No. BPCT-820824KL; and Denning Santee Communications, Inc. Lawrence, Kansas, BC Docket No. 82-810, File No. BPCT-820824KM; For Construction Permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (a) the above-captioned mutually exclusive applications of Miller Broadcasting, Inc. (Miller), Kansas Family TV, LTD. (KFT), Horizon Communications 38, LTD. (Horizon) and Denning Santee Communications, Inc. (Denning Santee) for authority to construct a new commercial television station on Channel 38, Lawrence, Kansas; [1] (b) an informal objection filed by the Association of Maximum Service Telecasters (AMST); and (c) a "Petition to Return", filed October 20, 1982, by Miller against Denning Santee.[2]

2. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issue specified below.

3. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communication Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

4. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to Issue 1.

5. It is further ordered, That the informal objection filed by the Association of Maximum Service Telecasters, Inc. and the Petition to Return filed by Miller against Denning Santee Communications, Inc. are dismissed as moot.

6. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

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[1] Denning Santee filed a "Request for Leave to Amend" on November 9, 1982 accompanied by an amendment updating information as to a new site and other broadcast interests. Inasmuch as the information is required by Section 1.65 of the Commission's Rules, the request is granted and the amendment is accepted for filing.

[2] AMST's objection and Miller's Petition to Return argue that Denning Santee has proposed a tower site that does not meet the Commission's mileage separation requirements; however, Denning Santee subsequently amended its application to specify a non-short-spaced site. Accordingly, AMST's objection and Miller's petition will be dismissed as moot.

7. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-35291 Filed 12-29-82; 8:45 am]

Billing Code 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 9474-8]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 9474-8 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

This agreement involves the Thailand/Pacific Freight Conference. It includes American President Lines, Ltd., A.P. Moller Maersk Line, Barber Blue Sea Line, Sea-Land Service, Inc. and The East Asiatic Company, Ltd. The agreement covers the trade from ports in Thailand to ports in Hawaii and U.S. Pacific Coast ports by direct all-water service, and since 1977 the intermodal trade to U.S. Atlantic and Gulf ports via minilandbridge service from Pacific Coast ports. The conference now desires an extension of authority to set interior point intermodal rates.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

AGENCY: Federal Maritime Commission (Commission).

PROPOSED ACTION: Agreement No. 9474-8.

RESPONSIBLE OFFICIAL: Edward R. Meyer, Director, Office of Energy and Environmental Impact, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523-5835.

Finding of No Significant Impact (FONSI)

Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Federal Maritime Commission's Office of Energy and Environmental Impact (OEEI) has assessed the environmental impacts of Agreement No. 9474-8.

This agreement involves the Thailand/Pacific Freight Conference. It includes American President Lines, Ltd., A.P. Moller-Maersk Line, Barber Blue Sea Line, Sea-Land Service, Inc. and The East Asiatic Company, Ltd. The agreement covers the trade from ports in Thailand to ports in Hawaii and U.S. Pacific Coast ports by direct all-water service, and since 1977 the intermodal trade to U.S. Atlantic and Gulf ports via minilandbridge service from Pacific Coast ports. The conference now desires an extension of authority to set interior point intermodal rates.

The attached impact assessment for this agreement indicates that no significant adverse effects on the use of energy or the quality of the human environment will result from the Commission's approval, disapproval or modification of the agreement.

The OEEI therefore concludes that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

The FONSI will become final within 20 days of publication of the Notice of Availability in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

Office of Energy and Environmental Impact

Environmental Assessment on Agreement No. 9474-8

I. Need for Action

The Conference desires to establish U.S. intermodal authority.

II. Alternatives

The alternatives before the Commission are that it may approve, disapprove or modify the agreement.

III. Impacts

	Degree of environmental impact		
	Not applicable	Insignificant	Significant
A. Energy:			
1. Terminal operations, including:			
a. Vessels at dockside (auxiliary plant)		X	
(1) New calls at port	X		
(2) Shifting berths	X		
b. Stevedoring and cranes (loading/off-loading)		X	
c. Circulation of vehicles, including trucks, forklifts, packers, etc.		X	
d. Maintenance/repair shops, office spaces, and utilities (boilers, diesels)		X	
2. Vessels underway (piloting, berthing, etc.)		X	
B. Air quality:			
1. Vessels at dockside		X	
2. Stevedoring and cranes		X	
3. Circulation of vehicles		X	
4. Maintenance shops and utilities		X	
5. Storage tanks (other than diesel oil)		X	
6. Vessels underway (piloting and berthing)		X	
C. Noise pollution:			
1. Vessels at dockside (auxiliary machinery)		X	
2. Stevedoring and cranes (loading/off-loading)		X	
3. Circulation of vehicles		X	
4. Maintenance shops		X	
5. Vessels underway		X	
D. Hazardous cargoes (other than containerized)		X	
E. Water quality:			
1. Berth dredging (impacts on turbity)	X		
2. Vessels underway (piloting and berthing)		X	
3. Landfill	X		
F. Biological:			
1. Terrestrial habitat (birds, animals, plants)	X		
2. Marine habitat (fish, invertebrates, mammals)		X	
G. Socio-economic:			
1. Employment and income		X	
2. Population growth			
H. Recreation	X		
I. Cultural and archeological	X		
J. Land use	X		
K. Other comments			

Note.—The members will not alter their service or routing under Agreement No. 9474-8. In addition, the members do not anticipate significant immediate increases in cargo that would require altering the service now consisting collectively of some 200 sailings per year. The anticipated intermodal cargo is currently moving either via member's all-water conference or microbridge tariffs. Thus, the potential increases in traffic resulting from approval of the agreement should not cause increased fuel consumption, alteration of mode, type, or routing of cargo or any significant impact on the quality of the human environment.

Source(s): (a) FMC Agreement No. 9474–8 and associated letter of justification. (b) Personnel correspondence of December 10, 1982, between Mr. David Dunn, Attorney-Fact for the parties to Agreement No. 9474, and Paul Tello of the OEEI.

[FR Doc. 82-35095 Filed 12-29-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views 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 interest, or unsound banking practices." Any comment that requests a hearing must include 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 that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York (finance and factoring activities; southwestern United States): To engage, through its subsidiary, BT Commerical Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by a borrower's accounts receivable, inventory or other assets; purchasing or acquiring accounts receivable and making advances thereon as would be done by a factor; servicing such loans or accounts for others; and acquiring and selling participations in such obligations. These activities would be conducted from an office in Dallas, Texas, serving Texas, Louisiana, Mississippi, Arkansas, Oklahoma, Kansas, Missouri, Colorado, and New Mexico. Comments on this application must be received not later than January 19, 1983.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Maryland, Virginia, Delaware, Pennsylvania and the District of Columbia): To establish a *de novo* office of its subsidiary, Citicorp Homeowners, Inc., located in Towson, Maryland. The activities in which the *de novo* office proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the office shall be the entire states of Maryland, Virginia, Delaware, Pennsylvania and the District of Columbia. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Homeowners, Inc. Comments on this application must be received not later than January 21, 1983.

3. *The Chase Manhattan Corporation*, New York, New York (mortgage banking and related lending and insurance activities; New Jersey): To engage, through its subsidiary, Chase Home Mortgage Corporation, in making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by real estate, including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties; to service loans and other extensions of credit for any person; to sell mortgage loans in the secondary market; and to offer mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted from an office located in Morristown, New Jersey, and will serve the State of New Jersey. Comments on this application must be received not later than January 21, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (mortgage banking and credit-related, accident and health insurance activities; Texas): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; the servicing of such loans for others; and acting as broker or agent for the sale of credit-related life, accident and health insurance. These activities would be conducted from an office of Securitiy Pacific Mortgage Corporation in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than January 19, 1983.

Board of Governors of the Federal Reserve System, December 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35332 Filed 12-29-82; 8:45 am]
BILLING CODE 6210-01-M

Continental Bancorp, Inc.; Merger of Bank Holding Companies

Continental Bancorp, Inc., Philadelphia, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to acquire 100 percent of the shares of York Bancorp, Inc., York, Pennsylvania, and thereby to indirectly acquire 100 percent of the shares of The York Bank and Trust Company, York, Pennsylvania. The factors that are considered in acting on

the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

York Bancorp also engages through a subsidiary, Dickenson Life Insurance Company, York, Pennsylvania, in underwriting as reinsurer credit life, health and accident insurance sold in connection with extensions of credit by The York Bank and Trust Company. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the comany's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1983. Any comment on a application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifiying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35330 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

Le Center Financial Services, Inc.; Formation of Bank Holding Company

Le Center Financial Services, Inc., Le Center, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 76.3 per cent or more of the voting shares of First State Bank of Le Center, Le Center, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Le Center Financial Services, Inc., Le Center, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage directly in general insurance activities in a community with a population not exceeding 5,000.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than January 21, 1983.

Board of Governors of the Federal Reserve System, December 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35331 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0443]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

SUMMARY: The Board of Governors is requesting public comment on a proposal to revise the fee structure for the Federal Reserve's book-entry securities service. The fee structure would be revised by adding a maintenance fee based on the number of issues held in an account.

DATE: Comments must be received by February 13, 1983.

ADDRESS: Comments, which should refer to Docket No. R-0443, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Charles W. Bennett, Assistant Director (202/452-2738) or Gerald D. Manypenny, Manager (202/452-3954), Division of Federal Reserve Bank Operations or Gilbert T. Schwartz, Associate General Counsel (202/542-3625) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) ("Act") requires that fees be developed for Federal Reserve Bank services according to a set of pricing priciples established by the Board. The Board, in accordance with the requirements of the Act, and after notice and comment, adopted revised pricing principles and fee schedules for certain Federal Reserve services. 46 FR 1338 (January 6, 1981). Subsequently, the Board adopted a fee schedule for the book-entry securities service and other securities services on July 17, 1981, to be effective October 1, 1981. 46 FR 17972 (July 23, 1981). As required by the Act, the fee schedule adopted by the Board was designed to recover the full costs of providing the service, plus a private sector adjustment factor of 16 percent. The book-entry securities service fee structure provided for transaction fees for transfers originated on-line, originated or received off-line, and a monthly account maintenance fee.

Since the implementation of the fee schedule in 1981, the System has incurred a shortfall in the recovery of costs plus the private sector adjustment factor. The shortfall occurred because of a greater than expected shift from the use of the relatively more expensive off-line transfers to on-line transfers. Further, experience under the fee schedule during 1982 has demonstrated that the costs of maintaining a book-entry account are directly related to the number of issues held in that account. Accounts with a large number of issues are more costly to maintain than are accounts with only several issues.

The Board has therefore determined to request public comment on a proposed revision of the fee structure for the book-entry service. The fee structure would be revised to add a monthly fee for each issue held in an account. This per issue component would more accurately reflect the costs of maintaining a multiple issue account as well as recognize the benefits that accrue to such accountholders.

The individual fees for the components of the book-entry service also would be revised to recover the

costs of providing the service, including the 16 percent private sector adjustment factor, based on estimated 1983 volume. The Transaction fee for on-line originations would be increased from $2 to $3. Fees for off-line originations and receipts would be established at $10. The Board believes this would more accurately reflect the cost of off-line transactions. The account maintenance fee would also be established at $15 per account per month, with a $.50 charge per month for each issue in an account.

The Federal Reserve Bank of New York would continue its "time of day" pricing for book-entry transfers. This procedure had been adopted to provide incentives to shift some transfers away from afternoon peak periods, thus avoiding difficulties related to operational capacity constraints. The fees for the New York Reserve Bank on-line transfer service will average about $3 per transaction.

The proposed revised fee schedule and structure for the book-entry securities service is:

Component	Current 1982	Proposed 1983
On-line transfers originated,[1] per transfer	$2.00	$3.00
Off-line transfers originated, per transfer	8.50	10.00
Off-line transfers received, per transfer	6.50	10.00
Account maintenance, per account/per month	6.00	15.00
Issues in accounts maintained, per issue/per month		.50

[1] For all Federal Reserve Districts except New York. The fee schedule for on-line transfers originated through the Federal Reserve Bank of New York would be:

	Current 1982	Proposed 1983
Per transfer:		
9:00 a.m.–12:00 noon	$0.50	$1.00
12:01 p.m.–2:00 p.m.	1.25	3.00
2:01 p.m.–closing	4.50	5.00

The Board recognizes that the percentage increases in fees may be significant. However, increased fees are necessary to recover the costs of providing the service, including the private sector adjustment factor, as required under the Act. Further, although the percentage increases may be large, the Board does not believe that in terms of absolute dollar value the revised fee schedules should have any substantial effect on depository institutions utilizing the Federal Reserve's book-entry service.

Comment on the revised fee schedule is requested by February 13, 1983.

By order of the Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35327 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: 1983 fee schedule for coin and currency transportation.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires that schedules of fees be established for Federal Reserve Bank services. On October 30, 1981, the Board adopted a schedule of fees for the coin and currency transportation service, effective January 28, 1982. The Federal Reserve has now adopted a new fee schedule for this service.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Associate Director (202/452-2738), Steven O. App, Manager (202/452-2705), or Robert B. Kaiman, Senior Operations Analyst (202/452-2219), Division of Federal Reserve Bank Operations; or Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board. On December 30, 1980, the Board, after notice and public comment, adopted revised pricing principles, implementation dates on which fee schedules for each service will become effective, and fee schedules for several services. 46 FR 1338 (January 6, 1981). Subsequently, the Board adopted a policy for access to cash processing services and a fee schedule for coin and currency transportation, effective January 28, 1982. 46 FR 55151 (November 6, 1981).

The fee structure adopted by the Board for the armored carrier service for 1982 generally contained two elements: A volume (per bag) charge and a per stop charge. The volume charge of $0.50 per bag of currency or coin was intended to simplify the fee schedule and provide for more appropriate allocation of costs between high volume and low volume endpoints. The per stop charge was based on zones serviced by each Federal Reserve office and varied between offices since armored carrier costs are not simply a function of distance but also reflect the frequency of stops along a route and the extent of competition in the areas serviced. In some instances, fees included charges based on mileage or value. Reserve Banks were also given the flexibility to establish other fees in some circumstances, such as negotiated fees for high volume customers.

In adopting the fee schedule for this service, the Board was concerned that immediate imposition of the full costs of cash transportation could have a significant impact on depository institutions, particularly those smaller institutions located in remote areas where transportation charges would be very high. The Board therefore determined that it was appropriate to adopt a temporary fee ceiling of $75 on the per-stop element of the charge as necessary to assure the provision of an adequate level of cash transportation nationwide.

With regard to coin and currency shipped by registered mail, Reserve Banks normally limited the use of registered mail shipments to those endpoints where armored carrier service is unavailable or where other special circumstances prevail. Where registered mail is used, the Board determined that it would be appropriate to impose a fee ceiling of $37.50 per shipment for one-way delivery either to or from a Reserve Bank, consistent with the ceiling on armored carrier per-stop charges.

The Board also determined to maintain the fee ceilings for no more than two years (1982 and 1983), and committed to review the appropriateness of the fee ceilings for armored carrier per stop charges and registered mail shipments in 1983 at which time the fee ceilings could be adjusted. By the end of the two year period, fees for cash transportation would be set to recover all costs of armored carrier service as required under the MCA, within the 48 contiguous states. For endpoints using registered mail, charges will be based on actual Reserve Bank expenses incurred for postage and full insurance, and would recover the full costs incurred.

The Board has now decided to continue a fee ceiling on cash transportation during 1983. However, the Board believes that the ceiling should be adjusted so that depository institutions bear a greater portion of the cost of transportation. The continuation of a ceiling will provide a smooth transition to full cost recovery pricing of the transportation service anticipated in 1984. The Board has also determined to extend the flexibility of Reserve Banks

to structure fees more responsive to prevailing armored carrier industry practice and geographical considerations.

Experience with priced cash transportation over the past year (the first year of pricing this service) has indicated that retaining the bag charge will create difficulty in achieving a cost/revenue match for this service since revenue is subject to shifts in the public's demand for coin and currency. Further, it is difficult to translate an armored carrier's fixed monthly billing into a formula that effectively permits revenue recovery on a transaction basis. The Board has therefore determined to permit Reserve Banks the option of utilizing a bag charge in conjunction with a stop charge. The bag charge may not, however, exceed $2 per bag if a Reserve Bank elects to continue use of this element in the fee structure.

The Board has also determined to adjust the fee ceilings adopted in 1982. Fee ceilings for 1983 may be as low as $100, provided a Reserve Bank's aggregate price support costs do not exceed projected levels for 1983. Cash transportation prices would be directly related to the full cost of transportation, including administrative costs and the private sector adjustment factor, and to market conditions and industry practices. Operationally, this means that prices would be established route by route, stop by stop, geographic zone by zone, or by frequency of service (e.g., daily, weekly, biweekly, or monthly) in order to reflect the distance and time expense necessary to equitably allocate actual cost of cash transportation to user depository institutions. Reserve Banks using common carriers would continue to pass through the published tariffs to customers.

The 1983 fee ceilings for registered mail shipments of currency and coin will be equal to the ceiling for armored carrier stop charges. When 1982 ceilings were established, they were set at one-half the ceiling for armored carrier stop charges in recognition of the fact that armored carriers provided both pick-up and delivery at each stop. Experience over the past year has indicated, however that most registered mail shipments have been one-way trips and not the round trips anticipated when the registered mail ceiling price was set at one-half of the armored carrier stop ceiling price. Cash is shipped out or is deposited, but seldom both on a turn-around basis. By setting the 1982 ceiling at one-half of the armored carrier ceiling to compensate for the round trip capability of each armored carrier run, the use of registered mail was made more attractive.

The Board recognizes, however, that full imposition of the registered mail ceiling on each shipment leg may increase costs for small, remote institutions that do in fact use registered mail to send and receive cash on an essentially turn around schedule. Therefore, the registered mail ceiling will be applied as follows. If a depository institution both deposits and receives cash within a Monday through Friday calendar week, this activity will be treated like an armored carrier round trip for pricing purposes. That is, the institution will not be required to pay the fee ceiling twice (once for the incoming and once for the outgoing leg). This circumstance would be analogous to instances where users of armored carrier transportation would pay only a single stop charge even if they choose to both receive and send cash on a single armored carrier round trip. If, however, a registered mail user either sends or receives cash more than once during the Monday to Friday period, or has more than one round trip during that period, the fee ceiling would apply only to the first round trip or to the first trip of multiple one way trips going in the same direction in that period. Neither the second round trip nor the second outgoing or incoming shipments would be subject to the fee ceiling.

The Board is aware that the reduction in the price supports for cash transportation may result in increased costs for small institutions remotedly located from a Federal Reserve office. However, such action is necessary at this time to provide for a transition to full cost pricing of the transportation service in 1984. To mitigate this burden, Reserve Banks are considering a uniform accounting procedure for the crediting and debiting of institutions for cash shipments, regardless of who provides the transportation. This procedure would decrease the inventory costs associated with cash transportation incurred by small institutions. Further, Reserve Banks have, where possible, renegotiated multi-year carrier contracts and taken other actions to reduce cash transportation costs and keep prices for the service as reasonable as possible. In addition, studies have been initiated to determine if cash depot and cash terminal arrangements should be utilized as a means to reduce transportation costs and provide an adequate level of services. Reserve Banks will also continue exploring a variety of other methods of reducing transportation costs to high-cost locations.

The 1983 fee schedules for cash transportation and detailed information will be made available by the Federal Reserve Banks.

By order of the Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35328 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

Southern National Corp. and Southern Bancorporation, Inc.; Proposed Acquisition of Southern International Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 82-33701) published at page 55736 of the issue for Monday, December 13, 1982. The activity of assisting in foreign currency transactions has been determined by Board Order to be closely related to banking, but has not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies.

Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35329 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally, each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). However, since Friday, December 31, is a legal holiday, we are publishing this notice on December 30. The following are those packages submitted to OMB since the list was last published on December 23.

Public Health Service

Office of the Assistant Secretary for Health

Subject: Application for Appointment as a Commissioned Officer in the U.S. Public Health Service (0937-0023 and 0937-0025)—Revision

Respondents: Individuals
OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Administrative Detention Recordkeeping Requirements (0910–0114)—Extension
Respondents: Medical device establishments
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Request for Hearing on Adverse Action Regarding Hospital Insurance Benefits Payable Under Part A of Title XVIII (HA–5011 (7–81))—New
Respondents: Individuals
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Assessment of Adoption Subsidy Program—New
Respondents: Local Child Welfare Agency workers, adoptive parents
Subject: Quarterly Estimate of Expenditures for Foster Care and Adoption Assistance (0980–0130)—Revision
Respondents: State agencies
Subject: Quarterly Estimate of Expenditures for Foster Care and Adoption Assistance (0980–0131)—Revision
Respondents: State agencies
Subject: Annual Summary of Child Welfare Services and Annual Budget Request Title IV–B Funds (0980–0047)—Revision
Respondents: State agencies
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Preliminary Clearance of Home Health Agency Prospective Payment Demonstration Information Collections—New
Respondents: Participating Home Health Agencies
Subject: End Stage Renal Disease Facility Reporting Requirements: Request for Exception to Medicare Payment Screen (HCFA–9038)—Revision
Respondents: End stage renal disease facilities
Subject: Paperwork Requirements Associated with the Certification of Hospitals for Medicare and Medicaid (HCFA–1514 and R13)—Extension/No Changes
Respondents: Hospitals participating in Medicare and Medicaid programs
Subject: Paperwork Requirements Associated with the Certification of Portable X-Ray Suppliers for Medicare and Medicaid (HCFA–1880 and R14)—Extension/No Changes
Respondents: Portable X-Ray suppliers participating in Medicare and Medicaid programs
Subject: Paperwork Requirements Associated with the Certification of Home Health Agencies for Medicare and Medicaid (HCFA–1515 and R15)—Extension/No Changes
Respondents: Home Health Agencies participating in Medicare and Medicaid
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201;
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: December 27, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–35356 Filed 12–29–82; 8:45 am]
BILLING CODE 4150–04–M

Monthly Actuarial Rates and Monthly Premium Rate

AGENCY: Health and Human Services Department.

ACTION: General Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the 12 months beginning July 1983. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning July 1983.

The premium rate in this notice is calculated under the provisions of section 1839(c)(3) of the Social Security Act as modified by section 124 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, which temporarily holds the SMI premium at a constant percentage of the monthly actuarial rate for aged beneficiaries.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph N. Romano, Supervisory Actuary, Division of Medicare Cost Estimates, 1–C–11 Oak Meadows Building, Baltimore, Maryland 21235, Telephone: (301) 594–1023.

SUPPLEMENTARY INFORMATION: Each December, the Secretary of Health and Human Services is required by law to issue two notices relating to the Medicare Supplementary Medical Insurance (SMI) program.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the 12 months beginning the following July. These amounts are called "monthly actuarial rates".

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the 12 months beginning the following July. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92–603 and until the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), the premium rate was calculated as the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits (effective the preceding June). The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

On September 3, 1982, section 124 of Pub. L. 97–248 amended section 1839 of the Social Security Act by temporarily suspending the current limitation on annual increases in the SMI premium rate. Instead, section 124 sets the monthly premium beginning on July 1, 1983, and July 1, 1984, at a level equal to 50 percent of the monthly actuarial rates for aged beneficiaries. During this two-year period, premium increases will not be limited by the percentage by which monthly title II social security benefits most recently increased by the time of the notice. After June 1985, calculation of the premium rate will revert to the method used before the passage of section 124 of Pub. L. 97–248.

The notices of these amounts for the period July 1, 1983, through June 30, 1984, are as follows:

Notice of Monthly Actuarial Rates

As required by sections 1839(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395r(c) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for the 12-month period

beginning July 1, 1983, are $27.00 for enrollees age 65 and over, and $46.10 for disabled enrollees under age 65. The accompanying statement gives the actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)), as amended, I have determined that the basic premium amount will be $13.50 monthly during the period July 1, 1983 to June 30, 1984. The accompanying statement shows how this amount was derived.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard monthly Premium Rate for the Supplementary Medical Insurance Program Beginning July 1983

1. *Actuarial Status of the Supplementary Medical Insurance Trust Fund.* The law requires that the SMI program be financed on an incurred basis. That is, program income during the 12-month period for which the actuarial rates are effective must be sufficient to pay for services furnished during that period (including associated administrative costs) even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover benefits not paid until after the close of the 12-month period is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of June 30 for each of the years 1981 through 1983.

TABLE 1.—ACTUARIAL STATUS OF THE SMI TRUST FUND, 12-MONTH PERIODS ENDING JUNE 30 OF 1981–83

[In millions of dollars]

1-Month period ending June 30	Assets	Liabilities	Assets less liabilities
1981	$3,801	$3,470	$331
1982	5,535	3,887	1,648
1983	6,736	4,670	2,066

2. *Monthly Actuarial Rate for Enrollees Age 65 and Older.* The monthly actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for the 12-month period ending June 30, 1984, was determined by projecting per-enrollee cost for the 12-month period ending June 30, 1981, by type of service. The projected costs for the 12-month periods ending June 30 of 1981 through 1984 are shown in Table 2. The values for the 12-month period ending June 30, 1981, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 3.

TABLE 2.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER, 12-MONTH PERIODS ENDING JUNE 30 OF 1981–84

	1981	1982	1983	1984
Covered services (at level recognized):				
Physicians' reasonable charges	$17.22	$21.13	$24.86	28.37
Radiology and pathology	.96	1.01	1.02	1.03
Outpatient hospital and other intitutions	3.25	3.74	4.30	4.90
Home health agencies	.39	.02	.01	.01
Group practice prepayment plans	.52	.65	.81	1.01
Independent lab	.31	.32	.37	.43
Total services	22.65	26.87	31.37	35.75
Cost sharing:				
Deductible	−1.88	−2.29	−2.48	−2.50
Coinsurance	−3.89	−4.74	−5.73	−6.65
Total benefits	16.88	19.84	23.16	26.60
Administrative expenses	1.01	1.04	1.09	1.15
Incurred expenditures	17.89	20.88	24.25	27.75
Value of interest on fund	−.30	−.42	−.58	−.66
Contingency margin for projection error and to amortize unfunded liabilities	−1.29	2.14	.93	−.09
Monthly actuarial rate	16.30	22.60	24.60	27.00

TABLE 3.—PROJECTION FACTORS [1]: 12-MONTH PERIODS ENDING JUNE 30 OF 1982–84

[In percent]

12-month period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home health agency services	Group practice prepayment plans	Independent lab services
	Fees [2]	Residual [3]					
Aged:							
1982	10.8	10.8	6.0	15.1	−94.4	25.0	5.0
1983	9.6	7.4	.9	14.9	−62.3	25.0	15.0
1984	7.4	6.3	.5	13.7	10.0	25.0	15.0
Disabled:							
1982	10.8	15.2	15.0	41.3	−100.0	25.0	5.0
1983	9.6	11.1	1.3	30.3	0.0	25.0	15.0
1984	7.4	9.4	.5	24.9	0.0	25.0	15.0

[1] All values are per enrollee. Also, some values for 1982 and 1983 differ significantly from those contained in last year's notice due to an additional year's data which support the current values and due to the implementation of the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for the 12-month period ending June 30, 1984, is $27.75. The monthly actuarial rate of $27.00 provides an adjustment for interest earnings and $−.09 for a contingency margin. This margin is negative since there is already a more than moderate excess of assets over liabilities for the program as a whole.

3. *Monthly Actuarial Rate for Disabled Enrollees.* Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using appropriate actuarial assumptions (see Table 3). Costs for the end-stage renal disease program are projected using a different computer model because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for the 12-month

period ending June 30, 1984, is $53.60. The monthly actuarial rate of $46.10 provides an adjustment for interest earnings and $-4.47 for a contingency margin. This margin is negative since there is already a more than moderate excess of assets over liabilities for the disabled.

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES, 12-MONTH PERIODS ENDING JUNE 30 OF 1981-84

	1981	1982	1983	1984
Covered services (at level recognized:)				
Physicians' reasonable charges	$21.02	$26.38	$31.58	$36.39
Radiology and pathology	.96	1.11	1.12	1.13
Outpatient hospital and other institutions	18.02	22.01	25.42	27.92
Home health agencies	.34	.00	.00	.00
Group practice prepayment plans	.30	.37	.46	.58
Independent lab	.39	.42	.47	.53
Total services	41.03	50.29	59.05	66.55
Cost sharing:				
Deductible	−1.64	−2.09	−2.31	−2.34
Coinsurance	−7.62	−9.44	−11.29	−12.83
Total benefits	31.77	38.76	45.45	51.38
Administrative expenses	1.90	2.03	2.13	2.22
Incurred expenditures	33.67	40.79	47.58	53.60
Value of interest and other income on fund	−2.95	−3.26	−3.09	−3.03
Contingency margin for projection error and to amortize unfunded liabilities	−5.22	−.93	−2.39	−4.47
Monthly actuarial rate	25.50	36.60	42.10	46.10

4. *Sensitivity Testing.* Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative asssumptions. The most unpredicatable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (measured indirectly and reflecting the use of more visits per enrollee, the use of more expensive services, and other factors not explained by simple price per service increases), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 3.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $1,723 million by the end of June 1984, This amounts to 7 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic, and therefore which indicate the degree that assets can accommodate projection errors, produce a deficit of $1,057 million by the end of Jume 1984, which amounts to a deficit of 3.8 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial tates will result in an excess of $4,426 million, which amount to 20 percent of the estimated total incurred expenditures for the following year.

TABLE 5.—PROJECTION FACTORS AND THE ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER ALTERNATIVE SETS OF ASSUMPTIONS

[12-month periods ending June 30 of 1982-1984]

	This projection			Low cost projection			High cost projection		
	1982	1983	1984	1982	1983	1984	1982	1983	1984
Projection factors (in percent):[1]									
Physician services-fees:[2]									
Aged	10.8	9.6	7.4	10.3	9.1	6.9	11.3	10.1	7.9
Disabled	10.8	9.6	7.4	10.3	9.1	6.9	11.3	10.1	7.9
Physician services-residual:[3]									
Aged	10.8	7.4	6.3	9.8	5.4	4.3	11.8	9.4	8.3
Disabled	15.2	11.1	9.4	13.2	6.1	4.4	17.2	16.1	14.4
Outpatient hospital services:									
Aged	15.1	14.9	13.7	12.1	7.9	3.7	18.1	21.9	23.7
Disabled	41.3	30.3	24.9	33.3	20.3	14.9	49.3	40.3	34.9
Actuarial status (in millions):									
Assets	$5,535	$6,736	$7,042	$5,535	$7,430	$9,234	$5,535	$6,029	$4,800
Liabilities	3,887	4,670	5,319	3,657	4,321	4,808	4,117	5,027	5,857
Assets less liabilities	$1,648	$2,066	$1,723	$1,878	$3,109	$4,426	$1,418	$1,002	$-1,057
Ratio of assets less liabilities to expenditures (in percent)[4]	9.1	9.8	7.0	10.8	15.9	20.0	7.5	4.4	-3.8

[1] All values are per enrollee. Also, some values for 1982 and 1983 differ significantly from those contained in last year's notice due to an additional year's data which support the current values and due to the implementation of the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, P.L. 97-248.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

5. *Standard Premium Rate.* For the 12-month periods ending June 1984 and June 1985, the law provides that the standard monthly pemium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for the period July 1, 1983, through June 30, 1984, is $13.50, 50 percent of the monthly actuarial rate for this period ($27.00).

Impact Analyses

The monthly SMI premium rate of $13.50 for all enrollees during the 12-month period beginning July 1, 1983, is 10.7 percent higher than the $12.20 monthly premium amount for the previous 12-month period.

The estimated cost of this increase over the current premium to the approximately 29.1 million SMI enrollees will be about $455 million for the 12-month period beginning July 1, 1983.

Because this notice of the SMI premium rate announces an amount required by the formula specified in section 1839(g)(1) of the Social Security Act, as added by section 124 of Pub. L. 97-248, and does not alter any regulation or policy, no analyses under Executive

Order 12291 or the Regulatory Flexibility Act, Pub. L. 96–354, are required.

(Sections 1839(c)(1), (3), and (4); and (g)(1) and (2) of the Social Security Act; 42 U.S.C. 1395r(c)(1), (3), and (4); and (g)(1) and (2))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medicaid Insurance)

Dated: December 23, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-35355 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

Centers for Disease Control

Work Group To Formulate Recommendations for the Prevention of Acquired Immune Deficiency Syndrome (AIDS); Open Meeting

On January 4, 1983, the Centers for Disease Control will convene an open meeting to formulate recommendations for the prevention of Acquired Immune Deficiency Syndrome (AIDS) with special emphasis on possible transmission through blood and blood products. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m. in Auditorium A, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

For further information, please contact: Jeffrey P. Koplan, M.D., Assistant Director for Public Health Practice, Centers for Disease Control (1–2035), 1600 Clifton Road, NE, Atlanta, Georgia 30333, Telephones: FTS: 236–3703, Commercial: 404/329–3703.

Dated: December 21, 1982.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 82-35318 Filed 12-29-82; 8:45 am]

BILLING CODE 4160-18-M

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. Sec. 907.

DATE/ADDRESS: The meeting will be held on January 16–17, 1983 at the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. 20024, and may be continued on January 18, if deemed necessary. The meeting will be held from 2:00 p.m. to 7:30 p.m. on January 16 and from 8:00 a.m. to 4:00 p.m. on January 17.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW, Washington, D.C. 20201; telephone 202/755–8670 or 755–8671.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available. The meeting will be structured as follows: January 16 will be constituted as a meeting of the Advisory Council; on January 17, the period from 8:00 a.m. to 12:00 noon will be constituted as a public hearing; the period from 1:30 to 4:00 p.m. is designated as a Council meeting. If necessary, the public hearing will continue on January 18. For the hearing, interested parties are invited to present testimony on Medicare issues. Presenters should submit, three days in advance, 20 copies of their presentation and should bring an additional 50 copies to the hearing to be made available to the public. However, only those requesting in advance to appear will be permitted to present oral statements. Oral presentation should summarize the written statement, and will be limited to a maximum of five minutes. Submit written requests to the Advisory Council on Social Security, ATT: Public Hearing, 200 Independence Avenue, SW., Washington, D.C. 20201, or telephone 202/755–8670 or 755–8671. The Chairperson or Executive Director reserves the right to determine order of presentation, but will make every effort, within the time constraints, to hear all who wish to be heard. The Council will also hold one-day public hearings in Atlanta, Chicago, and San Francisco during February and March. These hearings are being announced separately in the Federal Register.

Sign language interpreting services will be provided if requested in advance.

Correspondence can be addressed to Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 47 FR 52569, November 22, 1982.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 82-35370 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of January.

Mental Health Small Grant Review Committee, January 13–15; 1:30 p.m. The Canterbury Hotel, Suites 201, 208 and 209, 1733 N Street, NW., Washington, D.C. 20036

Open—January 13, 1:30–2:30 p.m.

Closed—Otherwise

Contact: Virginia Harter, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Mental Health Small Grant Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse for support of research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychiatry, psychological sciences, biological sciences, and epidemiology, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:30–2:30 p.m., January 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * * *

National Advisory Council on Drug Abuse, January 25–26; 9:00 a.m. National Institutes of Health, Conference Room 7, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20205

Open—January 25, 9:00 a.m.–12 Noon; January 26, 9:00 a.m.–5:00 p.m.

Closed—Otherwise

Contact: Mrs. Mary Lousie Embrey, Parklawn Building, Room 10A-03, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6460

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse on the development of new initiatives and priorities, and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Agenda: From 9:00 a.m.—12:00 noon, January 25, and from 9:00 a.m.–5:00 p.m., January 26, the meeting will be open for discussion of administrative announcements, program development and policy issues. Otherwise, the Council will be performing final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

As time permits on January 26, from 3:30 p.m.–5:00 p.m., the Council will hear statements from interested organizations in the drug abuse field. Persons interested in appearing should contact the Executive Secretary to be scheduled. The oral presentation shall be no longer than 10 minutes, although written statements may be submitted in supplement.

* * * * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIDA: Mrs. Mary Louise Embrey, Program Analyst, Room 10-A03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6460. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: December 23, 1982.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-35351 Filed 12-29-82; 8:45 am]

BILLING CODE 4160-20-M

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Suspension of Maximum Allowable Cost Limits on Specific Drug Products

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Suspension Notice of Maximum Allowable Cost Limit on Erythromycin Stearate, oral tablets, 500 mg.

SUMMARY: The Pharmaceutical Reimbursement Board announces the suspension of the maximum allowable cost (MAC) limit on erythromycin stearate, oral tablets, 500 mg, effective November 17, 1982. The limit for this drug product was published in the **Federal Register** on December 11, 1978 (43 FR 57972) and became effective on January 25, 1979.

This suspension of the MAC limit on erythromycin stearate, oral tablets, 500 mg, is based on general price increases by manufacturers that have occurred in the marketplace and the Board's concern that this drug product may no longer be widely and consistently available at the established MAC limit.

The Pharmaceutical Reimbursement Board may reinstitute procedures to establish a new MAC limit on this drug product in the future.

FOR FURTHER INFORMATION CONTACT: Charles Spalding, Executive Secretary, Pharmaceutical Reimbursement Board, 1-F-1 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594-5403.

Dated: November 29, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 82-35458 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

Pharmaceutical Reimbursement Board; Final Maximum Allowable Cost (MAC) Determinations for Certain Drug Products

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Notice for Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board (PRB) announces the following maximum allowable costs (MAC) determinations.

Drug	MAC limit
Doxepin, HCl, oral capsule, 10mg	$0.1030
Doxepin, HCl, oral capsule, 25mg	0.1328
Doxepin, HCl, oral capsule, 50mg	0.1869
Doxepin, HCl, oral capsule, 100mg	0.3382

These multiple source drugs are reimbursed under Medicaid, Medicare and other programs administered by the Department, and have been identified as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. These limits represent the maximum product cost recognized by the Department for purposes of reimbursement or purchase. These MAC limits do not apply to unit dose packaging for institutional care.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Spaulding, Executive Secretary, Pharmaceutical Reimbursement Board, 1-F-1 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

SUPPLEMENTARY INFORMATION:

I. Background

The Pharmaceutical Reimbursement Board was established within the Health Care Financing Administration (HCFA) to set limits on payment or reimbursement for drug products under HCFA and other HHS programs (45 CFR 19.5). On November 3, 1982, the Board published a notice in the **Federal Register** (47 FR 49895) proposing revised MAC limits on four drug products. As a result of the notice, the Board received no written comments and no requests for a public hearing concerning revised MAC limits on these drugs. Accordingly, the Board announces final MAC determinations for the four drug products listed above. The following is a summary of the material on which the Board relied in determining each MAC limit, and the Board's reasons for those specific determinations.

In making the determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board considered both the record of economic data it has developed and data presented by interested parties. The Board relies on two sources: A HCFA survey and *Drug Topics Red Book*. The HCFA survey is a summary, updated monthly, of pharmacy invoice prices, and is based on the 70th percentile of invoice prices from a panel of 850 pharmacies nationwide. *Drug Topics Red Book*, published annually and updated monthly, is a listing of advertised prices of suppliers.

The Board has identified doxepin HCl as a multiple source drug for which significant amounts of Federal funds are expended and for which there are significantly different prices. Currently, Pfizer and Pennwalt Corporation are the only two manufacturers that produce the doxepin HCl products. On December 11, 1978, the Board published a final notice in the **Federal Register** (43 FR 57972) establishing doxepin HCl limits of $0.0950, $0.1161, and $0.1765 per capsule

for the 10, 25 and 50 mg capsules, respectively, based on the prices and availability of these products from wholesalers. In addition, on August 29, 1979, the Board published a final notice (44 FR 50651) establishing a MAC limit of $0.2900 per capsule for doxepin HCl, 100 mg.

On August 5, 1982, the Pennwalt Corporation petitioned the Board to establish new higher MAC limits for doxepin HCl 10, 25, 50 and 100 mg capsules as a result of the Pennwalt price increases due to take effect on January 1, 1983 for these products. Pennwalt indicated to the Board that despite substantial cost increases in manufacturing and marketing, prices for its doxepin products have not been increased since their entry into the market in 1974. Pennwalt also indicated that its price increases will still provide an across-the-board savings on doxepin of 17 percent when compared to the therapeutically equivalent product manufactured by Pfizer.

The Board reviewed the Pennwalt petition on September 15, 1982, and based on the understanding that small and medium size independent pharmacies have purchased these products in the past and that doxepin HCl will continue to be available to these pharmacies at the increased prices, voted to propose revised MAC limits based upon the new higher prices of doxepin HCl from the Pennwalt Corporation.

II. Final Determinations

Doxepin HCl, oral capsules, 10 mg.

The Board originally proposed a revised MAC limit of $0.1030 per capsule based on a selling price of $10.30 per 100 capsule package size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.0950 to $0.1030 per capsule based on a $10.30 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of the product has accounted for 25 percent of the annual sales by dollar volume of this product. Pennwalt accounted for 32 percent of the sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the Board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules. 10 mg at $0.1030 per capsule.

Doxepin HCl, oral capsule 25 mg.

The Board originally proposed a revised MAC limit of $0.1328 per capsule based on a selling price of $13.28 per 100 capsule size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.1161 to $0.1328 per capsule based on a $13.28 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of this product has accounted for 35 percent of the sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules, 25 mg at $0.1328 per capsule.

Doxepin HCl, oral capsule 50 mg.

The Board originally proposed a revised MAC limit of $0.1869 per capsule based on a selling price of $18.69 per 100 capsule size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.1765 to $0.1869 per capsule based on a $18.69 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of this product has accounted for 29 percent of the annual sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the Board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules, 50 mg at $0.1869 per capsule.

Doxepin HCl, oral capsule 100 mg.

The Board originally proposed a revised MAC limit of $0.3382 per capsule based on a selling price of $18.69 per 100 capsule size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.2900 to $0.3382 per capsule based on a $33.82 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of this product has accounted for 30 percent of the annual sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the Board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules, 100 mg at $0.3382 per capsule.

III. Impact Analysis

A. Executive Order 12291

We have determined that this final notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this final notice will not change expenditures by over $100 million per year or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region or cause significant adverse effects on business or employment. The determinations set forth in this notice provide a specific unit price at which each of these drugs is widely and consistently available. We estimate that the net effect of this notice will be to reduce program expenditures by approximately $.35 million for calendar year 1983. We further estimate that the price increases for these drugs will still provide an overall cost savings of 17 percent when compared to the Pfizer product. For these reasons, we believe no Regulatory Impact Analysis is required.

B. Regulatory Flexibility Act

We certify that this notice does not meet the criteria set forth in section 605(b) of Pub. L. 96–354 (the Regulatory Flexibility Act of 1980) for preparing a regulatory flexibility analysis since we do not believe that it will result in a significant economic impact on a substantial number of small pharmacies or other business entities. The MAC process is fundamentally designed to assure the wide and consistent availability of the drug products subject to MAC limits. In every case, the Board has reviewed data or other pertinent information which has enabled the Board to determine that all sizes of pharmacies are able to acquire these drug products at or below the final MAC limits.

IV. Waiver of Normal 45-Day Implementation Date

In issuing final MAC determinations, it has been our customary practice to allow a 45-day implementation period. However, because the prices for these products are scheduled to increase on January 1, 1983, and because reimbursement for these products should be sufficent to cover these

increases, we have determined that there exists good cause to waive the normal 45-day implementation date. If the implementation of these limits were delayed for 45 days, we believe that the doxepin products could not be purchased at a price that would be fully reimbursed by Department programs. When a product is not available at or below its MAC limit, pharmacists would not receive full reimbursement and patients may be unable to obtain specific medication. For these reasons, the Board has established the effective date of this notice to coincide with the price increases scheduled to occur on January 1, 1983.

(Secs. 1814(b), 1861(v)(1)(A), and 1902(a)(30) of the Social Security Act and Sec. 215 of the Public Health Service Act; 42 U.S.C. 1395f(b), 1395x(v)(1)(A), 1396a(a)(30), and 216.)

Dated: December 16, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

Approved: December 23, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-35369 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Amendment of Wilderness Inventory Decisions

AGENCY: Interior Department.

ACTION: Amendment of Wilderness Inventory Decisions.

SUMMARY: This notice amends previous wilderness inventory decisions by the Bureau of Land Management, eliminating 173 wilderness study areas containing approximately 667,587 acres.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Questions about particular wilderness study areas should be directed to the appropriate Bureau of Land Management State Directors, whose addresses appear at the end of this notice (Appendix A). Questions about the nationwide aspects of the program should be directed to the Division of Recreation, Cultural, and Wilderness Resources (340), Bureau of Land Management 18th and C Streets, N.W., Washington, D.C. 20240.

Amendment of Wilderness Inventory Decisions

The Department of the Interior has decided to comply with recent decisions of the Interior Board of Land Appeals.

(1) *Areas Under 5,000 Acres.* The Interior Board of Land Appeals ruled that areas smaller than 5,000 acres do not qualify for wilderness study under Section 603 of the Federal Land Policy and Management Act (FLPMA). The wilderness review being conducted by the BLM is required by section 603 only with respect to roadless areas containing 5,000 or more acres of contiguous public lands, and roadless islands of any size, that have wilderness characteristics. Previous decisions by the BLM improperly identified as wilderness study areas other roadless areas containing less than 5,000 acres. These areas, listed in Table 1, are deleted from the status of wilderness study areas, effective upon publication of this decision in the **Federal Register.** These areas will thereupon cease to be subject to the BLM's Interim Management Policy for Lands Under Wilderness Review.

(2) *Split-Estate Lands.* The Interior Board of Land Appeals ruled that lands where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned (referred to hereafter as split estate) do not qualify for wilderness study under Section 603 of FLPMA. Previous decisions by the BLM improperly identified split-estate lands for wilderness study. Such lands are deleted from wilderness study areas. With the deletion of split-estate lands from the wilderness study areas listed in Table 2, there are no roadless areas in these listed WSA's having 5,000 acres or more of contiguous public lands. Therefore, the areas listed in Table 2 are deleted in their entirety from the status of wilderness study areas, effective upon publication of this decision in the **Federal Register.** These areas will thereupon cease to be subject to the BLM's Interim Management Policy for Lands Under Wilderness Review.

There are other wilderness study areas containing split-estate lands which are not shown in Table 2—generally WSA's in which deletion of split-estate lands would leave intact a roadless area larger than 5,000 acres. These WSA's are being reviewed by BLM State Directors to determine whether the remaining portion has wilderness characteristics and therefore qualifies for wilderness study under Section 603 of FLPMA. A decision by the Department on these areas will be published in the **Federal Register** at a later date.

(3) *Contiguous Areas.* The Interior Board of Land Appeals ruled that, to qualify for wilderness study under Section 603 of FLPMA, a roadless area must, by itself, have wilderness characteristics. The Board held that it was improper to assess an area's wilderness characteristics in association with contiguous lands administered by agencies other than the BLM. Previous decision by the BLM improperly identified as wilderness study areas certain roadless areas larger than 5,000 acres which were found not to have wilderness characteristics by themselves, but were found to have those characteristics in association with, or in conjunction with, contiguous wilderness areas or wilderness candidate areas administered by the Forest Service, National Park Service, or Fish and Wildlife Service.

The BLM State Directors are reviewing all WSA's contiguous to other agencies' wilderness and wilderness candidate areas to determine which WSA's do not have wilderness characteristics by themselves. A decision by the Department on such areas will be published in the **Federal Register** at a later date.

Where authorized by the BLM Director, the areas listed in Tables 1 and 2 may be considered for other forms of protective management, such as: Area of Critical Environmental Concern, Outstanding Natural Area, Research Natural Area, National Scenic Area, Scenic Area, Recreation Lands, Wild Horse Range, National Recreation Trail, National Natural Landmark, National Historic Landmark, National Register Site, or wilderness consideration under Section 202 of FLPMA.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 22, 1982.

TABLE 1.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES

WSA name	Number	WSA acreage	County
Arizona:			
Darnsil Canyon	AZ-010-096A	294	Mohave.
C&F	AZ-010-099	640	Mohave.
Tincanebitts	AZ-010-105C	2,715	Mohave.
Van Deeman	AZ-020-007	1,550	Mohave.
Grapevine Wash	AZ-020-014	2,200	Mohave.
Mount Davis	AZ-020-021	2,560	Mohave.
Peoples Canyon	AZ-020-068	3,480	Yavapai.
South Bradshaws	AZ-020-084A	640	Yavapai.
Ragged Top	AZ-020-197	4,460	Pima.
Baboquivari Peak	AZ-020-203B	2,065	Pima.
Galiuro Addition #3	AZ-040-081	640	Graham.
Apache Box	AZ-040-078	932	Grant, New Mexico.
Hoverrocker	AZ-040-077	2,791	Greenlee.
Needles East Addition	AZ-050-005B	465	Mohave.
Trigo Mountains	AZ-050-023A	4,500	Yuma.
Kofa Unit 3 South	AZ-050-031	3,400	Yuma.
Kofa Unit 4 North	AZ-050-033	1,900	Yuma.
State total (17 units)		35,232	
California:			
Tepusquet Peak	CA-010-007	1,024	Santa Barbara.
Garcia Mountain	CA-010-012	494	San Luis Obispo.
Black Mountain	CA-010-020	150	San Luis Obispo.
Sheep Ridge	CA-010-022	4,905	Tulare.
Milk Ranch/Case Mtn.[1]	CA-010-023	6,382	Tulare.
Moses	CA-010-025	558	Tulare.
Rockhouse[2]	CA-010-029	140	Tulare/Kern.
Scodie[1]	CA-010-030	5,847	Tulare.
Domeland	CA-010-032	2,209	Kern.
Spoor Canyon	CA-010-036	240	Santa Barbara.
Cuyama	CA-010-037	1,014	Santa Barbara.
Kelso Creek Valley	CA-010-045	2,244	Kern.
Independence Creek[2]	CA-010-057	3,510	Inyo.
Wonoga Peak	CA-010-058	3,530	Inyo.
Tinemaha	CA-010-059	3,280	Inyo.
Paiute[2]	CA-010-060	2,480	Inyo.
Coyote Southeast	CA-010-063	3,211	Inyo.
Black Canyon[1]	CA-010-065	6,518	Inyo.
Wheeler Ridge	CA-010-068	3,197	Inyo/Mono.
Rock Creek West	CA-010-070	414	Mono.
Laurel-McGee	CA-010-072	110	Mono.
White Mountain	CA-010-075	1,260	Inyo/Mono.
Benton Range	CA-010-077	4,052	Mono.
Excelsior (South 1/2)	CA-010-088	3,300	Mono.
Log Cabin-Saddlebag	CA-010-091A	520	Mono.
Sweetwater	CA-010-103	960	Mono.
Carson-Iceberg	CA-010-105B	1,590	Mono.
Machesna	CA-010-108	720	San Luis Obispo.
South Warner Contiguous	CA-020-708	4,330	Modoc.
Tunnel ridge	CA-030-402	4,623	Trinity.
Yolla Bolly	CA-030-501	604	Tehama.
Ishi	CA-030-503	200	Tehama.
North Fork American	CA-040-102	50	Placer.
Tuolumne River	CA-040-201	3,005	Tuolumne.
Pinnacles Wilderness Contiguous[1]	CA-040-303	5,838	Monterey/San Benito.
Black Butte	CA-040-305A	40	Monterey.
Bear Mountain	CA-040-305B	3,198	Monterey.
Bear Canyon	CA-040-305C	318	Monterey.
Ventana Wilderness Contiguous	CA-040-308	680	Monterey.
Agua Tibia	CA-060-002	360	Riverside.
San Ysidro Mountain	CA-060-022	2,131	San Diego.
Sawtooth Mountain A	CA-060-024A	3,892	San Diego.
Sawtooth Mountain C	CA-060-024C	2,509	San Diego.
Table Mountain	CA-060-026	958	San Diego.
McAffee Creek	CDCA-100	456	Mono.
North Tip	CDCA-100A	407	Mono.
Toler Creek	CDCA-101	897	Mono.
Cotton Wood Creek	CDCA-104	3,729	Inyo.
Antelope Spring	CDCA-107A	851	Inyo.
Ibex Spring	CDCA-149A	2,346	Inyo.
Horse Canyon	CDCA-160	4,067	Kern.
Skinner Peak	CDCA-160C	1,036	Kern.
Deer Spring	CDCA-237A	2,560	San Bernadino.
Valley View	CDCA-237B	3,200	San Bernadino.
Teutonia Peak	CDCA-238A	2,976	San Bernadino.
Pinto Basin	CDCA-334A	4,480	Riverside.
State total (56 units)		123,600	
Colorado:			
Adjacent to Dinosaur National Monument	CO-010-224	4,340	Moffat.
Adjacent to Dinosaur National Monument	CO-010-224A	1,320	Moffat.
Adjacent to Dinosaur National Monument	CO-010-226	4,880	Moffat.
Bill Hare Gulch	CO-030-085	370	Hinsdale.
Larson Creek	CO-030-086	900	Hinsdale.
American Flats	CO-030-217	4,710	Hinsdale/San Juan/Ouray.
Needle Creek	CO-030-229B	4,540	San Juan/LaPlata.
Weminuche Continguous	CO-030-238B	1,980	San Juan.
Sparling Gulch/Friends Creek	CO-030-088/213	1,860	Hinsdale.
Slumgullion Slide	CO-030-211	1,640	Hinsdale.
Sand Castle	CO-050-135	1,644	Alamosa.
Black Canyon	CO-050-131	2,300	Saguache.

TABLE 1.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES—Continued

WSA name	Number	WSA acreage	County
South Piney Creek	CO-050-132B	870	Saguache.
Papa Keal	CO-050-137	1,020	Alamosa.
Zapata Creek	CO-050-139B	720	Alamosa.
Eagle Mountain	CO-070-392	330	Pitkin.
Hack Lake	CO-070-425	3,360	Garfield/Eagle
State total (17 units)		36,784	
Idaho:			
Lower Salmon Falls Creek	ID-17-10	3,500	Twin Falls.
Box Creek	ID-110-91A	428	Valley.
Henry's Lake	ID-35-77	350	Fremont.
Worm Creek	ID-37-77	40	Bear Lake.
Goldburg	ID-45-1	3,290	Custer.
Boulder Creek	ID-46-13	1,930	Custer.
Borah Peak	ID-47-4	3,100	Blaine.
Little Wood River	ID-53-4	4,385	Blaine.
Black Butte	ID-54-2	4,002	Lincoln/Blaine.
Selkirk Crest	ID-61-1	720	Boundary.
State total (10 units)		21,745	
Montana:			
Farlin Creek	MT-076-034	1,139	Beaverhead.
Tobacco Root Tackons	MT-076-063	860	Madison.
Madison Tackons	MT-076-079	1,509	Madison.
Blind Horse Creek	MT-075-102	4,927	Teton.
Chute Mountain	MT-075-105	3,205	Teton.
Deep Creek/Battle Creek	MT-075-106	3,086	Teton.
North Fork Sun River	MT-075-107	196	Teton.
Beaver Meadows	MT-075-110	595	Lewis & Clark.
Elkhorn	MT-075-114	3,642	Jefferson.
Gallagher Creek	MT-074-151B	4,257	Powell.
Quigg West	MT-074-155	520	Granite.
Burnt Timber Canyon	MT-067-205	3,955	Carbon.
Big Horn Tackon	MT-067-207	4,550	Carbon.
Stafford	MT-068-250	4,800	Blaine.
Billy Creek	MT-024-633	3,450	Garfield.
Tongue River Breaks Contiguity	MT-027-736	1,484	Rosebud.
State total (16 units)		42,175	
Oregon:			
Strawberry Mountain	OR-2-98A	180	Grant.
Strawberry Mountain	OR-2-98C	720	Grant.
Strawberry Mountain	OR-2-98D	208	Grant.
Upper Leslie Gulch	OR-3-74	3,000	Malheur.
Steelhead Falls	OR-5-14	3,114	Deschutes/Jefferson.
McGraw Creek	OR-6-1	1,465	Wallowa.
Cache Creek Ranch	OR-6-10	2,935	Wallowa/Asotin.
Mountain Lakes	OR-11-1	320	Klamath.
State total (8 units)		11,942	
Nevada:			
Evergreen	NV-050-01R-16A, B, C	2,834	Lincoln.
Jumbo Springs	NV-050-0236	3,811	Clark.
Nellis [1]	NV-050-04R-15A, B, C	5,718	Clark.
State total (3 units)		12,363	
New Mexico:			
Bisti	NM-010-57	3,520	San Juan.
Manzano	NM-010-92	845	Torrance.
Devils Reach	NM-020-478	860	Socorro.
Devils Den	NM-060-145	320	Eddy.
McKittrick Canyon	NM-060-146	200	Eddy.
Lonesome Ridge	NM-060-801	2,443	Eddy.
Mudgetts	NM-060-819	2,941	Eddy.
State total (7 units)		11,129	
Utah:			
Big Hollow	UT-020-105	3,593	Tooele.
Orderville Canyon	UT-040-145	1,750	Kane.
Deep Creek	UT-040-146	3,320	Washington.
Red Butte	UT-040-147	804	Washington.
Spring Canyon	UT-040-148	4,433	Iron.
The Watchman	UT-040-149	600	Washington.
North Fork Virgin River	UT-040-150	1,040	Kane.
LaVerkin Creek Canyon	UT-040-153	567	Washington.
Taylor Creek Canyon	UT-040-154	35	Washington.
Goose Creek Canyon	UT-040-176	89	Washington.
Beartrap Canyon	UT-040-177	40	Washington.
Fremont Gorge	UT-050-221	2,540	Piute.
Lost Spring Canyon	UT-060-131B	3,880	Grand.
Daniels Canyon	UT-080-414	2,496	Uintah.
State total (14 units)		25,187	
Wyoming:			
Owl Creek	WY-010-104A, B, C	710	Hot Springs.
South Paint Rock	WY-010-236	660	Big Horn.
Paint Rock	WY-010-239	2,770	Big Horn.
Dubois Badlands	WY-030-109	4,520	Fremont.
Whiskey Mountain	WY-030-110	487	Fremont.
Encampment	WY-030-301	3,380	Carbon.
Prospect Mountain	WY-030-303	1,099	Carbon.
East Fork	WY-040-106	1,415	Sublette.
Whitehorse Creek	WY-040-325	4,028	Fremont.

TABLE 1.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES—Continued

WSA name	Number	WSA acreage	County
Mill Creek	WY-040-335	1,300	Sublette.
State total (10 units)		20,369	
Grand total (158 units)		340,526	

[1] These wilderness study areas consist of more than one parcel, each being smaller than 5,000 acres.
[2] In these wilderness study areas, a parcel with the acreage indicated is being eliminated. The remainder of the WSA qualifies for study under section 603 and therefore remains a WSA.

TABLE 2.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES AFTER DELETION OF SPLIT-ESTATE LANDS

WSA name	Number	Acreage	County
Arizona:			
Black Mountains North	AZ-020-009	20,398	Mohave.
Mount Tipton	AZ-020-012/042	19,550	Mohave.
Grand Wash Cliffs	AZ-020-015	12,176	Mohave.
Wabayuma Peak	AZ-020-037/043	36,730	Mohave.
Planet	AZ-020-053	12,765	Mohave.
Aubrey Peak	AZ-020-054	15,240	Mohave.
Black Mesa	AZ-020-056	17,010	Mohave.
Mohave Wash	AZ-050-007C/5-48/2-52	104,605	Mohave.
State total (8 units)		238,939	
New Mexico:			
Chamisa	NM-010-021	11,091	Sandoval.
Petaca Pinta	NM-020-014	11,625	Cibola.
Rimrock	NM-020-007	29,273	Cibola.
Little Rimrock	NM-020-009	9,785	Cibola.
Pinon	NM-020-010	12,788	Cibola.
Sand Canyon	NM-020-008	8,320	Cibola.
Big Hatchet Mountains[1]	NM-030-035C	5,240	Hidalgo.
State total (7 units)		88,122	
Grand total (15 units)		327,061	

[1] In this wilderness study area, a noncontiguous subunit with the acreage indicated is being eliminated. The remainder of the WSA remains in WSA status.

Appendix A

State Offices

U.S. Department of the Interior, Bureau of Land Management.

Arizona: (602) 261–3141, 2400 Valley Bank Center, Phoenix, AZ 85073.

California: (916) 484–4636, Federal Building, 2800 Cottage Way, Sacramento, CA 95825.

Colorado: (303) 837–3393, 1037 20th Street, Denver, CO 80202.

Idaho: (208) 334–1748, Federal Building, 550 West Fort Street, P.O. Box 042, Boise, ID 83724.

Montana: (406) 657–6461, 222 North 32nd Street, P.O. Box 30157, Billings, MT 59107.

Nevada: (702) 784–5748, Federal Building, 300 Booth Street, Reno, NV 89509.

New Mexico: (505) 988–6227, U.S. Post Office and Federal Building, P.O. Box 1449, Santa Fe, NM 87501.

Oregon and Washington: (503) 231–6981, 729 N.E. Oregon Street, P.O. Box 2965, Portland, OR 97208.

Utah: (801) 524–4257, University Club Building, 136 East South Temple, Salt Lake City, UT 84111.

Wyoming: (307) 778–2073, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001.

[FR Doc. 82-35194 Filed 12-27-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Indian Affairs

Change in Field Organization; Metlakatla Field Station, Flathead Agency and Flathead Irrigation Project

December 17, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Secretarial Order number 3086, dated October 19, 1982, established the Metlakatla Field Station under the jurisdiction of the Portland Area Office and transferred the existing Flathead Agency and Flathead Irrigation Project from the Billings Area Office to the Portland Area Office.

The Metlakatla Field Station will conduct Bureau programs, activities and services provided on the Annette Island Reserve for the Metlakatla Indian Tribe.

Supervisory authority over the Flathead Agency and the Flathead Irrigation Project is transferred from the Billings Area Office to the Portland Area Office without any changes in the functions of either office.

Further information may be obtained by contacting Ronal D. Eden, Chief, Division of Management Research and Evaluation, Bureau of Indian Affairs, Washington, D.C., telephone number (202) 343–7684.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 82-35321 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-20297]

Alaska Native Claims Selection

On October 16, 1978, Cook Inlet Region, Inc., filed selection application AA–20297, as amended, under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), for the surface and subsurface estates of certain lands located near Kenai, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located inside the boundaries of Cook Inlet Region. The lands within selection AA–20297 were placed in the pool of properties available for selection by Cook Inlet

Region, Inc., subject to valid existing rights, by notice dated February 20, 1980.

The selection application of Cook Inlet Region, Inc., as to the lands described below, is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to aquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing 7.63 acres, are considered proper for aquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Surveyed)

T. 8 N., R. 11 W.
Sec. 27, lots 4 and 5.
Containing 7.63 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Public Law (Pub. L.) 94–204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $4,920. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 9.84 acre/ equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 9.84 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign the return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–35380 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14892–A]

Alaska Native Claims Selection

On November 7, 1974, Maserculiq, Incorporated for the Native village of Marshall (Fortuna Ledge), filed selection application F–14892–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Marshall, Alaska.

In application F–14892–A, Maserculiq, Incorporated excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn by Sec. 11(a) (1) of ANCSA and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that the selection shall be compact and in whole sections, except as provided for in Public Law 96–487. For these reasons, the water bodies which are improperly excluded in application F–14892–A are considered selected by Maserculiq, Incorporated.

As to the lands described below, selection application F–14892–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of NACSA, aggregating approximately 102,748 acres, is considered proper for acquisition by Maserculiq, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 4415, Alaska, Tracts B, C, D, E, and F, situated on the right banks of Poltes and Wilson Sloughs at Marshall.

Alaska, excluding Native allotments F–17199 Parcel B and f–18151 Parcel B.

Containing approximately 591 acres.

Seward Meridan, Alaska (Unsurveyed)

T. 21 N., R. 68 W.
Sec. 6;
Sec. 7, excluding Native allotment F–16988;
Secs. 19 and 30.

Containing approximately 2,454 acres.

T. 22 N., R. 68 W.
Secs. 31 to 34, inclusive.

Containing approximately 2,548 acres.

T. 19 N., R. 69 W.
Secs. 16, 17, 19, and 20.

Containing approximately 2,534 acres.

T. 20 N., R. 69 W.
Sec. 7.

Containing approximately 600 acres.

T. 21 N., R. 69 W.
Secs. 4, 5, and 6;
Sec. 7, excluding Native allotment F–18150 Parcel D;
Secs. 8, 9, 16, and 17;
Sec. 18, excluding Native allotment F–18150 Parcel D;
Secs. 19 to 26, inclusive;
Sec. 27, excluding Native allotment F–17234;
Sec. 28, excluding Native allotments F–17234 and F–17237;
Sec. 29, excluding Native allotment F–17237;
Secs. 30, 31, and 32.

Containing approximately 14,347 acres.

T. 22 N., R. 69 W.
Sec. 16;
Sec. 17, excluding Native allotments F–17243 Parcel A, F–17339 Parcel C, and F–17341 Parcel C;
Secs. 18, 19, and 20;
Sec. 21, excluding Native allotment F–17481 Parcel B;
Secs. 27 to 36, inclusive.

Containing approximately 9,942 acres.

T. 19 N., R. 70 W.
Secs. 2, 3, and 4;
Sec. 5, excluding Native allotments F–15609 Parcel C, F–17337 Parcel A, F–18253 Parcel D, and F–18282 Parcel D;
Secs. 6 and 7;
Sec. 8, excluding Native allotments F–17235 Parcel D, F–17338 Parcel D, and F–18253 Parcel D;
Sec. 9, excluding Native allotments F–17235 Parcel D, F–17238 Parcel C, F–17338 Parcel D, F–17420 Parcel D, F–18099 Parcel A, and F–18100 Parcel A;
Secs. 10, 11, 14, and 15;
Sec. 16, excluding Native allotments F–17243 Parcel B, F–17341 Parcel A, F–17481 Parcel A, and F–18099 Parcel A;
Secs. 17 and 18;
Secs. 19 and 20, excluding Native allotments F–17201 and F–17239 Parcel B;
Sec. 21, excluding Native allotments F–17340 Parcel A and F–19182 Parcel B;
Sec. 22, excluding Native allotments F–17203 Parcel D, F–17233 Parcel A, F–17239 Parcel A, F–17338 Parcel C, and F–17340 Parcel A;
Sec. 23, excluding Native allotment F–18151 Parcel D;
Sec. 24, excluding Native allotments F–17238 Parcel D and F–17339 Parcel D;
Sec. 26, excluding Native allotment F–17235 Parcel C;
Secs. 27 and 28;
Sec. 29, excluding Native allotment F–17239 Parcel B;
Secs. 32 to 35, inclusive.

Containing approximately 11,058 acres.

T. 20 N., R. 70 W.
Secs. 4, 5, and 6;
Sec. 7, excluding Native allotment F–17200;
Secs. 8 to 12, inclusive;
Secs. 13 and 14, excluding Native allotment F–17244;
Secs. 15, 16, and 17;
Sec. 18, excluding Native allotment F–17419 Parcel B;
Sec. 19, excluding Native allotments F–17198 Parcel A and F–18368 Parcel A;
Secs. 20, 21, and 26;
Secs. 27 and 28, excluding Native allotment F–19369 Parcel A;
Secs. 39, 30, and 31;
Sec. 32, excluding Native allotments F–15598 Parcel B and F–15608 Parcel A;
Secs. 33 and 34, excluding Native allotment F–18098 Parcel B;
Sec. 35.

Containing approximately 15,350 acres.

T. 21 N., R. 70 W.
Secs. 1, 2, and 3;
Sec. 4, excluding Native allotments F–17339 Parcels A and B, F–17418 Parcel B, F–18150 Parcel C, F–18253 Parcel A, and F–18282 Parcel B;
Sec. 5, excluding Native allotment F–17199 Parcel A;
Secs. 6 and 7;
Sec. 8, excluding Native allotment F–18097 Parcel A;
Sec. 9, excluding Native allotment F–17418 Parcel C;
Secs. 10 and 11;
Secs. 12 and 13, excluding Native allotment F–18150 Parcel D;
Sec. 14;
Secs. 15 and 16, excluding Native allotment F–18102 Parcel C;
Secs. 17 to 21 inclusive;
Secs. 22 and 23, excluding U.S. Survey No. 4415;
Sec. 24;
Sec. 25, excluding U.S. Survey No. 4415;
Sec. 26, excluding U.S. Survey No. 4415, and Native allotments F–17199 Parcel B and F–17341 Parcel D;
Sec. 27, excluding U.S. Survey No. 2264, U.S. Survey No. 3666, U.S. Survey No. 3668, and U.S. Survey No. 4415;
Secs. 28 and 29;
Sec. 30, excluding Native allotment F–18282 Parcel C;
Secs. 31 and 33;
Secs. 34, 35, and 36, excluding U.S. Survey No. 4415.

Containing approximately 16,395 acres.

T. 22 N., R. 70 W.
Sec. 24;
Sec. 25, excluding Native allotment F–18282 Parcel A;
Secs. 26 and 27, excluding Native allotment F–18151 Parcel C;
Sec. 28;
Sec. 29, excluding Native allotments F–17419 Parcel C, and F–18102 Parcel B;
Sec. 30, excluding Native allotment F–18102 Parcel B;
Sec. 31, excluding U.S. Survey No. 2235, and Native allotments F–17420 Parcel C and N–0906;
Sec. 32, excluding Native allotments F–18101 Parcel C, F–18368 Parcel B, and N–0906;
Sec. 33;
Sec. 34, excluding Native allotment F–18151 Parcel C;
Sec. 35, excluding Native allotments F–17198 Parcel C and F–18151 Parcel C;
Sec. 36.

Containing approximately 7,214 acres.

T. 19 N., R. 71 W.
Secs. 1, 2, 11, and 12.

Containing approximately 2,440 acres.

T. 20 N., R. 71 W.
Secs. 1, 2, 4, 5, 8, and 9;
Secs. 11 to 15, inclusive;
Sec. 16, excluding Native allotments F–17419 Parcel A and F–19196 Parcel C;
Secs. 17, 22, 23, 24, and 26;
Secs. 35 and 36.

Containing approximately 7,895 acres.

T. 21 N., R. 71 W.
Secs. 5 to 8 inclusive.

Containing approximately 1,605 acres.

T. 22 N., R. 71 W.
Secs. 25 to 35, inclusive;
Sec. 36, excluding U.S. Survey No. 2235.

Containing approximately 5,730 acres.

T. 21 N., R. 72 W.
Secs. 1 and 12.

Containing approximately 795 acres.

T. 22 N., R. 72 W.
Secs. 25 and 36.

Containing approximately 1,250 acres.

Aggregating approximately 102,748 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14892–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These

exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14892–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATVs) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 4a C3, D1) An easement sixty (60) feet in width for an existing road from site EIN 4b C3, D1 at The Landing in Secs. 20 and 29, T. 20 N., R. 70 W., Seward Meridian, easterly to the Willow Creek Mine and public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 4b C3, D1) A one (1) acre site easement upland of the ordinary high water mark in Secs. 20 and 29, T. 20 N., R. 70 W., Seward Meridian, on the right bank of an unnamed slough of the Yukon River. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 5 C3, D1, D9) An easement fifty (50) feet in width for an existing access trail from Marshall in Sec. 27, T. 21 N., R. 70 W., Seward Meridian, easterly to the public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 10 C5) An easement twenty-five (25) feet in width for a proposed access trail from trail EIN 5 C3, D1, D9 in Sec. 29, T. 21 N., R. 69 W., Seward Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 15 E) An easement fifty (50) feet in width for an existing access trail from the Willow Creek Mine in Secs. 23 and 24, T. 20 N., R. 70 W., Seward Meridian, northerly to the Disappointment Mine. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat or supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (inluding a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, F–245, located in lot 1, Trace E, U.S. Survey No. 4415, Alaska, issued to the State of Alaska, Department of Public Works, under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214), as amended;

4. Right-of-way F–19248, located in Sec. 7, T. 21 N., R. 69 W., Seward Meridian, for use as a communication site, granted to Alascom, Inc. under the provisions of the act of March 4, 1911 (43 U.S.C. 1961), as amended; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Maserculiq, Incorporated is entitled to conveyance of 115,200 acres of lands selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 102,748 acres. The remaining entitlement of approximately 12,452 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Calista Corporation when the surface estate is conveyed to Maserculiq, Incorporated, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Maserculiq, Incorporated.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Tundra Drums*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have

been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Maserculiq, Incorporated, Marshall, Alaska 99585.

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-35361 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14870-A]

Alaska Native Claims Selection

Section 1431(g) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2538 (ANILCA), authorizes and directs, as part of a land exchange, conveyance of the surface estate of certain lands on Kaktovik Island, Barter Island Group, Alaska, to Kaktovik Inupiat Corporation. The lands involved are those lands which were withdrawn by Public Land Order (PLO) 715 (51 F.R. 4799) for national defense purposes, and made available for Native selection under the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (ANCSA) by PLO 5565 on December 17, 1975 (40 FR 59347).

Kaktovik Inupiat Corporation filed a selection application under Sec. 12 of ANCSA for the lands on January 27, 1976, after the December 18, 1974 statutory deadline for such selection.

On June 29, 1979, the Department of the Interior and Arctic Slope Regional Corporation, entered into an agreement (as ratified by Sec. 1431(a) of ANILCA) whereby Kaktovik Inupiat Corporation would obtain title to the lands it had not properly selected by reconveying other lands to the United States.

In view of the foregiong, the surface estate of the following described lands, aggregating approximately 2,854 acres, will be conveyed to Kaktovik Inupiat Corporation pursuant to Sec. 1431(g)(2) of ANILCA.

Lands Within Public Land Order 2214 (Arctic National Wildlife Range) Now Known as the Arctic National Wildlife Refuge

Umiat Meridian, Alaska (Surveyed)

T.9 N., R. 33 E.

Those portions of Tract A more particularly described as (protracted):
- Sec. 13 (fractional), that portion outside PLO 715;
- Sec. 14 (fractional), excluding native allotment F-16936;
- Sec. 21 (fractional), excluding Native allotment F-16636;
- Sec. 22 (fractional);
- Sec. 23;
- Sec. 24, that portion outside PLO 715;
- Sec. 25 (fractional);
- Sec. 26 (fractional), excluding Native allotment F-16282 Parcel C;
- Sec. 27 (fractional);
- Sec. 35 (fractional), excluding Native allotment F-16282 Parcel C;
- Sec. 36 (fractional).

Containing approximately 2,634 acres.

Tract B. Containing 5 acres.

Aggregating approximately 2,639 acres.

T. 9 N., R. 34 E.

Those portions of Tract A more particularly described as (protracted):
- Sec. 19 (fractional), that portion outside PLO 715, excluding Interim Cjomveyance No. 052 and U.S. Survey No. 4234;
- Sec. 30 (fractional).

Containing approximately 215 acres

Total Aggregated acreage approximately 2,854 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are within defense withdrawal PLO 715; or lands are under application pending further adjudication.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, provileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14870-EE, is reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for the easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 1, C3, C5, D1) An easement for an existing access trail twenty-five (25) feet in width from the Military Withdrawal (PLO 715) at the north section line of Sec. 24, T. 9 N., R. 33 E., Umiat Meridian, southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lesse, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above described lands which were, on December 18, 1971, within the boundaries of the Arctic National Wildlife Range (PLO 2214), now known as the Arctic National Wildlife Refuge (Pub. L. 96-487), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Pursuant to Sec. 1431(g)(3) of ANILCA, Kaktovik Inupiat Corporation, through a land exchange is entitled to conveyance of 23,040 acres of which 2,854 acres are herein approved for conveyance. The remaining entitlement of 20,186 acres will be conveyed at a later date.

Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make in-lieu selections of subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) of the act; therefore, when this decision becomes final Arctic Slope Regional Corporation will be entitled to an additional 2,854 acres in-lieu subsurface estate.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kaktovik Inupiat Corporation, P.O. Box 73, Kaktovik, Alaska 99747;

Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-35382 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

Amendment to Previous Notice of Availability of Planning Criteria for Resource Management Planning in the Caliente Resource Area, Bakersfield District, California

December 21, 1982.

This notice amends the Notice of Availability (NOA) dated November 8, 1982, (Planning Criteria for Coast/Valley Resource Management Plan in the Caliente Resource Area, Bakersfield, California, **Federal Register**/Vol. 47, No. 222/Wednesday, November 17, 1982, page 51803).

In accordance with 43 CFR 1601.3, notice is hereby given of the availability of the Planning Criteria to direct the Coast/Valley Resource Management Plan (RMP) in the Caliente Resource Area.

The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct this planning effort in the Caliente Resource Area. The Plan will involve the public lands located in Kern, Kings, San Luis Obispo, Santa Barbara, Tulare, and Ventura Counties and will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria will be developed for future guidance of this planning effort.

The initial planning criteria are available for public review and comment at the following locations: Bureau of Land Management, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California, 93301, (805) 861–4191; and Caliente Resource Area Office, 520 Butte Street, Bakersfield, California, 93305, (805) 861–4236.

Persons wishing copies of the initial planning criteria are requested to contact either of the offices listed above.

Comments are being accepted from the public until 30 days from the date of this notice.

For further information contact Glenn A. Carpenter, Area Manager, at the Caliente Resource Area Office address listed above.

Timothy R. Salt,

Acting District Manager.

[FR Doc. 82-35390 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[A-17000]

Arizona; Application for Public Lands for State Indemnity Selection

1. Under the provisions of Sections 2275 and 2276 of the revised Statutes 43 U.S.C. 851, 852, the State of Arizona has filed application A–17000 to acquire public lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. Pursuant to the provisions of 43 CFR 2091.2–6 the lands described below are segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

2. The following described lands were segregated in accordance with 43 CFR 2091.2–6 as of December 16, 1982.

Gila and Salt River Meridian, Arizona

T. 3 N., R. 21 W.
Sec. 19, N½SE¼NW¼, N½SW¼NE¼, N½SW¼SW¼NE¼, SE¼SW¼NE¼, NE¼NW¼SE¼, N½NE¼SE¼SE¼, SE¼NE¼SE¼SE¼.

T. 8 N., R. 18 W.
Sec. 32, S½NE¼SW¼, S½N½SE¼, SE¼SE¼.

T. 9 N., R. 19 W.
Sec. 1, E½NW¼SW¼, NE¼SW¼;
Sec. 2, W½SW¼SE¼.

T. 10 N., R. 19 W.
Sec. 34, Lot 7, S½NE¼SE¼, SE¼SE¼.

T. 15 N., R. 20 W.
Sec. 33, E½E½NW¼, SE¼NW¼SE¼NW¼, SW¼SE¼NW¼, E½NE¼NW¼SW¼, SE¼NW¼NW¼, W½SE¼SW¼.

T. 8 N., R. 2 E.
Sec. 9, SE¼, E½NE¼ less PMS 3743 and R&PP lease A 12311;
Sec. 10, NE¼NW¼NW¼ less R&PP lease A 10351, S½NW¼NW¼, SW¼NW¼, E½W½, W½E½, E½SE¼;
Sec. 11, S½SW¼;
Sec. 14, W½NW¼;
Sec. 15, NE¼ east of I–17 R/W, E½NW¼.
T. 19 S., R. 13 E.
Sec. 6, E½SW¼, SE¼;
Sec. 7, SE¼NW¼, SE¼SW¼.
T. 6 S., R. 14 W.
Sec. 1, All;
Sec. 12, All.
T. 4 N., R. 1 W.
Sec. 13, SW¼SE¼.
T. 3 N, R. 1 W.
Sec. 13, NE¼, NE¼SE¼;
Sec. 24, N½SE¼, SW¼SE¼;
Sec. 25, NW¼NE¼.
T. 14 N., R. 2 W.
Sec. 34, Tract C.
T. 15 N., R. 2 W.
Sec. 12, SW¼SW¼.
T. 2 N., R. 3 W.
Sec. 5, W½, W½E½;
Sec. 6, All;
Sec. 7, All;
Sec. 8, W½, W½E½;
Sec. 27, SW¼SW¼;
Sec. 28, SE¼S½;
Sec. 33, E½NE¼;
Sec. 34, NW¼NW¼, S½N½, E½NW¼ NW¼SW¼, NE¼SW¼NW¼SW¼, NE¼NW¼SW¼, N½SE¼NW¼SW¼, N½NE¼SW¼, NE¼SW¼N½SW¼, SE¼NE¼SW¼, E½SE¼SW¼;
Sec. 35, SW¼SW¼NW¼, E½NW¼, NE¼NW¼, NE¼NW¼, NW¼NE¼, N½SE¼NW¼, SE¼SE¼NW¼, NE¼NE¼ SW¼, W½SW¼NE¼, SE¼SW¼NE¼, E½SE1, 4NE¼, W½SE¼, SE¼SE¼, E½NE¼SE¼, SW¼NE¼SE¼, S½NW¼ NE¼SE¼.
T. 2 N., R. 4 W.
Sec. 1, All;
Sec. 3, All;
Sec. 10, NW¼;
Sec. 11, All;
Sec. 12, All.
T. 3 N., R. 4 W.
Sec. 2, E½E½;
Sec. 9, E½;
Sec. 10, All;
Sec. 11, W½, W½E½, W½E½E½;
Sec. 14, W½, W½E½, W½E½E½, E½E½SE¼, E½SE¼NE¼;
Sec. 15, All;
Sec. 16, E½;
Sec. 21, E½;
Sec. 22, All;
Sec. 23, All;
Sec. 24, S½NW¼, SW¼;
Sec. 25, NW¼, N1/SW¼, SW¼SW¼;
Sec. 26, All;
Sec. 27, All;
Sec. 28, E½;
Sec. 33, E½;
Sec. 34, All;
Sec. 35, All;
Sec. 36, W½NW¼, S½.
T. 4 N., R. 1 E.
Sec. 12, W½W½SW¼NW¼;
Sec. 23, W½NW¼NW¼SE¼, N½SW¼ NW¼SE¼.
T. 5 N., R. 2 E.
Sec. 35, S½SW¼NW¼NW¼.
T. 3 N., R. 6 E.
Sec. 1, Lots 9, 10, 11.
T. 11 N., R. 2 E.
Sec. 23, Lots 7, 8, 14–19 incl., 21, 22, 29, 30, and 31.
T. 4 N., R. 19 W.
Sec. 22, W½NW¼SE¼, W½E½NW¼SE¼;
Sec. 23, SW¼, S½SE¼ less patented parcels;
Sec. 26, NE¼NW¼, N½NE¼ less patented parcels;
Sec. 27, SE¼;
Sec. 34, W½.
T. 16 N., R. 20½ W.
Sec. 14, SW¼SW¼SW¼ south of I–40 R/W;
Sec. 15, S½S½S½ south of I–40 R/W;
Sec. 22, N½N½N½N½N½, S½N½NE¼NE¼ NE¼, S½NE¼NE¼NE¼;
Sec. 23, NW¼NW¼NW¼.
T. 16 N., R. 21 W.
Sec. 10, SE¼;
Sec. 14, NW¼NW¼.
T. 1 S., R. 2 W.
Sec. 4, SE¼SE¼;
Sec. 9, NE¼NE¼,S½NE¼, S½SW¼, SE¼;
Sec. 10, All;
Sec. 11, All;
Sec. 14, All;
Sec. 15, All;
Sec. 22, SW¼;
Sec. 27, W½NE¼, NW¼;
Sec. 28, All;
Sec. 29, All;
Sec. 30, N½NE¼, SW¼NE¼, E½NW¼, SE¼SE¼;
Sec. 32, N½N½;
Sec. 33, N½N½.

Total, 23,719.09 Acres, more or less

3. The segregation of the above described public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation or the expiration of 2 years from the date of the filing of the selection application (December 16, 1982), whichever occurs first. However, where administrative appeal or review actions have been sought pursuant to Part 4 or Subparts 2450 of 43 CFR, the segregative period shall continue in effect until publication of notice of termination of the segregation in the **Federal Register.**

4. Inquiries concerning the segregation of the lands referenced above should be addressed to the District Manager, Bureau of Land Management, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-35389 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 13314]

California; Proposed Withdrawal and Opportunity for Public Hearing

On December 21, 1982 a petition was approved allowing the Bureau of Land Management, U.S. Department of the Interior, to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

All of the islands, rocks, pinnacles, and reefs which were temporarily withdrawn by Executive Order 5326 dated April 14, 1930, excepting those lands otherwise reserved and appropriated, situated in the Pacific Ocean off the coast of California, lying above the mean high tide from Oregon to the Mexican border, for establishment of a Wildlife Sanctuary.

The purpose of the proposed withdrawal is to protest the islands for establishment of the California Islands Wildlife Sanctuary.

The islands are used by a variety of waterfowl during migration. Shorebirds and waterbirds nest, feed, rest and use the islands for shelter. Some of the islands, with connecting reefs, provide resting habitat for sea lions and seals. Other islands are used by endangered species such as the California Brown Pelican. By the filing of the proposed withdrawal application, the Bureau of Land Management proposes to provide protection of specialized island ecosystems capable of supporting animal life, thereby assuring the continued availability of an undisturbed environment necessary to maintain wildlife populations.

Executive Order 5326 dated April 14, 1930, which temporarily withdraw all of the unreserved islands, rocks, and pinnacles, situated in the Pacific Ocean off the coast of California from settlement, location, sale or entry for classification and in aid of legislation, subject to valid existing rights, will be superseded by the issuance of a public land order to establish the California Islands Wildlife Sanctuary. These lands have been and continue to be under the management of the California Department of Fish and Game pursuant to a cooperative agreement between that Agency and the Bureau of Land Management.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in Title 43 CFR Part 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is rejected or the withdrawal is approved prior to that date. The two-year segregative period does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws.

This action does not affect the Secretary's discretionary managerial authority under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343), as amended (92 Stat. 629), or substantially restrict commercial access between primary coastal facilities and the Outer Continental Shelf.

All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, California State Office, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Ed Hastey,

State Director.

[FR Doc. 82–35391 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[CA–7125 WR, et al.]

California; Revocation of Small Tract Classifications

Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), the small tract classifications and segregation of public lands described in **Federal Register** Notices summarized as follows are hereby terminated in their entirety:

1. FR Doc. 54–1300, appearing at page 1097 in the issue of February 26, 1954 (No. 405, CA–7125 WR).

2. FR Doc. 51–14178, appearing at page 12020 in the issue of November 29, 1951 (No. 322, CA–7127 WR).

3. FR Doc. 50–5327, appearing at page 3987 in the issue of June 21, 1950 (No. 224, CA–7131 WR).

4. FR Doc. 49–2191, appearing at page 1336 in the issue of March 24, 1949 (No. 128, CA–7132 WR).

5. FR Doc. 50–4924, appearing at page 3655 in the issue of June 9, 1950 (No. 216, CA–7134 WR).

6. FR Doc. 48–10579, appearing at page 7418 in the issue of December 4, 1948 (No. 091, CA–7135 WR).

7. FR Doc. 57–1949, appearing at page 1682 in the issue of March 15, 1957 (No. 525, CA–7136 WR).

8. FR Doc. 49–323, appearing at page 205 in the issue of January 14, 1949 (No. 114, CA–7142 WR).

9. FR Doc. 57–717, appearing at page 646 in the issue of January 31, 1957 (No. 517, CA–7143 WR).

10. FR Doc. 48–7381, appearing at page 4768 in the issue of August 18, 1948 (No. 155, CA–7155 WR).

11. FR Doc. 46–19923, appearing at page 13217 in the issue of November 6, 1942 (No. 109, CA–7156 WR).

12. FR Doc. 47–208, appearing at page 185 in the issue of January 10, 1947 (No. 110, CA–7157 WR).

13. FR Doc. 48–1631, appearing at page 877 in the issue of February 26, 1948 (No. 137, CA–7159 WR).

14. FR Doc. 48–7950, appearing at page 5190 in the issue of September 4, 1948 (No. 78, CA–7164 WR).

15. FR Doc. 48–7952, appearing at page 5189 in the issue of September 4, 1948 (No. 80, CA–7165 WR).

16. FR Doc. 41–9148, appearing at page 6290 in the issue of December 6, 1941 (No. 010, CA–7172 WR).

17. FR Doc. 50–4705, appearing at page 3468 in the issue of June 2, 1950 (No. 209, CA–7176 WR).

18. FR Doc. 49–3814, appearing at page 2556 in the issue of May 13, 1949 (No. 138, CA–7183 WR).

19. FR Doc. 50–5783, appearing at page 4247 in the issue of July 4, 1950 (No. 226, CA–7188 WR).

20. FR Doc. 50–9420, appearing at page 7150 in the issue of October 25, 1950 (No. 244, CA–7190 WR).

21. FR Doc. 51–10444, appearing at page 8800 in the issue of August 30, 1951 (No. 285, CA–7194 WR).

22. FR Doc. 41–8897, appearing at page 6156 in the issue of December 2, 1941 (No. 012, CA–7246 WR).

23. FR Doc. 43–19973, appearing at page 16869 in the issue of December 16, 1943 (No. 037, CA–7250 WR).

24. FR Doc. 48–7946, appearing at page 5188 in the issue of September 4, 1948 (No. 74, CA–7253 WR).

25. FR Doc. 48–7960, appearing at page 5185 in the issue of September 4, 1948 (No. 88, CA–7258 WR).

26. FR Doc. 48–7961, appearing at page 5190 in the issue of September 4, 1948 (No. 89, CA–7259 WR).

27. FR Doc. 48–10878, appearing at page 7750 in the issue of December 15, 1948 (No. 102, CA–7263 WR).

28. FR Doc. 48–10883, appearing at page 7752 in the issue of December 15, 1948 (No. 107, CA–7265 WR).

29. FR Doc. 49–319, appearing at page 204 in the issue of January 14, 1949 (No. 109, CA–7267 WR).

30. FR Doc. 49–6704, appearing at page 5161 in the issue of August 18, 1949 (No. 166, CA–7279 WR).

31. FR Doc. 49–5758, appearing at page 3902 in the issue of July 14, 1949 (No. 169, CA–7280 WR).

32. FR Doc. 49–10269, appearing at page 7673 in the issue of December 22, 1949 (No. 176, CA–7281 WR).

33. FR Doc. 50–6253, appearing at page 4661 in the issue of July 22, 1950 (No. 230, CA–7289 WR).

34. FR Doc. 51–1940, appearing at page 1202 in the issue of February 8, 1951 (No. 252, CA–7296 WR).

35. FR Doc. 51–2783, appearing at page 2006 in the issue of March 2, 1950 (No. 258, CA–7297 WR).

36. FR Doc. 51–11576, appearing at page 9783 in the issue of September 26, 1950 (No. 260, CA–7298 WR).

37. FR Doc. 51–3109, appearing at page 2194 in the issue of March 9, 1951 (No. 262, CA–7299 WR).

38. FR Doc. 51–4267, appearing at page 3196 in the issue of April 11, 1951 (No. 268, CA–7301 WR).

39. FR Doc. 51–4680, appearing at page 3491 in the issue of April 21, 1951 (No. 271, CA–7302 WR).

40. FR Doc. 51–12676, appearing at page 10790 in the issue of October 23, 1951 (No. 317, CA–7307 WR).

41. FR Doc. 52–9713, appearing at page 8053 in the issue of September 5, 1952 (No. 347, CA–7309 WR).

42. FR Doc. 52–13289, appearing at page 11453 in the issue of December 18, 1952 (No. 352, CA–7310 WR).

43. FR Doc. 56–1145, appearing at page 1374 in the issue of March 1, 1956 (No. 471, CA–7329 WR).

44. FR Doc. 56–9745, appearing at page 9334 in the issue of November 23, 1956 (No. 503, CA–7335 WR).

45. FR Doc. 57–2587, appearing at page 2251 in the issue of April 4, 1957 (No. 535, CA–7342 WR).

46. FR Doc. 57–3322, appearing at page 2921 in the issue of April 25, 1957 (No. 539, CA–7343 WR).

47. FR Doc. 57–4182, appearing at page 3642 in the issue of May 23, 1957 (No. 565, CA–7345 WR).

48. FR Doc. 41–8997, appearing at page 6156 in the issue of December 2, 1941 (No. 009, CA–7467 WR).

49. FR Doc. 52–3900, appearing at page 2591 in the issue of May 17, 1949 (No. 141, CA–7472 WR).

50. FR Doc. 50–4043, appearing at page 2854 in the issue of May 12, 1950 (No. 207, CA–7479 WR).

51. FR Doc. 51–3663, appearing at page 2665 in the issue of March 2, 1951 (No. 261, CA–7483 WR).

52. FR Doc. 52–6250, appearing at page 5400 in the issue of June 14, 1952 (No. 338, CA–7487 WR).

53. FR Doc. 56–9743, appearing at page 9333 in the issue of November 29, 1956 (No. 499, CA–7491 WR).

54. FR Doc. 57–1212, appearing at page 988 in the issue of February 15, 1957 (No. 523, CA–7492 WR).

55. FR Doc. 57–9628, appearing at page 9302 in the issue of November 21, 1957 (No. 577, CA–7496 WR).

56. FR Doc. 58–1601, appearing at page 1576 in the issue of March 5, 1958 (No. 583, CA–7497 WR).

57. FR Doc. 60–746, appearing at page 656 in the issue of January 25, 1966 (No. 621, CA–7499 WR).

58. FR Doc. 60–2188, appearing at page 2061 in the issue of March 10, 1960 (No. 623, CA–7500 WR).

59. FR Doc. 49–6704, appearing at page 5161 in the issue of August 18, 1949 (No. 166, CA–7506 WR).

60. FR Doc. 58–9572, appearing at page 9219 in the issue of November 11, 1959 (No. 615, CA–7509 WR).

61. FR Doc. 60–5712, appearing at page 5706 in the issue of June 22, 1960 (No. 627, CA–7510 WR).

62. FR Doc. 62–8218, appearing at page 8190 in the issue of August 16, 1962 (No. CL4, CA–7600 WR).

63. FR Doc. 52–1299, appearing at page 1097 in the issue of February 26, 1952 (No. 404, CA–7601 WR).

64. FR Doc. 63–8076, appearing at page 7866 in the issue of August 1, 1963 (No. C6–2, R–03580 WR).

65. FR Doc. 64–4989, appearing at page 6568 in the issue of May 20, 1964 (No. C17, R–05094 WR).

1. The above referenced classifications segregated approximately 32,660 acres of public land located in Inyo, Kern, Los Angeles, Riverside, and San Bernadino Counties from appropriation under all other public land laws, including location under the United States mining laws, but not leasing under the mineral leasing laws, pursuant to the Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended. The Small Tract Act of 1938 was repealed by Section 702 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2789); the classifications, therefore, no longer serve a useful purpose.

2. Various tracts of land were patented pursuant to the Small Tract Act under which the mineral estates were reserved to the United States. Approximately 12,373 acres of land described in the above referenced Federal Register notices were not disposed of and remain in Federal ownership.

3. Accordingly, at 10 a.m. on January 31, 1983, the lands remaining in Federal ownership will be open to operation of the public land laws, generally, including location under the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable laws. Until appropriate rules and regulations are issued by the Secretary, the reserved minerals on the nonpublic lands will not be subject to location under the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E–2841, Federal Office building, 2800 Cottage Way, Sacramento, California 92825.

Viola A. Andrade,

Acting Chief, Lands & Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 35392 Filed 12–29–82 8:45 am]

BILLING CODE 4310–84–M

Utah; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vernal District Grazing Advisory Board will be held on February 23, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 170 South 500 East, Vernal, Utah. The agenda for the meeting will include: (1) Review of last year's minutes (2) Status of Ashley-Duchesne Range Program Summary and the Bookcliffs Resource Management Plan (3) The status of FY 83/84 range betterment work (4) BLM–SCS ranch management (5) Utah Division of Wildlife range-widlife related programs (6) Review of new Rangeland Improvement Policy (7) Upcoming Grazing Advisory Board elections (8) Predator and pest control.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah by February 22, 1983. Depending on the number of persons wishing to make statements, the District Manager may establish a per person time limit. Oral statements will be taken beginning 10:30 a.m., February 23, 1983.

Summary minutes of the Board meeting will be maintained at the District Office and will be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 82–35388 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

Initial Land Classifications; Corrections

In the **Federal Register** for Friday, December 10, 1982, Vol. 47, No. 238, make the following corrections:

On page 55523 under the heading Summary, the first sentence should read: The Bureau of Land Management is proposing the classification of 9,290.39 acres of public land as suitable and 4,732.18 acres of public land as unsuitable for agricultural development under provisions of the Desert Land Act or Carey Act.

On Page 5523, under the heading Addresses, the paragraph should read: Send comments, suggestions, or protests to: Secretary of the Interior, LLM 320, Washington, D.C. 20240.

On Page 55524, in the third column the acreage for I–8654, T. 6 S., R. 9 E., Section 32, is correctly 40 acres. The next line should read: Subtotal 3,090.39 acres.

On Page 55525, under Attachment III (Unsuitable), I–8654, T. 6 S., R. 9 E., Section 6, Lot 10, the last column should be: 35.69 acres. The subtotal below T. 6 S., R. 9 E., should be: 2,852.18 acres.

The purpose of these corrections is to show the correct address to mail protests or comments to the Initial Classification Decision and to correct acreage figures.

Martin J. Zimmer,

District Manager.

December 17, 1982.

[FR Doc. 82–35394 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[CA 13272]

Realty Action; Lease of Public Lands in Trinity County, California

The following described land has been identified as suitable for lease under Section 302(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732, at no less than fair market value.

Legal Description: T. 32 N., R. 10 W., Section 1, M.D.M., California, as described by metes and bounds on Exhibit A.
Acreage: Approximatey 0.20 acres
Rental Value: $840 year (estimated)

The above-described land would be offered as a direct, non-competitive 25-year lease to Lawrence L. Lyons, owner of the improvements (Douglas City Store and Gas Station) on the lease tract. The subject lands are adjacent to Highway 299, in the unicorporated town of Douglas City. The lands were formerly rough and mountainous, but were somewhat leveled off by past hydraulic placer operations. The owner prior to Mr. Lyons did further work to make a suitable site for a store. The portion of the store, parking and drive area on public land measures about 60' x 100'. Mr. Lyons purchased the store from Earl Ford in August 1963. The applicant will be assessed for prior unauthorized use of the property. The subject land is within ¼ mile of the Trinity River which has recently been designated under the Wild and Scenic Rivers Act. A lease is being offered because the Wild and Scenic Rivers Act prohibits sale of the land. The lands are not required for any Federal purpose, and the public interest would be served by offering this land for lease.

For a period of 45 days from the date of this notice, interested parties may submit comments on the proposed lease or its environmental consequences to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: December 17, 1982.

Robert C. Korfhage,

Area Manager.

[FR Doc. 82-35395 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

Hot Springs Lease; Public Lands in Alaska

The following described lands have been determined to be suitable for hot springs lease under section 302 of the Federal Policy and Management Act of 1976, 43 U.S.C. 1732:

T. 7 S., R. 18 W., KRM Unsurveyed
Sec. 27: Special Survey (80 acres)

The purpose of the lease is to develop Clear Creek Hot Springs into a commercial facility to include a lodge and bath-house. An airstrip will be constructed to provide access. The lands presently adjoining the proposed lease are undeveloped. Two Native allotments are adjacent to the proposed lease area. The lease is consistent with the Bureau's Planning System.

The terms and conditions applicable to the lease are:

1. The lands would be leased to Carl and Alice Emmons.
2. The lease would be issued for twenty years with the right to renew.
3. The lands would be used for a commercial lodge and bath-house.
4. Rental will be determined by fair market value.

Detailed information concerning the lease, including the environmental assessment, is available for review at the Fairbanks District Office, Ft. Wainwright, Alaska.

On or before January 24, 1983, interested parties may submit comments to the Fairbanks District Manager, P.O. Box 1150, Fairbanks, Alaska 99707. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In absence of any action by the District Manager, this realty action will become the final determination of the Bureau.

Carl P. Jeglum,

Acting District Manager.

[FR Doc. 82-35384 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[I-13343]

Public Lands in Ada County, Idaho; Realty Action—Exchange

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:

Boise Meridian, Idaho

T. 2 N., R. 3 E.,
Sec. 15, SW¼;
Sec. 17, SE¼NE¼, E½SE¼;
Sec. 20, NE¼NE¼;
Sec. 23, NE¼SE¼;
Sec. 25, N½SW¼;
Sec. 35, S½SW¼.
Total Acres—520.

In exchange for these lands, the Federal Government will acquire tracts of non-federal land in Ada County, Idaho, from National American Enterprises, Inc. described as follows:

Boise Meridian, Idaho

T. 2 N., R. 3 E.,
Sec. 10, NE¼NE¼SW¼, S½NW¼SE¼, E½SW¼SE¼;
Sec. 14, N½NW¼;
Sec. 15, N½NE¼NE¼, SE¼NE¼NE¼;
Sec. 23, N½NE¼NE¼;
Sec. 24, N½SW¼NW¼, NE¼NE¼SW¼, S½NE¼SE¼, N½NW¼SE¼, SW¼NW¼SE¼, SE¼SE¼.
T. 2 N., R. 4 E.,
Sec. 19, Lot 4, except for a 120-foot square;
Sec. 30, Lots 1 and 2, W½SE¼NW¼, NE¼SW¼.
Total Acres—480.40.

The purpose of the exchange is to acquire the non-federal lands on which portions of the historic Oregon Trail are situated. This will enable the Bureau of Land Management to protect remnants of this National Historic Trail. The exchange is consistent with the Bureau's planning for the lands involved. The management framework plan for this area recommends such acquisitions to provide protective management for the Oregon Trail. The public interest will be well served by making the exchange.

The value of the lands to be exchanged are approximately equal, and either the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange area: (1) Both parties will convey all mineral rights in the lands to be exchanged; (2) the public lands will be conveyed subject to all valid existing rights of records; (3) the non-federal lands will be conveyed subject to existing rights or interests of record which are administratively acceptable to the United States; (4) the existing oil and gas leases on the public lands in Sections 15, 17, 20, 25 and 35, T. 2 N., R. 3 E., Boise Meridian, Idaho, shall remain in effect until expiration or other termination; and (5) the public lands are subject to a reservation for ditches and canals.

Detailed information concerning the exchange including the environmental analysis and record of public discussions, is available for review at the Boise District Office, Boise, Idaho.

For a period of 45 days, interested parties may submit comments to the Boise District Manager, 3948 Development Avenue, Boise, Idaho 83705. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become

the final determination of the Department.

Dated: December 21, 1982.

Martin J. Zimmer,

District Manager.

[FR Doc. 82-35393 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Albuquerque District, New Mexico; District Advisory Council Meeting

The first meeting of the re-chartered Albuquerque District Advisory Council will be held January 24, 1983 in the Conference Room of the Bureau of Land Management, Albuquerque District Office, 3550 Pan American Freeway NE, Albuquerque, New Mexico. The meeting, which begins at 10:00 a.m., will be organizational in nature.

The public is welcome to attend all portions of the Council meeting. Statements by the public may be made to the Council at 1:00 p.m.

The agenda includes: Discussion of the Advisory Council Charter; Statements by each Council Member giving their individual perspective on public land usage; Briefing on Albuquerque District programs and priorities; A report on the functioning of the previous Advisory Council; Election of Officers; and establishing the next meeting agenda.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

Mathew N. Millenbach,

Associate District Manager.

December 21, 1982.

[FR Doc. 82-35386 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 18865]

Oregon; Order Providing for Opening of Public Lands

1. By order dated November 25, 1974, the Federal Energy Regulatory Commission vacated the land withdrawal in part for Power Project No. 853 of May 13, 1927, as amended May 12, 1930, as to the following described land:

Willamette Meridian

Revested Oregon and California Railroad Grant Lands

T. 40 S., R. 8 W.,
Sec. 5, Lot 6.

The area described contains 12.36 acres in Josephine County, Oregon.

2. The land described in paragraph 1 is included in Power Site Classification 123 and remains withdrawn from operation of the public land laws generally.

3. Under the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered that at 9:30 a.m. on February 5, 1983, the land described in paragraph 1, will be open to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621). The land has been and continues to be open to applications and offers under the mineral leasing laws.

Dated: December 21, 1982.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 35383 Filed 12-29-82 8:45 am]

BILLING CODE 4310-84-M

Amendment to Previous Notice of Availability of Planning Criteria for Resource Management Planning in the Hollister Resource Area, Bakersfield District, California

December 21, 1982.

This notice amends the Notice of Availability (NOA) dated June 17, 1982, (Planning Criteria for Coast Resource Management Plan in the Hollister Resource Area, Bakersfield District, California, Federal Register/Vol. 47, No. 122/Thursday, June 24, 1982, page 27410) and the Notice dated July 27, 1982, (Amendment to Previous Notices for Resource Management Planning in the Hollister Resource Area, Bakersfield District, California, Federal Register / Vol. 47, No. 150/Wednesday, August 4, 1982, page 33707).

In accordance with 43 CFR 1601.3, notice is hereby given of the availability of the Planning Criteria to direct the Hollister Resource Management Plan (RMP) in the Hollister Resource Area.

The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct this planning effort in the Hollister Resource Area. The Plan will involve the public lands located in Fresno, San Benito, Monterey, Merced, Stanislaus and Santa Clara Counties and will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria will be developed for future guidance of this planning effort.

The initial planning criteria are available for public review and comment at the following locations: Bureau of Land Management, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301, (805) 861-4191; and Bureau of Land Management, Hollister Resource Area Office, 402 Parkhill Road, P.O. Box 365, Hollister, California, 95023, (408) 637-8183.

Persons wishing copies of the initial planning criteria are requested to contact either of the offices listed above.

Comments are being accepted from the public until 30 days from the date of this notice.

For further information contact David E. Howell, Hollister Resource Area Manager, at the Hollister address listed above.

Timothy R. Salt,

Acting District Manager.

[FR Doc. 82-35385 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Big Morongo Canyon; Closure of Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of ACEC to vehicle use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plan's vehicle closure are 43 CFR 80000.0-6, 8340, 8341, 8342, 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is Big Morongo Canyon ACEC. The ACEC contains approximately 3700 acres of BLM managed public land in Riverside and San Bernardino Counties, California. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC management plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective December 31, 1982.

ADDRESS: Send inquiries to Area Manager, Indio Resource Area, 1695 Spruce Street, Riverside, California 92507.

The ACEC Management Plan and public comments received will be available for public review at the above address from 8:00 a.m. to 4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT: Robin L. Kobaly at the above address or (714) 351-6663.

SUPPLEMENTARY INFORMATION: Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.), EO 11644

(Use of Off-Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

1. Vehicle access will not be allowed within the ACEC except for that access necessary for pipeline maintenance by the right-of-way grantee and for administrative tasks performed by BLM. A map of the closed area is available for review at the Indio Resource Area Office, 1695 Spruce Street, Riverside, California. Copies of the map are available upon request from the same address.

The purpose of these regulations is to minimize conflicts between vehicle use in the area and for protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resource uses not in conflict with the objectives of the ACEC management plan. Administrative access by vehicle into the area closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lessees, and all other Federal, State, and County employees is allowed when on official duty and when cleared prior to entry by the authorized officer. Permission for other people to enter areas closed to vehicular use is subject to approval by the authorized officer.

Effective date: December 31, 1982.

Signed at Riverside, California, on December 17, 1982.

H. W. Riecken,

Associate District Manager, California Desert District, Bureau of Land Management.

[FR Doc. 82-35387 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[CA-13094]

California; Intent To Amend Scattered Blocks MFP and Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to amend scattered blocks MFP and notice of realty action.

SUMMARY: The Bureau of Land Management, pursuant to 43 CFR 1600, proposes to amend the Scattered Blocks Management Framework Plan to allow for the transfer of the below described land to the City of Trinidad, and pursuant to 43 CFR 2400, proposes to classify the below described land as suitable for patent for a recreation area under the Authority of the Recreation and Public Purpose Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

Humboldt Meridian—Humboldt County, California

T. 8 N., R. 1 W.,

Section 26, Lot 4.

The land described contains 47.2117 acres.

The City of Trinidad has expressed an interest in these lands for development of a non-intensive recreation area (CA-13094) under the provisions of the Recreation and Public Purpose Act, as amended.

This decision/notice is being based upon the following rationale:

(1) The lands have been found to be suitable for recreation and public purposes.

(2) The land is not of national significance and not essential to any Bureau of Land Management program.

(3) The proposed use will have no known significant effect on the human and national environment.

(4) Patenting the above described lands will serve the public interest.

(5) The land use plan is proposed for amendment to allow for the proposed use.

Segregation: Classification of these lands under the provision of the Recreation and Public Purpose Act will segregate them from all appropriations, including locations under the mining laws, except as to application under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

Dates: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, 555 Leslie Street, Ukiah, California, 95482. Any adverse comments will be evaluated by the State Director who may vacate or modify this action and issue a final determination. In the absence of any action by the State Director, the Notice of Intent and Notice of Realty Action will become a final determination of the Bureau of Land Management.

Reservation: There would be reserved to the United States in the applied for lands, a reservation for the existing roads, telephone line, electrical transmission line, water pipeline, and for visibility of the aid-to-navigation light, and for the operations of the antennas, wherein no structures or other improvements may be erected which would interfere with the operations of the antennas or which would obstruct the arc of light.

Dated: December 21, 1982.

Edwin G. Katlas,

Acting District Manager, Ukiah District.

[FR Doc. 82-35336 Filed 12-29-82; 8:45am]

BILLING CODE 4310-84-M

[Group 766]

California; Filing of Plat of Survey

December 22, 1982.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 23 N., R. 9 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 16, Township 23 North, Range 9 West, Mount Diablo Meridian, under Group No. 766, California, was accepted November 24, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Patricia L. Porter,

Acting Chief, Records and Information Section.

[FR Doc. 82-35337 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 13139]

California; Filing of Plat of Survey

December 22, 1982.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 2 N., R. 13 E.

2. This supplemental plat of the north half northeast quarter of section 10, Township 2 North, Range, 13 East, Mount Diablo Meridian, was accepted November 9, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State

Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Patricia L. Porter,

Acting Chief, Records and Information Section.

[FR Doc. 82–35338 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 734]

California; Filing of Plat of Survey

December 22, 1982.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

San Bernardino Meridian, California

T. 8 S., R. 2 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and a portion of the Pechanga (Temecula) Indian Reservation allotments in section 34, Township 8 South, Range 2 West, San Bernardino Meridian, under Group No. 734, California, was accepted November 16, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Patricia L. Porter,

Acting Chief, Records and Information Section.

[FR Doc. 82–35339 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

California; District Managers; Area Managers Redelegation of Authority

Section 1.1(a)(3) of Bureau Order No. 701, dated July 23, 1964, as amended by Notice published on December 9, 1980 (45 FR 81128) authorizes the Bureau of Land Management State Directors to redelegate that authority for "Land Use" to District Managers. This action is taken so Bureau of Land Management field personnel can be more responsive to the public demand for uses of public land by having the District offices as the main focal point for land and realty actions.

1. Pursuant to the authority contained in Sec. 1.1 of BLM Order No. 701 (20 FR 10526, July 29, 1964) as amended, the following authority is hereby delegated to the District Managers to take action for the State Director in matters listed under Section 1.9—Land Use. The District Manager may take all the listed action on:

(d) Exchanges. Take all actions subject to the title opinion of the Field Solicitor, in all matters relating to exchanges of lands and of timber for lands, except for appraisal reports on any proposed transaction, signing of realty actions involving lands in excess of 2,500 acres and issuance of patents.

(g) Material other than forest products. Take all actions relating to any sale or contract for sale of material other than forest products not exceeding $50,000, or for the free use of materials other than forest products, under 43 CFR Part 3600.

(i) Sites for recreational or any public purpose. Take all actions with respect to leases to Federal, State, Local government units and to nonprofit associations and corporations pursuant to 43 CFR Part 2740 and 2912 and to other applicable regulations.

(j) Sales of public lands. (1) Take all actions on sales pursuant to 43 CFR 2710 except signing of realty actions involving lands in excess of 2,500 acres, preparations of Final Certificates, issuance of patents and Notices of Conveyance. (2) Expressions of interest by and sales to aliens, assocations having an appreciable number of alien members, and corporations whose stock to an apppreciable extent is held by aliens, are subject to approval by the Secretary of Interior.

(m) Rights-of-way. Grant right-of-way permits and easements over public and acquired lands pursuant to 43 CFR Part 2800.

(o) Leases, permits, and easements. Take all actions in issuing: (1) leases or permits for public lands, pursuant to 43 CFR Part 2920; (2) leases, permits and easements for acquired lands under the administration of the Bureau of Land Management, under the principles embodied in 43 CFR Part 2920. (3) No land use authorization may be issued under this authority to Federal Departments or agencies.

2. The authority delegated in paragraph 1 above is hereby delegated to the Area Manager, Redding Resource Area, Ukiah District, and may not be redelegated but may be exercised by any person authorized as an "Acting Area Manager."

3. The authority delegated in paragraph 1 above may be redelegated to other Area Managers by the District Managers with written concurrence by the State Director.

4. The delegations made by notices published May 21, 1981 (46 FR 27771) and February 19, 1982 (47 FR 7505) are hereby cancelled.

December 22, 1982.

Ed Hastey,

State Director.

[FR Doc. 82–35340 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[N–32273]

Nevada; Realty Action—Exchange

December 30, 1982.

The following described Federal land in Lyon County, Nevada, has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

T. 12 N., R. 23 E., Mt. Diablo Mer., NV,
Sec. 28: SW¼NW¼,
Sec. 29: E½E½,
Sec. 32: NE¼NE¼.
Containing 240 Acres.

In exchange for this land, the Federal Government is offered the following described private land in Douglas and Lyon Counties, Nevada:

T. 12 N., R. 23 E., Mt. Diablo Mer., NV,
Sec. 4: SW¼SW¼, NE¼NE¼NE¼SE¼, W½E½NE¼SE¼, W½NE¼SE¼, SE¼SE¼NE¼SE¼;
Sec. 8: NE¼NE¼;
Sec. 9: NW¼NW¼.
T. 13 N., R. 23 E., Mt. Diablo Mer., NV,
Sec. 32: SE¼SE¼.
T. 12 N., R. 24 E., Mt. Diablo Mer., NV,
Sec. 8: SE¼SW¼.
Containing 235 Acres.

The purpose of the exchange is to acquire private land which would be beneficial to the Carson City District's wildlife program. The proposed exchange is consistent with BLM land use planning.

An appraisal has been completed and the lands being exchanged will be of equal value or otherwise will be equalized by the payment of money to the Federal Government not to exceed 25 per centum of the total value of the land transferred out of Federal ownership.

Land transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. An easement, 60 feet in width, along the east-west quarter section line of Sections 28 and 29 for utility purposes

and to insure continued ingress and egress to adjacent lands.

3. A right-of-way (N–36603) for water pipeline purposes granted to Thomas J. Wipfli.

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all appropriations under the public land laws, including the mining laws, except exchanges and mineral leasing for a period of two (2) years or upon issuance of patent or other documents of conveyance to such lands, whichever occurs first. After titles pass, the Federal land will be opened to the public land laws, including the mining laws.

Detailed information concerning the exchange including the Environmental Assessment Record/Land Report, Cultural Resources Report and Mineral Report are available for review at the Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada 89701.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Carson City District Office of the Bureau of Land Management, 1050 E. William St., Suite 335, Carson City, Nevada 89701. Any adverse comments will be evaluated by the District Manager, and forwarded to the Nevada State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

J. Matthiessen,

Acting District Manager, Carson City District.

December 30, 1982.

[FR Doc. 82-35341 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[W-79336]

Exchange of Public Lands in Sweetwater and Lincoln Counties for Private Lands in Teton County; Realty Action

December 17, 1982.

The surface state of the following described lands has 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):

Sixth Principal Meridian, Wyoming

T. 19 N., R. 105 W.,
Sec. 28, lots 18 to 22, inclusive, lots 26 and 27.
T. 21 N., R. 116 W.,
Sec. 21, lot 1, SE¼NE¼, and NE¼SE¼;
Sec. 22, lot 1, NE¼NW¼, SW¼NW¼, SE¼NW¼, SW¼, NW¼SE¼, SW¼SE¼, and SE¼SE¼;
Sec. 23, lot 4;
Sec. 26, lots 1 to 4, inclusive;
Sec. 27, NE¼, NE¼NW¼, SE¼NW¼, and SE¼.

The areas described aggregate 1,156.89 acres.

In exchange for these lands the United States will acquire from Herbert H. Kohl a Conservation and Trail Easement on lands described as:

Sixth Principal Meridian, Wyoming

T. 40 N., R. 111 W.,
Sec. 4, lots 1 to 3, inclusive, SW¼NE¼, and SE¼NW¼.
T. 41 N., R. 111 W.,
Sec. 19, lots 1 and 2, lot 4, NW¼SW¼, and SE¼SW¼;
Sec. 29, SW¼SW¼;
Sec. 30, lot 1, NE¼SE¼, NW¼SE¼, and SE¼SE¼;
Sec. 32, NW¼NE¼, SW¼NE¼, SE¼NE¼, NE¼NW¼, NW¼NW¼, NE¼SE¼, and SE¼SE¼;
Sec. 33, SW¼, NW¼SE¼, SW¼SE¼, and SE¼SE¼.
T. 431 N., R. 112 W.,
Sec. 24, NE¼NE¼ and SE¼NE¼, excepting a portion of the southeast quarter of the northeast quarter described as follows:

Beginning at a point which is the southwest corner of said portion and the CE¼₆ corner of said section. From the initial point

North 0°08'E. along the west line of the southeast quarter of the northeast quarter of said section, a distance of 331.66 ft;

Thence N. 89°44'E., a distance of 1314.06 ft. to the east boundary of said section;

Thence S. 0°15'W. along the east boundary of said section a distance of 331.66 ft. to the east quarter corner of said section;

Thence S. 89°44'W. along the center section line of said section a distance of 1313.40 ft. to the point of beginning.

The tract as described contains approximately 10 acres.

The areas described aggregate 1,227.62 acres.

Interests acquired by this exchange will be transferred to the Secretary of Agriculture under Section 206(c) of the Federal Land Policy and Management Act of 1976, and will be subject to the laws, rules and regulations applicable to the National Forest System.

The acquired easement will provide for public access across private lands that border the Gros Ventre River, and will facilitate such control over use of the private lands as it considered necessary by the U.S. Forest Service to maintain and protect the natural, scenic, open-space character, and other environmental values of the Gros Venture Valley.

The exchange is consistent with Bureau of Land Management, U.S. Forest Service, and Teton County land use planning for the lands involved and has the support of several national and local natural resource planning and environmental protection groups. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal. If an imbalance in values is determined at the time of final land appraisal, the difference will be added or subtracted by using 40 acre increments of land and any remainder will be in the form of cash payment.

The terms and conditions applicable to the exchange are:

1. Exchange of these lands is subject to existing rights-of-way of record and any other valid existing rights. Rights-of-way for arterial and collector streets have been dedicated by the United States in order to provide access for the general public to the exchange lands in Sweetwater County and to adjacent public lands. Those rights-of-way are shown on the Plat of Section 28 Subdivision dated September 6, 1978.

2. Conveyance of these lands by the Secretary of the Interior shall not exempt the exchange proponent from compliance with applicable Federal or State law and compliance with State and local land use plans.

3. *All minerals* in the lands will be reserved to the United States in accordance with Section 209 (a) of the Federal Land Policy and Management Act of 1976.

4. *Rights-of-way for ditches and canals* will be reserved under 43 U.S.C. 945.

5. The United States will be reimbursed by the exchange proponent for the underpreciated value of the reservoir (BLM Project No. 754) located in lot 1 of Section 21, T. 21 N., R. 116 W. Such value is to be determined by an appraisal performed by a Federal appraiser using the principles contained in the *Uniform Appraisal Standards for Federal Land Acquisitions.*

6. This exchange action requires a partial cancellation of the grazing permits on the Cumberland-Uinta Grazing Allotment in Lincoln County, and the Rock Springs Grazing Allotment in Sweetwater County. After the exchange is finalized the grazing privileges within these allotments will be reduced by 77 AUM's in the Cumberland-Uinta Allotment and 12 AUM's in the Rock Springs Allotment.

Publication of this notice in the **Federal Register** segregates the public lands, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of

1976. The segregative effect of this notice will terminate upon issuance of a conveyance document, in two years, or when a cancellation notice is published, whichever occurs first.

Detailed information concerning the environmental assessment for the exchange is available for review at the Rock Springs District Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

Planning information concerning the exchange is a available for review at the following offices:

1. Bureau planning documents concerning the Federal lands involved are available at the Big Sandy Resource Area Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901; and, the Kemmerer Resource Area Office, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101.

2. Forest Service planning documents concerning the non-Federal lands involved are available at the Bridger-Teton National Forest Office, P.O. Box 1888, Jackson, Wyoming 83001.

On or before February 13, 1983 interested parties may submit comments to the Rock Springs District Manager at the above address. Any adverse comments will be evaluated by the Wyoming State Director, Bureau of Land Mangement, who may vacate or modify this realty action and issue a final determination. In absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Donald Sweep,

District Manager.

[FR Doc. 82-34880 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 016, Block 31, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 20, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-35400 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1608, Block 60, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, exectives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 20, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-35401 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 026, Block 30, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 21, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-35402 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-31-M

Central and Northern California Outer Continental Shelf; Intent to Prepare an Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sale No. 73

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service's Pacific Outer Continental Shelf (OCS) Region is announcing its intent to prepare an environmental impact statement (EIS) for the offshore oil and gas leasing proposal known as OCS Sale No. 73. The EIS analysis will focus on the potential environmental effects of leasing the unleased tracts in that portion of the northern and central California planning area that lies south of the line between the rows of blocks numbered N 816 and N 817 of the Universal Transverse Mercator Grid System, and within the boundaries of the Call for Nominations and Comments for OCS Sale No. 73 issued on November 28, 1980. Alternatives to be considered in the EIS include options to modify, delay, or withdraw the proposed lease offering.

The draft EIS is tentatively scheduled for release in early 1983. The proposed sale is presently scheduled for late 1983. Federal, State, or local Governments, environmental groups, and interested individuals having questions concerning the proposed action or the EIS and those wishing to assist the Minerals Management Service in determining the scope of the EIS should contact John Lane, Chief, Environmental Assessment Division, Minerals Management Service, Pacific OCS Region, 1340 West 6th Street, Los Angeles, California 90017, telephone (213) 688–6741. Comments on the scope of the EIS should be received by January 31, 1983.

Harold Doley,

Director, Minerals Management Service.

December 27, 1982.

[FR Doc. 82-35469 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Jackson Hole Airport, Grand Teton National Park, Teton County, Wyoming; Availability, Environmental Assessment for Proposed Renegotiation of Management Agreement with the Jackson Hole Airport Board

Pursuant to the National Environmental Policy Act of 1969, the Department of the Interior, National Park Service, has prepared an Environmental Assessment on a proposed new management agreement with the Jackson Hole Airport Board for the Jackson Hole Airport, Grand Teton National Park, Teton County, Wyoming.

The Environmental Assessment describes alternatives and environmental impacts for renegotiating the Jackson Hole Airport Management Agreement between the Department and the Jackson Hole Airport Board, and is accompanied by a proposed finding of no significant impact.

Copies of the Environmental Assessment will be mailed to known interested parties, and will be available on January 5, 1983, at the following locations:

- Office of Public Affairs, National Park Service, Room 3043, 18th & C Streets, NW., Washington, D.C. 20240 (Telephone 202–343–6843)
- Office of Public Affairs, Rocky Mountain Regional Office, National Park Service, 655 Parfet St., Denver, Colorado 80225 (Telephone 303–234–2500)
- Office of the Secretary, U.S. Department of the Interior, Building 67, Room 688, Denver Federal Center, Denver, Colorado 80255 (Telephone 303–234–3120)
- Office of the Superintendent, Grand Teton National Park, Moose, Wyoming 83012 (Telephone 307–733–2880)

Anyone wishing to provide comments on the Environmental Assessment should forward them to Mr. Al Baldwin, U.S. Department of the Interior, Building 67, Room 688, Denver Federal Center, Denver, Colorado 80225 (Telephone 303–234–3120) by February 4, 1982.

Dated: December 27, 1982.

Russell E. Dickenson.

Director, National Park Service.

[FR Doc. 82-35467 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 14 to 13.5 cents per mile.

EFFECTIVE DATE: This decision will be effective on January 14, 1983.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander, (202) 275–7723
Ted Kalick, (202) 275–6446
Alan Rothenberg, (202) 275–7597
Boston, MA, (603) 223–2372
Philadelphia, PA, (215) 597–4460
Atlanta, GA, (404) 881–2167
Chicago, IL, (312) 353–6204
Ft. Worth, TX, (817) 334–2794
San Francisco, CA, (415) 974–7125

SUPPLEMENTARY INFORMATION: In a decision served November 1, 1982 (47 FR 49753, November 2, 1982), the Commission established owner-operator reimbursement at 14 cents per mile for all carrier-related business miles. This change became effective November 17, 1982. As noted in the October 8, 1981 decison (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of December 20, 1982, the current price of diesel fuel was 126.6 cents per gallon. The reimbursement figure is 13.4. Ten working days after publication of the notice in the Federal Register (effective January 14, 1983), carriers shall reimburse owner-operators at a minimum of 13.5 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: December 23, 1982.

By the Commission. Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre was absent and did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35361 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicants's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP3–62

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 47495 (Sub-13), filed December 10, 1982. Applicant: MOUNTAIN VIEW COACH LINES, INC., Route 9W, West Coxsackie, NY 12192. Representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021, (516) 482–0881. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Notes.—Applicant seeks to provide privately-funded charter and special transportation.

MC 146024 (Sub-8(b), filed December 9, 1982. Applicant: G & R PETROLEUM, INC., 253 S. W. 4th Ave., Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. (1) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162915 (Sub-2), filed December 10, 1982. Applicant: EASY RIDER LINES, INC., 21 Queen Anne Drive, Deal, NJ 07723. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165035, filed December 6, 1982. Applicant: HARRY R. KNABLE, R.R. 3, Wabash, IN 46992. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Suite 155, Indianapolis, IN 46220, (317) 257–4066. Transporting *food and other edible products and byproducts intended for human consumption* (except alcholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165075, filed December 7, 1982. Applicant: FAST MESSENGER SERVICE, INC., 1015 W. Grand Ave., Chicago, IL 60622. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312) 641–5900. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165104, filed December 9, 1982. Applicant: CREECH BROTHERS TRUCK BROKERAGE, INC., 100 Industrial Dr., Troy, MO 63379. Representative: William H. Creech, Jr. (same address as applicant), (314) 528–8903. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165105, filed December 9, 1982. Applicant: FUN TRIP TOURS, INC., 9776 Katella Ave., Suite H, Anaheim, CA 92803. Representative: William C. Robinson, 16133 Ventura Blvd., Penthouse Suite B, Encino, CA 91436, (213) 784–9993. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165115, filed December 6, 1982. Applicant: SEIBERT FARMS (J. E. SEIBERT), R. R. 1, Story City, IA 50248. Representative: J. E. Seibert (same address as applicant), (515) 733–4909. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic

beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 165124, filed December 10, 1982. Applicant: J. M. S. TRANSPORT, INC., 7808 E. Oakshore Dr., Scottsdale, AZ 85261. Representative: Joe E. Norwood (same address as applicant), (602) 264–7403. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165125, filed December 10, 1982. Applicant: RICHARD J. HEIL, d.b.a. AMERICAN BROKERAGE CO., 8649 Freeway Dr., Macedonia, OH 44056. Representative: Richard J. Heil (same address as applicant), (216) 467–1111. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165134, filed December 10, 1982. Applicant: ROBERT E. CLAWSON, INC., Rt. 1, Box 386, Brookfield, MO 64628. Representative: Robert E. Clawson (same address as applicant), (816) 258–7239. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165144, filed December 9, 1982. Applicant: THE AID COMPANY, INC., P.O. Box 41613, Indianapolis International Airport, Indianapolis, IN 46251. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165145, filed December 9, 1982. Applicant: KENT BUS COMPANY, INC., 297 Snyder Ave., Berkeley Heights, NJ 07922. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–9500. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–088

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 107367 (Sub-5), filed December 16, 1982. Applicant: BOWMAN BUS SERVICE, INC., R.D. 2, Box 75, Milford, DE 19963. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 114957 (Sub-2), filed December 6, 1982. Applicant: C & H BUS LINES, INC., R.F.D. No. 1, Harrison, GA 31035. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 126986 (Sub-10), filed December 16, 1982. Applicant: DUFOUR BROTHERS, INC., Berkshire Commons, Pittsfield, MA 01201. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 133336 (Sub-7), filed December 16, 1982. Applicant: CAROLINA TRANSIT LINES OF CHARLOTTE, INC., 224 Iverson Way, Charlotte, NC 28203. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St. N.W., Washington, DC 20004, (202) 737–1030. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147917 (Sub-1), filed December 13, 1982. Applicant: MELNI BUS SERVICE, INC., 622 Anacapa St., Santa Barbara, CA 93101. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *passengers,* in charter and special operations, between point in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155377 (Sub-3), filed December 10, 1982. Applicant: PGT TRUCKING, INC., P.O. Box 197, Rt. 68, Industry, PA 15052. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004, (202) 628–4600. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164946, filed November 25, 1982. Applicant: ALEXANDER BUS COMPANY, 212 Fernwood Rd., Chesapeake, VA 23320. Representative: Nathaniel L. Alexander (same address as applicant), (804) 547–2435. Transporting *passengers,* in charter and special operations, beginning and ending at Chesapeake, Virginia Beach, Norfolk, Portsmouth, Newport News, Hampton, Poquoson, Suffolk, and Williamsburg, VA, points in Pasquotank, Camden, Currituck, and Dare Counties, NC, and Isle of Wright, Sussex, James City, York, Surry, Northampton, Accomack, and Southampton Counties, VA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165097, filed December 8, 1982. Applicant: THE BUS THAT GOES IN CIRCLES, INC., d.b.a. AMERICAN SIGHTSEEING TOURS, 1902 National Ave., San Diego, CA 92113. Representatives: Thomas W. Evans (same address as applicant), (619) 232–7579. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note—Applicant seeks to provide privately-funded special and charter transportation.

MC 165137, filed December 10, 1982. Applicant: ROBERT P. LONGABAUGH, d.b.a. MISSISSIPPI TRANSPORATION SERVICES, 703 Hwy 80 West, P.O. Box 163, Clinton, MS 39056. Representative: Robert P. Longabaugh (same address as applicant), (601) 924–8555. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165157, filed December 13, 1982. Applicant: NEW ULM BUS LINES, INC. 1400 S. Minnesota St., New Ulm, MN 56073. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers,* in charter and special operations, (1) between points in MN, IA, SD, ND, WI, MO, OK, TX, AR, LA, and IL, and (2) beginning and ending at points in MN, IA, SD, ND, WI, MO, OK, TX, AR, LA, and IL, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165167, filed December 13, 1982. Applicant: ALL ABOUT TRAVEL INC., 250 Richards Rd., Suite 14, Kansas City, MO 64116. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *passengers*, in special and charter operations, beginning and ending at points in MO, KS, IA, NE, and OK and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165176, filed December 13, 1982. Applicant: LUNDELL'S BUS SERVICE, INC., 2716 Norwood Ave., Slayton, MN 5617. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, (1) between points in IL, WI, MN, IA, ND, SD, CO, WY, MO, and KS, and (2) beginning and ending at points in IL, WI, MN, IA, ND, SD, CO, WY, MO, and KS, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165177, filed December 13, 1982. Applicant: BANDCO TRANSPORTATION SERVICE, INC., P.O. Box 31022. Birmingham, AL 35222. Representative: Howard L. Threadgill (same address as applicant), (205) 836–3120. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165187, filed December 13, 1982. Applicant: UNIVERSAL DISTRIBUTING SERVICES, INC., 101 State St., Springfield, MA 01103. Representative: David M. Marshall, 95 State St., Springfield, MA 01103, (413) 732–1136. As broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165197, filed December 14, 1982. Applicant: SHORTWAY AIRPORT LIMOUSINES, INC., 21375 Telegraph Rd., Southfield, MI 48039. Representative: Arthur Wagner, 342 Madison Ave. New York, NY 10173, (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165226, filed December 16, 1982. Applicant: WISCONSIN ILLINOIS STAGES, INC., Route 3, Box 349B, Theatre Rd., Delavan, WI 53115. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165227, filed December 16, 1982. Applicant: PAUL A. MAESTRI and ROBERT W. WEAVER, P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri (same address as applicant), (501) 361–2545. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 165236, filed December 16, 1982. Applicant: MICHAEL PETER KIZIMA, d.b.a. M P K TRUCKING, Box 249, Route 3, Minot, ND 58701. Representative: Michael Peter Kizima (same address as applicant), (701) 722–3391. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicles, between points in the U.S. (except HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–298.

Decided: December 20, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41638 (Sub.8), filed December 13, 1982. Applicant: DELUXE TRAILWAYS, INC., 1718 S. Clark St., Chicago, IL 60616. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 133388 (Sub-1), filed December 10, 1982. Applicant: THEODORE KEMPEMA and RAYMOND KEMPEMA, d.b.a. KEMPEMA BROTHERS BUS SERVICE, 1303 Omaha Avenue, Worthington, MN 56187. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, (a) between points in MN, ND, SD, IA, and WI, and (b) beginning and ending at points in (1) above and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144158 (Sub-2), filed December 9, 1982. Applicant: CALDWELL SCHOOL and CHARTER BUS CO., INC., P.O. Box 607, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Suite 8, Boise, ID 83705, (208) 344–7714. Transporting *passengers*, in charter and special operations, between points in WA, OR, ID, MT, WY, CA, NV, UT, CO, AZ, and NM.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165049 filed December 7, 1982. Applicant: ROSEMARY M. MILLER, 4114 Ridgeway Dr., SE, Turner, OR 97392. Representative: John A. Anderson, The 1515 Bldg., Suite 801, 1515 SW Fifth Ave., Portland, OR 97201, (503) 227–4586. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165089, filed December 6, 1982. Applicant: RONNIE L. SOHM, d.b.a. SOHCON TRAFFIC CONSULTANTS, INC., 672 Salvador Dr., Westerville, OH 43081. Representative: Ronnie L. Sohn (same address as applicant), 614–890–7356. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35363 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1–240]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 22, 1982.

90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request

and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Chandler, Parker, and Fortier. Member Parker not participating.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 1 (202) 275–7992.

MC 109780 (Sub-79), filed December 7, 1982. Applicant: TRAILWAYS, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–109780 and Sub 69, as follows: (A) In MC–109780, in part, (1) Sheet Nos. 1 and 2, between Chicago, IL, and Cameron, MO, to provide intrastate service between Chicago, IL, and Pontiac, IL, and (2) Sheet No. 22, between San Diego, CA, and San Francisco, CA, to provide intrastate service between (a) Los Angeles, CA, and San Fernando, CA on U.S. Hwy 99, and (b) Hayward, CA and San Francisco, CA on U.S. Hwy 50, and (B) in MC–109780 (Sub-No. 69), in part, Sheet Nos. 1 and 2, between San Francisco, CA, and Seattle, WA, to provide intrastate service between Vancouver, WA and Seattle, WA on Interstate Hwy 5.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35364 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–63

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 2934 (Sub-124), filed December 10, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as above), (317) 875–1142. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Computer Sciences Corporation, of El Segundo, CA, and its subsidiaries, Associated Credit Services of Houston, TX, and Paid Subscriptions of Paramus, NJ.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit to the Secretary's office. In order to expedite issuance of the permit, please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Room 2158.

MC 3104 (Sub-8), filed December 10, 1982. Applicant: Z & M MOTOR LINE, INC., P.O. Box 2345, Cumberland, MD 21502. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *glass products, chemicals, coatings, ink and fiberglass products,* between Pittsburgh, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 67234 (Sub-68), filed December 6, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Western Airlines, Inc., of Los Angeles, CA.

MC 109265 (Sub-32), filed December 10, 1982. Applicant: W. L. MEAD, INC., P.O. Box 31, Norwalk, OH 44857. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Huron County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110325 (Sub-188), filed November 23, 1982. Applicant: TRANSCON LINES, P. O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant), (213) 640–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Arco Chemical Company of Philadelphia, PA and Arco and Arco Durethene, Inc. of Chicago, IL, Carson, CA, Richmond, CA, City of Industry, CA, Buffalo, NY, Berwick, PA, Dallas, TX and Tukwila, WA.

MC 114015 (Sub-38), filed December 9, 1982. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting (1) *metal products* and (2) *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with Asplundh Manufacturing, a division of Asplundh Tree Expert Company, of Chalfont, PA.

MC 139045 (Sub-2), filed December 10, 1982. Applicant: CALIFORNIA PACIFIC SHIPPING CO., 1470 E. 4th St., Los Angeles, CA 90033. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *food and related products,* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI),

MC 139835 (Sub-4), filed December 6, 1982. Applicant: K & K TRANSPORTATION CORP., 4515 North 24 St., Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68110. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Goodyear Tire and Rubber Company, of Akron, OH.

MC 146024 (Sub-8(a)), filed December 9, 1982. Applicant: G & R PETROLEUM, INC., 253 S. W. 4th Ave., Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Stauffer Chemical Co., of San Francisco, CA.

MC 151725 (Sub-4), filed December 10, 1982. Applicant: LEAF TRANSPORTATION, INC., 1111 N. Cicero Ave., Chicago, IL 60651. Representative: Edward G. Bazelon, 135 S. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Tootsie Roll Industries, Inc., of Chicago, IL.

MC 155535, filed December 10, 1982. Applicant: EARL DUNCAN TRANSPORT, INC., Rt. 3, Box 99, Carthage, IL 62321. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 357–3724. Transporting *machinery,* between point in the U.S. (except AK and HI), under continuing contract(s) with Yetter Manufacturing Company, of Colchester, IL.

MC 158675 (Sub-3), filed December 10, 1982. Applicant: REMICK TRUCKING, LTD., 215 E. 37th, Boise, ID 83704. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. under continuing contract(s) with Victor's Iowa Pack, Inc., of Council Bluffs, IA.

MC 164474, filed December 7, 1982. Applicant: B & S TRUCKING CO., INC., Route 3, Box 459A, Bogalusa, LA 70427. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *lumber and wood products,* and *paper and related products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa. LA.

MC 165074, filed December 7, 1982. Applicant: DAPHNE TEMBELIS & SONS TRUCKING CORP., 22–55 77th St., Jackson Heights, NY 11370. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting (1) *rubber and plastic*

products, between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (2) *petroleum, natural gas, and their products,* and *chemicals and related products,* between New York, NY and New Orleans, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165095, filed December 7, 1982. Applicant: BRUCE ESTES, d.b.a. ESTES ENTERPRISES, 1840 Aquila Ave., Reno, NV 89510. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *construction materials, metal products, pipe, hardware, petroleum products, agricultural materials, equipment and supplies and waste or scrap materials not identified by industry producing,* between points in CA, NV, AZ, NM, CO, WY, ID, UT, OR and WA.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–087

Decided: December 22, 1982.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 52657 (Sub-762), filed December 9, 1982. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court, Burr Ridge, IL 60521. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *transportation equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, or dealers of transportation equipment.

MC 95336 (Sub-15), filed December 14, 1982. Applicant: J. B. WILLIAMS EXPRESS, INC., P.O. Box V, Williamsburgh Station, Brooklyn, NY 11211. Representative: Arthur Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, DE, MD, PA, CT, MA, RI, ME, NH, VT, on the one hand, and, on the other, points in FL, GA, NC, SC, VA, AL, TN, PA, DE, and MD.

MC 109736 (Sub-55), filed December 7, 1982. Applicant: CAPITOL BUS COMPANY, 1061 S. Cameron St., Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—The Board has determined that applicant is a privately funded carrier notwithstanding *de minimis* governmental financial assistance.

MC 119766 (Sub-1), filed December 10, 1982. Applicant: NATIONAL OIL & SUPPLY CO., INC., d.b.a. ELLIS TRANSPORT, 2345½ W. Kearney, Springfield, MO 65803. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, (417) 883–7311. Transporting *petroleum, petroleum products, and liquid animal feed, and their ingredients, between points in AR, CO, IA, IL, KS, LA, MO, NE, TN, and TX.*

MC 134167 (Sub-3), filed December 14, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Broan Mfg. Co., Inc., of Hartford, WI.

MC 138026 (Sub-35), filed December 13, 1982. Applicant: LOGISTICS EXPRESS, INC. d.b.a. LOGEX, 1890 S. Chris Lane, Anaheim, CA 92805. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *cryogenic liquids and compressed gases,* between points in the U.S. under continuing contract(s) with Air Products and Chemicals, Inc., of Allentown, PA.

MC 144656 (Sub-1), filed December 14, 1982. Applicant: A.D.L. CARTAGE, INC., 1710 Olive St., Beaver Heights, MD 20027. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750–1112. Transporting *business forms,* between points in the U.S. (except AK and HI), under continuing contract(s) with Moore Business Forms, Inc., of Glenview, IL.

MC 145566 (Sub-15), filed December 16, 1982. Applicant: B & K TRANSPORTATION, INC., 7950 S. 27th St., Oak Creek, WI 53154. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151087 (Sub-11), filed December 13, 1982. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, Suite 1515, 140 S. Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *metal products,* (1) between points in CT, DE, ME, MA, NH, RI, VT, and DC, and (2) between points in CT, DE, ME, MA, NH, RI, VT, and DC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, IA, KY, LA, MD, MI, MN, MO, MT, NH, NJ, NM, NY, OH, OK, OR, PA, TN, TX, UT, WA, WV, WI, and WY.

MC 156336 (Sub-2), filed December 14, 1982. Applicant: OSCEOLA WASTE MATERIALS, INC., P.O. Box 752, Industrial Drive, Osceola, AR 72370. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting (1) *paper and glass products, plastic products and aluminum containers,* between points in AR, OK, MO, and TN, and (2) *foodstuffs,* between points in MO and AR.

MC 157657 (Sub-2), filed December 14, 1982. Applicant: RIVERSIDE TRANSPORTATION, INC., Tredegar St., P.O. Box 2218, Richmond, VA 23217. Representative: J. Aiden Connors, 325 East 201 St., New York, NY 10458, (212) 733–6965. Transporting (1)*bakery goods.* between Tacoma, WA, Richmond, VA, points in Calhoun County, MI and Union County, SD, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Interbake Foods, Inc., of Richmond, VA; and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with American Can Company, of Greenwich, CT.

MC 161596, filed November 22, 1982. Applicant: EUGENE H. PIPER, d.b.a. E. H. PIPER TRUCKING, Town Farm Hill, Bradford, VT 05033. Representative: Eugene H. Piper (same address as applicant), (802) 222–4624. Transporting (1) *paper and paper products,* and (2) *wood and wood products,* between points in VT, NH, ME, MA, CT, NY, NJ, PA, and OH.

MC 161687, filed December 13, 1982. Applicant: JAMES B. DEGAN, P.O. Box 1799, Redding, CA 96099. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting (1) *such commodities* as are dealt in by distributors, retailers and wholesalers of lumber and building materials, between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, TX, WA, and WY, under continuing contract(s) with Far West Fir Sales Co., of Huntington Beach, CA, Marquart Wolfen Lumber Co., of Tustin, CA, Noble Lumber Co., of Tustin, CA, Noble Lumber Co., of Eugene, OR,

Pacific Wood Products, Inc., of Salem, OR, Hampton Industrial Forest Products, of Woodburn, OR, Sundance Comerado, Inc., of Shingle Springs, CA, and Schaller Forest Products Co., of Redding, CA; and (2) *cement and lime,* between points in AZ, CA, NV, OR, UT, and WA, under continuing contract(s) with Genstar Cement & Lime Co., of San Francisco, CA.

MC 164017, filed December 13, 1982. Applicant: HOUSBY FREIGHT SYSTEMS CORP., INC., 4733 NE 14th St., Des Monies, IA 50313. Representative: Charles A. Coppola, 4900 University Ave., Suite 101, Des Moines, IA 50311, (515) 277–6191. Transporting *paper and plastic bags and containers,* between points in Des Monies, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Great Plains Bag Co., of Des Moines, IA.

MC 164196 (Sub-1), filed November 15, 1982. Applicant: SAM CRAIG TRANSPORT, INC., 1462 West 54th St., Los Angeles, CA 90062. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 164476, filed December 14, 1982. Applicant: JAMES A. SEAL dba JIMMY SEAL TRUCKING, Route 1, Box 134, Poplarville, MS 39470. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *lumber and wood products, paper and related products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa, LA.

MC 165007, filed December 14, 1982. Applicant: VIRGIL LaVAN WAY, Route 3, Bailey Rd., Box 571, East Jordan, MI 49727. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *metal and metal products,* between points in Charlevoix County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165056, filed December 7, 1982. Applicant: CONSER COACH SERVICES, 11310 Chicago Dr., Holland, MI 49423. Representative: John David Conser (same address as applicant), (616) 335–2117. Transporting *passengers,* in charter operations, beginning and ending at points in MI, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165186, filed December 13, 1982. Applicant: CHARLES EMERSON, R.R. 2, P.O. Box 54, Iowa Falls, IA 50126. Representative: Craig Hollander, P.O. Box 403, Denison, IA 51442, (712) 263–5002. Transporting *food and related products,* between points in Crawford and Hardin Counties, IA and Saline County, NE, on the one hand, and, on the other, points in WA, OR, ID, MT, WY, SD, ND, CA, NV, UT, CO, AZ, and NM.

MC 165196, filed December 14, 1982. Applicant: EAST COAST LEASING, INC., 5910 W. Market St., Greensboro, NC 27409. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Henry Wurst, Inc., of Apex, NC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

For the following, please direct status inquiries to Team 5 (202) 275–7289.

Volume No. OP5–297

Decided: December 20, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

FF–639, filed December 13, 1982. Applicant: ARIES FORWARDING INTERNATIONAL, INC., 2020 Auiki St., Honolulu, HI 96810. Representative: Patricia P. Murakawa, P.O. Box 114, Honolulu, HI 96810, (808) 845–9514. To operate as a *freight forwarder* of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S.

MC 5428 (Sub-14), filed December 10, 1982. Applicant: LYON VAN LINES, INC., P.O. Box 5011, Carrollton, TX 75006. Representative: J. B. Stuart (same address as applicant), 214–446–1500. Transporting *household goods, furniture and fixtures,* between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in AK.

MC 134328 (Sub-11), filed December 9, 1982. Applicant: D & G TRUCKING CO., INC., P.O. Box 1004, Wayne, AR 72396. Representative: James N. Clay III, P.O. Box 9508, Memphis, TN 38109, 901–774–9992. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Gypsum Co. of Chicago, IL and its subsidiaries and affiliates A.P. Green Refractories Co. of Mexico, MO; The E. J. Bartells Company of Renton, WA; Bigelow-Liptak Corporation of Southfield, MI; Bigelow-Liptak Export Corporation of Houston, TX; A. Lynn Thomas Company Incorporated of Richmond, VA; Durabond Products Company and Permalastic Products Incorporated both of Rosemont, IL; Castlegate Industries, Inc. of Downers Grove, IL; L & W Supply Corporation, Columbia Building Materials Corporation, C–S–W Drywall Supply Company, Gypsum Services Corporation, Stocking Specialists, Inc, United States Gypsum Export Company, and USG Insulation Company, all of Chicago, IL. North Bay Building Materials Co., Inc. of Vallejo, CA; Sequoyah Carpet Corporation of Anadarko, OK; Holleytex Carpet Mills, Inc. of City of Industry, CA and Wiss, Janney, Elstner and Associates, Inc., of Northbrook, IL.

MC 134328 (Sub-12), filed December 13, 1982. Applicant: D & G TRUCKING COMPANY, INC., P.O. Box 1004, Wynne, AR 72396. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 135068 (Sub-4), filed December 10, 1982. Applicant: PAULK's MOVING & STORAGE CO., INC., 724 North Kraft Avenue, Panama City, FL 32401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *household goods,* between points in the U.S. (except VT).

MC 138219 (Sub-4), filed November 9, 1982. Appplicant: U.S. INDUSTRIES, INC., P.O. Box 760, Lenoir, NC 28645. Representative: J. W. BRADSHAW (same address as applicant), (704) 728–3231. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141339 (Sub-3), filed December 7, 1982. Applicant: DAVIS EXPRESS, INC., Route 3, Box 651, Starke, FL 32091. Representative: Sol H. Proctor, 1101

Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *cleaning compounds and related articles,* between points in the U.S. (except AK and HI), under continuing contract(s) with Economic Laboratory, Inc., of Avenel, NJ.

MC 143239 (Sub-8), filed December 13, 1982. Applicant: JAMOUR, INC., d.b.a. QUICK COURIER SERVICE, 123 N. 23rd St., Philadelphia, PA 19103. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in York, Lancaster, Lebanon, and Berks Counties, PA, on the one hand, and, on the other, New York, NY.

MC 154219 (Sub-2), filed December 9, 1982. Applicant: BARRY KING, P.O. Box 238, Castor, LA 71016. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting (1) *Mercer commodities* and (2) *machinery other than oilfield,* between points in AR, LA, MS, OK, and TX.

MC 165009, filed December 3, 1982. Applicant: JAMES C. DOYLE, d.b.a. DOYLE ENTERPRISES, P.O. Box 4759, Kenai, AK 99611. Representative: Warren G. Kellicut, 437 "E" St., Suite 500, Anchorage, AK 99501, (907) 276–1726. Transporting *general commodities* (except household goods), between points in AK. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 165028, Filed December 6, 1982. Applicant: SURE TRANSIT, INC., 600 Fern St., Ferndale, MI 48220. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521, (312) 629–2900. Transporting *such commodities* as are dealt in or used by manufactures and distributors of food products, between points in the U.S., under continuing contract(s) with Welch Foods, Inc., of Westfield, NY.

MC 165128, filed December 10, 1982. Applicant: B–BEST TRUCKING, INC., 5742 State Rt. 36 East, Box 321, Delaware, OH 43015. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *electrical equipment, materials and supplies* between points in the U.S. (except AK and HI), under continuing contract(s) with Gould, Inc., Foil Division, of Eastlake, OH.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35365 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Remedy Imminent and Substantial Endangerment to Health and the Environment Caused by the Disposal of Hazardous Waste by Solvents Recovery Service of New England, Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 20, 1982, a proposed consent decree in *United States of America, et al.* v. *Solvents Recovery Service of New England, Inc.,* Civil Action No. H–79–704(JAC), was lodged with the United States District Court for the District of Connecticut. The proposed consent decree commits Solvents Recovery Service of New England, Inc. to implementing pollution prevention measures at its facility in Southington, Connecticut and to constructing and operating a multi-point shallow well system to abate and contain groundwater contamination at and in the immediate vicinity of the facility. The proposed decree also requires Solvents Recovery Service of New England, Inc. to isolate and contain groundwater contamination beyond the influence of the multi-point shallow well system by constructing a groundwater intercept system which will preclude to the extent feasible the further southerly migration of contaminants from its facility beyond a point located at the northern end of property owned by the Town of Southington. The groundwater intercept system chosen by the defendant must be approved by the plaintiff.

The proposed consent decree may be examined at the office of the United States Attorney, District of Connecticut, 270 Orange Street, New Haven, Connecticut 06508; at the Region I Office of the United States Environmental Protection Agency, Office of Regional Counsel, 22d Floor, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Please remit $3.10 ($.10 per page) by check made payable to the United States Treasury with any request for a copy of the proposed consent decree.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America, et al.* v. *Solvents Recovery Service of New England, Inc.,* D. Connecticut, Civil Action No. H–79–704(JAC), D.J. Ref. 90–7–1–23.

Mary L. Walker,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-35407 Filed 12-28-82; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 3, 1982 a proposed Amended Consent Decree in *United States* v. *Kaiser Steel Corporation,* Civil Action No. CV 76–0675 MML was lodged with the United States District Court for the Central District of California. The proposed decree provides for the cessation of operation of Kaiser's coke batteries in Fontana, California on or before December 31, 1982.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Kaiser Steel Corporation,* D.J. Ref. 90–5–2–1–171.

The proposed Amended Consent Decree may be examined at the office of the United States Attorney, Central District of California, 312 North Spring Street, Los Angeles, California, and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California. Copies of the Amended Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the

proposed Amended Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.60 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-35348 Filed 12-29-82; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 6, 1982 a proposed consent decree in *United States* v. *Standard Brake Shoe and Foundry Company,* Civil Action No. 80-2411-H was lodged with the United States District Court for the Western District of Tennessee. The proposed decree requires the payment of civil penalties and compliance with applicable rules at defendant's cupola furnace in Memphis, Tennessee.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Standard Brake Shoe and Foundry Company,* D.J. Ref. 90-5-2-1-339.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Tennessee, 1026 Federal Building, Memphis, Tennessee and at the Region 4 Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-35349 Filed 12-29-82; 8:45 am]

BILLING CODE 4410-01-M

Federal Bureau of Investigation

National Crime Information Center (NCIC) Advisory Policy Board; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (U.S.C. App. I (Supp. II, 1972)), the Office of Management and Budget (OMB) Circular A-C3, the Director, FBI, has determined that the renewal of the National Crime Information Center (NCIC) Advisory Policy Board is in the public interest in connection with the performance of duties imposed upon the FBI by law.

The Board recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of the NCIC, particularly the system's relationship with local and State criminal justice systems.

The Board consists of twenty-six members of which twenty are elected from State and local criminal justice representatives and the remaining six appointed by the Director, FBI. The six appointed members consist of two members each from the judicial, prosecutorial, and correctional segments of the criminal justice community.

The Board functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act fifteen days from the date of the publication of this notice.

Interested persons are invited to submit comments regarding the renewal of the NCIC Advisory Policy Board to the Committee Management Liaison Officer, Federal Bureau of Investigation, National Crime Information Center, Washington, D.C. 20535.

Dated: December 16, 1982.

William H. Webster,

Director.

[FR Doc. 82-35350 Filed 12-29-82; 8:45 am]

BILLING CODE 4410-02-M

MARINE MAMMAL COMMISSION

Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals; Meetings

Notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will meet on February 24, 25, and 26, 1983, at The New Otani Kaimana Beach Hotel, 2863 Kalakaua Avenue, Honolulu, Hawaii 96815.

On February 24, from 11:00 a.m. to 5:00 p.m., the Commission and Committee will meet in public session to discuss and consider a broad range of issues bearing on the protection and recovery of the endangered Hawaiian monk seal.

On February 25, from 9:00 a.m. to 5:00 p.m., the Commission and Committee will meet together in public session to discuss and consider the status of activities and problems affecting marine mammals, including matters related to: humpback whales in Hawaii; marine mammal/fishery interactions; net entanglement of marine mammals; the California sea otter; bottlenosed dolphin populations; and preparations for forthcoming International Whaling Commission and North Pacific Fur Seal Commission meetings.

On February 26, from 9:00 a.m. to 12:00 noon, the Commission and Committee will met in public session to discuss and consider various aspects of the Minerals Management Service's activities affecting marine mammals and management issues surrounding marine mammals in Alaska.

The remainder of the meeting will consist of executive sessions of the Commission and Committee to be held on 24 February from 9:00 a.m. to 10:45 a.m. and on 26 February from 12:00 noon to 12:30 p.m. These sessions will be devoted to the exchange of opinions and deliberations concerning internal personnel rules and practices, budget, interagency liaison, proposed policies and actions relating to international negotiations, proposed agency policies and actions, and the evaluation of proposals to conduct research in which participants will be candidly discussing and appraising the professional qualifications and competence of the proposers, their potential contribution to the research program, and information given to the Commission and Committee in confidence. These sessions are concerned with matters listed in 5 U.S.C. 522b(c) (2), (3), (4), (6) and (9)(B), and therefore will not be open to the public.

John R. Twiss, Jr.,

Executive Director, Marine Mammal Commission.

December 27, 1982.

[FR Doc. 82-35478 Filed 12-29-82; 8:45 am]

BILLING CODE 6820-31-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI. "Rules

for Inservice Inspection of Nuclear Power Plant Components" to Baltimore Gas and Electric Company (the licensee), which revised the inservice inspection program for Calvert Cliffs Nuclear Power Plant, Units No. 1 and No. 2. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its data of issuance.

The NRC has provided a relief from the ASME Boiler and Pressure Vessel Code, Section XI, regarding the requirements for:

- Inspection of Seal Weld in Closure Head,
- Inspection of Primary Nozzle-to-Vessel Welds and Nozzle Inside Radiused Section,
- Inspection of Reactor Vessel Cladding,
- Repair of an Arc Strike, Class 2 Pipe,
- Pressure Test Hold Time,
- Class 3 System Pressure Tests,
- Inservice Leak Test (Hydrostatic Testing) for the Salt Water Cooling System and Service Water Main Headers,
- Ultrasonic Examination Techniques,
- Repair and Hydrostatic Testing for Small Steam and Feedwater Piping, Class 2.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request for relief from code requirements dated December 5, 1978, March 29, 1980, November 19, 1980 and May 29, 1981 and additional information submitted by the licensee's letters dated July 22, 1982, August 30, 1982, October 29, 1982 and (2) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. 20555, and at the Calvert County Library, Prince Frederick, Maryland. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Marylant this 13th day of December, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Rectors Branch No. 3, Division of Licensing.

[FR Doc. 82-35303 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358]

Cincinnati Gas and Electric Company, et al. (Wm. H. Zimmer Nuclear Power Station, Unit No. 1); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of December 13, 1982, oral argument on the applicants' appeal from the Licensing Board's June 21, 1982 initial decision and August 24, 1982 memorandum and order will be heard at 9:30 a.m. on Monday, January 10, 1983 in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: December 21, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-35304 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-6, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (facility) located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which replace the Shift Technical Advisor with an On-call Technical Advisor. The licensee's commitment for a Shift Technical Advisor, was confirmed by the Commission Order dated August 4, 1981.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and the pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 25, 1982, and the licensee's letter dated April 1, 1982, (2) Amendment No. 55 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of December, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-35305 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Provisional Operating License No. DPR-22, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

The amendment approves Technical Specification provisions pertaining to dome delamination (SEP Topic III-7.C); RHR system reliability (SEP Topic V-10.B); and requirements for isolation of high and low pressure systems (SEP Topic V-11.A).

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) three separate applications for amendment dated July 29, 1982, (2) Amendment No. 72 to License No. DPR–20, and (3) the Commission's Systematic Evaluation Program (SEP) Topic evaluations transmitted by letters to the licensee dated May 21 and October 19, 1981 (SEP Topic III–7.C); October 27 and December 23, 1981 (SEP Topic V–10.B); and November 9, 1981 (SEP Topic V–11.A). All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo Michigan 49006. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of December, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82–35306 Filed 12–29–82; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, IC 609–5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Criteria for Electric, Instrumentation, and Control Portions of Safety Systems" and is intended for Division 1, "Power Reactors." This guide is being developed to describe methods acceptable to the NRC staff for complying with the Commission's regulations with respect to the design, reliability, qualification, and testability of the electric, instrumentation, and control portions of safety systems of all types of nuclear power plants. In this guide, the term safety systems refers to the protection system, systems that perform protective actions, and other systems that are essential to the operation of these systems.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington. D.C. 20555, Attention: Docketing and Service Branch, by February 28, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C.552(a))

Dated at Rockville, Maryland this 21st day of December 1982.

For the Nuclear Regulatory Commission

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82–35307 Filed 12–29–82; 8:45 am]

BILLING CODE 7590–01–M

[ASLB Docket No. 79–417–06 OL; NRC Docket No. 50–382–OL]

Louisiana Power and Light Co., (Waterford Steam Electric Station, Unit 3); Order

Rescheduling Hearing

December 22, 1982.

Pursuant to the Memorandum and Order of October 18, 1982, and pursuant to the Order of December 1, 1982 (47 FR 55353), the Board originally had scheduled the hearing to commence on January 11 and continue through January 14, 1983. Said hearing schedule is herewith cancelled.

As stated previously in the Order of December 1, 1982, pursuant to the Memorandum and Order of August 17, and the Memorandum and Order of October 18, 1982, the record has been reopened solely to receive evidence upon the adequacy of Applicant's revised pre-emergency public information brochure.[1] The rescheduled evidentiary hearing, reopened to this limited extent, will commence at 9:00 a.m., local time, and recess at 6:00 p.m. on February 8–11, 1983, at the following location: U.S. Court of Appeals, 5th Circuit, West Courtroom, Room 265, 600 Camp Street, New Orleans, Louisiana 70130.

The public is invited to attend this evidentiary hearing.

Dated at Bethesda, Maryland this 22nd day of December, 1982.

It is so ordered.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman Administrative Judge.

[FR Doc. 82–35308 Filed 12–29–82; 8:45 am]

BILLING CODE 7590–01–M

[1] On November 12, 1982, Applicant served copies of the printer's proof of the revised brochure and copies of a color sketch upon the Board, the parties, and the Federal Emergency Management Agency.

[Docket No. 50-416]

Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. NPF-13, issued to Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for Grand Gulf Nuclear Station, Unit No. 1 (the facility) located in Claiborne County, Mississippi. This amendment grants changes to the Technical Specifications and to a license condition. The changes to the Technical Specifications relate to Specifications 3.4.9.1 and 3.4.9.2, Limiting Conditions for Operation of the Residual Heat Removal Systems. The change to the license condition relates to the schedule for completion of open items and corrective actions for the environmental qualification of safety-related electrical equipment. The amendment is effective as of the date of issuance.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the two applications for the amendments dated September 13, 1982; (2) Amendment No. 5 to License NPF-13 dated December 20, 1982; and (3) the Commission's evaluation dated December 20, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory Commission.

A. Bournia,

Acting Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-35309 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-437]

Offshore Power Systems Floating Nuclear Plants 1-8; Notice of Issuance of Manufacturing License

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated June 30, 1982, the Nuclear Regulatory Commission (the Commission) has issued Manufacturing License No. ML-1 to the Offshore Power Systems for construction of a maximum of eight floating nuclear plants at the applicant's site on Blount Island of St. John's River in Jacksonville, Florida. Each reactor is designed to operate at a core power level of 3411 megawatts thermal.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the manufacturing license. The application for the manufacturing license complies with the standards and requirements of the Act and the Commission's regulations.

The manufacturing license is effective as of its date of issuance. Manufacture of the floating nuclear plants shall commence within ten years from the date of issuance of this license. The license shall expire at midnight, December 31, 1999.

A copy of: (1) The Initial Decision, dated June 30, 1982; (2) Manufacturing License No. ML-1 with attached Environmental Protection Plan; (3) the reports of the Advisory Committee on Reactor Safeguards, dated October 19, 1981, April 16, 1980, May 9, 1978, September 14, 1976, June 7, 1976, and December 10, 1975; (4) the Commission's staff Safety Evaluation Report, dated September 30, 1975, Supplement 1 dated March 16, 1976, Supplement 2 dated October 8, 1976, Supplement 3 dated February 1980, and Supplement 4 dated September 1981; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicant's Environmental Report, dated July 1973 and supplements thereto; (7) the Draft Environmental Statement, Part I dated July 1974, Part II dated December 1975, and Part III dated October 1976; and (8) the Final Environmental Statement, Part I dated October 1975, Part II dated September 1976, with Addendum dated June 1978, and Part III dated December 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., at the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Florida. A copy of the manufacturing license may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Copies of the Safety Evaluation Report (Document Nos. NUREG 75/100, and NUREG-0054) and the Final Environmental Statement (Document Nos. NUREG 75/091, NUREG-0056, and NUREG-0502) may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 17th day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-35310 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) will hold a meeting on January 20 and 21, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will continue the review of the CRBR plant design for a construction permit.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal

Employee as far in advance as practicable so that appropriate arrangments can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary, industrial security and/or Unclassified Safeguards information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 3 and 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, January 20, 1983—8:30 a.m. until the conclusion of business.

Friday, January 21, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary, industrial security and/or Unclassified Safeguards information. The authority for such closure is Exemptions (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c)(3), (4).

Dated: December 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35428 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Skagit Nuclear Project; Meeting

The ACRS Subcommittee on Skagit Nuclear Project will hold a meeting on January 24 and 25, 1983, at the Hanford House Thunderbird, 802 George Washington Way, Richland, WA. The Subcommittee will review the application of the Puget Sound Power and Light Company for a construction permit.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and industrial security and/or Unclassified Safeguards information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 3 and 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Monday, January 24, 1983—1:00 p.m. until the conclusion of business.

Tuesday, January 25, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Puget Sound Power and Light Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary, industrial security and/or Unclassified Safeguards information. The authority for such closure is Exemptions (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c) (3), (4).

Dated: December 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35427 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on February 2, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open for public observation.

At this meeting, the Panel will discuss TMI–2 cleanup activities. Specifically addressed will be: (1) State of Pennsylvania's participation in a regional low level waste compact, (2) transportation of TMI–2 radioactive waste, (3) status of the Safety Advisory Board, and (4) funding and scheduling of the cleanup.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: December 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35429 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-440/441-OL; ASLBP 83-480-01 CPA]

Cleveland Electric Illuminating Co. (Perry Nuclear Power Plants 1 & 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 & 2), Docket Nos. 50–440–OL and 50–441–OL,

is hereby reconstituted by appointing Mr. Glenn O. Bright to the Board in place of Mr. Frederick J. Shon, who because of a schedule conflict, is no longer able to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

Peter B. Bloch, Chairman;
Dr. Jerry R. Klein;
Mr. Glenn O. Bright.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Administrative Judge Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 23rd day of December, 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 35424 Filed 12-29-82 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory commission (the commission) has issued Amendment No. 42 to Facility Operating Licnese No. DPR-54, issued to Sacramento Municipal Utility district (SMUD), which revised Technical specifications (TSs) for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. the amendment is effective as of its date of issuance.

In Amendment No. 38 to the facility's license, the refueling interval definition, TS Section 1.2.8, was temporarily changed from 18 months to 24 months for a select group of surveillance tests. Upon startup from the next refueling outage, the temporary definition will expire. This amendment adds the surveillance testing of the High Pressure Injection system to the select group whose surveillance testing is delayed, on a one-time-only basis from 18 months to 24 months. In addition, as discussed with and agreed to by the SMUD staff, a provision was added that the revised refueling interval is effective only if the 1983 refueling outage starts on or before February 28, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated December 10, 1982, as supplemented by an additional letter of the same date, (2) Amendment No. 42 to License No. DPR-54, and (3) the commission's related Safety Evaluation. all of these items are available for public inspection at the commission's Public document room, 1717 H Street NW., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. 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 Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82-35425 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Company, et al; Issuance of Amendment Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego Country, California. This amendment is effective December 22, 1982.

Amendment No. 12 changes the technical specifications to allow the noncritical component cooling water (CCW) loop to circulate water to the reactor coolant pumps after safety injection initiation. The non-critical CCW loop will still be required to isolate on high containment pressure.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated December 20, 21 and 22, 1982, (2) Amendment No. 12 to Facilitate Operating License No. NPF-10, and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. 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 Licensing.

Dated at Bethesda, Maryland, this 23d day of December, 1982.

For the Nuclear Regulatory Commission.

Victor Nerses,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-35426 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records, Annual Publication

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Annual Privacy Act Notice; notification of amended routine uses.

SUMMARY: This document sets forth the annual notice of the systems of records maintained by the Pension Benefit Guaranty Corporation, as required by the Privacy Act of 1974. This document also provides notice of two amended routine uses under established systems of records.

EFFECTIVE DATE: The annual notice is effective on December 30, 1982. The amended routine uses will become effective without further notice on January 31, 1983, unless comments are received on or before that date which would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Send comments to the Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7000, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, (202) 254-4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: As required by the Privacy Act, 5 U.S.C. 552a(e)(4), this document sets forth the annual notice of the existence and character of the systems of records maintained by the Pension Benefit Guaranty Corporation ("PBGC"). There are technical changes in PBGC systems 1, 3, 4, 6, 8, and 9 as discussed below. In addition, notice is given of an amended General Routine Use 4, which applies to PBGC systems 1 through 8 and 10, and of an amended Routine Use under PBGC system 3.

Technical Changes

On December 31, 1981, the PBGC's Los Angeles Regional Office was closed. All records maintained in that office were transferred to the appropriate PBGC office in Washington, D.C. Therefore, all references to the Los Angeles Regional Office as a system location and to the Special Assistant for Field Liaison, Los Angeles Regional Office as System Manager for PBGC systems 1, 3, and 4 have been deleted.

On January 4, 1982, PBGC's Division of Benefits Administration was transferred to its Office of Financial Operations. The address for the System Manager for PBGC systems 6 and 9 has been revised to reflect that fact.

Finally, the address for the System Manager for PBGC system 8 has been revised to add the appropriate office.

Routine Uses

The PBGC proposes to amend General Routine Use 4, which applies to the PBGC systems 1 through 8 and 10 in order to clarify its scope, and to amend Routine Use 1 in system PBGC-3, Employee Payroll, Leave and Attendance Records in order to add an additional routine use.

General Routine Use 4 currently provides that disclosure of information in covered systems may be made during and in anticipation of litigation "to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal". The purpose of General Routine Use 4 is to allow the PBGC, in the course of litigation or settlement proceedings with an individual or his or her employer and the companies in common control with the employer, to disclose records concerning that individual without his or her written consent.

PBGC experience has shown that General Routine Use 4, as now worded, can be read to allow the disclosure of records contained in any applicable Privacy Act system of records to any party who is in litigation with the PBGC. PBGC did not intend this interpretation of General Routine Use 4 when it was published. Moreover, this interpretation is not in conformity with the general purpose of the Privacy Act to prevent disclosure of such information to third parties.

Accordingly, because the language of General Routine Use 4 may be interpreted more broadly than intended, PBGC proposes to clarify this routine use. The language proposed in this notice would make clear that General Routine Use 4 applies only to the disclosure of an individual's otherwise protected file during the course of litigation with that specific individual or his or her employer/employer's control group. The revised General Routine Use 4 will read as follows:

"4. . . . A record from this system of records may be disclosed during litigation with the individual who is the subject of the record or his or her employer and the companies in common control with the employer. This includes disclosure to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal, or during proceedings in reasonable anticipation thereof."

The PBGC proposes to revise Routine Use 1 in PBGC system 3, Employee Payroll, Leave and Attendance Records, to add an additional use. Routine Use 1 to PBGC system 3 currently provides for transmittal of data to the United States Department of Labor for several specified purposes. The PBGC proposes to add an additional purpose so that the Department of Labor can compile statistical information from these records for the use of PBGC's budget staff.

The amended Routine Use 1 in PBGC 3 will read as follows:

"1. Transmittal of data to United States Department of Labor to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes, to effect tax withholdings and other authorized deductions, and for statistical purposes."

Section 552a(e)(11) of the Privacy Act requires that notice of an intended routine use of records be published at least 30 days prior to the implementation of the use and that the public be given an opportunity to comment. Interested persons are invited to submit written data, views or comments on the proposed amended routine uses, which may be changed in light of the comments received. If no changes are made, and unless PBGC publishes a notice to the contrary, the proposed amended routine uses will become final 30 days after publication of this notice.

(Sec. 3, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

Henry Rose,

Acting Executive Director, Pension Benefit Guaranty Corporation.

Table of Contents

Prefatory Statement of General Routine Uses

The following routine uses, except for number 3, apply to and are incorporated by reference into each system of records set forth below except PBGC-9. Routine use number 3 applies to and is incorporated by reference into systems 1-5 and 7-8 set forth below. None of the routine uses apply to PBGC-9.

1. Routine Use—Law Enforcement: In the event that a system of records

maintained by the PBGC to carry out its functions indicates a violation or potential violation of law, whether criminal, civil or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto.

2. Routine Use—Disclosure When Requesting Information: A record from this system of records may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the issuance of a security clearance, or the letting of a contract.

3. Routine Use—Disclosure of Requested Information: A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. Routine Use—Disclosure During and in Anticipation of Litigation: A record from this system of records may be disclosed during litigation with the individual who is the subject of the record, including disclosure to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal, or during proceedings in reasonable anticipation thereof.

5. Routine Use—Disclosure to OMB: A record contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Routine Use—Congressional Inquiries: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

PBGC–1

SYSTEM NAME:

Correspondence Between PBGC and Persons Outside PBGC—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have corresponded with PBGC and with divisions of the PBGC and individuals who have received replies irresponse to their correspondence with the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence containing the name and address of the correspondent and other information regarding various aspects of the PBGC and Title IV of the Employee Retirement Income Security Act of 1974. Correspondence is kept by the Office Director to whom the correspondence was addressed or the Office Director who replied to the correspondent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for regulatory purposes including use as evidence in proceedings before the PBGC and the courts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by name of correspondent or plan.

SAFEGUARDS:

Records are kept in file cabinets in areas of restricted access which are locked after office hours.

RETENTION AND DISPOSAL:

General requests for information involving no administrative action, policy decisions or special research are destroyed 3 months after reply.

Correspondence with regard to specific cases is transferred to the Federal Records Center one year after the end of the fiscal year in which the correspondence was received or sent, and destroyed when 15 years old. Correspondence with members of Congress is destroyed one year after the end of the fiscal year in which it is received or sent.

SYSTEMS MANAGER(S) AND ADDRESS:

Office of Executive Director, Director of the Office of Financial Operations, Director of the Office of Information Management, Director of the Office of Program Operations, and General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Individuals writing to the PBGC and the PBGC responses.

PBGC–2

SYSTEM NAME:

Disbursements—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and vendors to PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment vouchers, including SF 1081.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal of data to United States Department of the Treasury to effect payments to consultants and vendors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in lockable file cabinets in areas of restricted access which are locked after office hours.

RETENTION AND DISPOSAL:

Records created after June 30, 1975 are destroyed 6 years and 3 months after date of voucher.

SYSTEMS MANAGER(S) AND ADDRESS:

Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORDS PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject consultant or vendor.

PBGC–3

SYSTEM NAME:

Employee Payroll, Leave and Attendance Records—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Emplyees of PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names; address; social security number and employee number, earnings records; leave status and data; jury duty data; military leave data; time and attendance records, including number of regular, overtime, holiday, Sunday and other hours worked, co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Trasnmittal of data to United States Department of Labor to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes, to effect tax withholdings and other authorized deductions, and for statistical purposes.

2. Pursuant to Title VII of the Civil Service Reform Act, pertinent records from this system may be furnished to a labor organization upon its request when needed by that organization to perform its duties as the recognized collective bargaining representative of BPGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by name and/or employee or social security number.

SAFEGUARDS:

Records are kept in lockable file cabinets in areas of restricted access which are locked after office hours. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Payroll Records are transferred to the National Personnel Records Center and destroyed 56 years after date of last entry.

Leave and Attendance Records are destroyed three years after the close of the leave year.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2807.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PRECEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual and Office of Personnel Management.

PBGC–4

SYSTEM NAMES:

Employee Travel Records—PBGC.

SYSTEM LOCATION:

Pension Beneiit Guaranty Corporation, 2020 K Street, N.W., Washington D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of PBGC who have filed travel vouchers and related documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel vouchers and related documents filed by employees of PBGC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal of data to United States Department of Treasury to effect reimbursement to employees for travel expenses.

POLICIES AND PRACTICES FOR STRORING, RETRIEVING, ACCESSING, RETRAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in file cabinets in areas of restricted access which are locked after office hours.

RETENTION AND DISPOSAL:

Retained for 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

PBGC employee executing vouchers.

PBGC–5

SYSTEM NAME:

Personnel Records—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel records that the PBGC maintains, including applications and related information for attorneys maintained by the Office of the General Counsel. (Records included in the Permanent Official Personnel File are maintained as a system of records by the Office of Personnel Management and are not included in this system of records).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records are used to carry out authorized personnel programs.

2. Pursuant to Title VII of the Civil Service Reform Act records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in areas of restricted access which are locked after office hours. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Temporary Personnel File records are destroyed when the employee leaves PBGC or one year after the file was established, whichever is sooner. Applications for employment are destroyed after the receipt of Office of Personnel Management inspection report or 2 years after date of application, whichever is sooner. Applications for training are destroyed 5 years after date of application.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Personnel Programs and Services, Office of Management Services, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, and the Management Officer, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, present and past employers, references given by subject individuals and responses to security investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from access and contest and certain other provisions of the Privacy Act 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f), to the extent it includes material which would reveal the identity of a source who furnished information to the PBGC under an express promise that the identity of the source would be held in confidence or prior to September 27, 1975, was provided to the PBGC under an implied promise of confidentiality.

PBGC–6

SYSTEM NAME:

Plan Participant and Beneficiary Data—PBGC.

SYSTEM LOCATIONS:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants and beneficiaries in terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, address, telephone number, sex, social security number and other social security data, date of birth, date of hire, salary, marital status, time of plan participation, participant status, pay status, benefit data, health data, and insurance information where plan benefits are guaranteed by private insurers. The individual records listed herein are included only as pertinent or applicable to the individual plan participant or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosed to third parties, such as banks, insurance companies and trustees, for the purpose of paying benefits to plan participants and beneficiaries.

2. Disclosure, in furtherance of proceedings under Title IV of the Employee Retirement Income Security Act of 1974, of plan participant and beneficiary data to an employer who maintained the plan, including any predecessor or successor employers and to any member of a controlled group of which the employer is a part.

3. Disclosure may be made to an official of a labor organization which is the duly recognized collective bargaining representative of the individual about whom the request is made.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by plan and particpant and/or beneficiary name.

SAFEGUARDS:

Manual records are maintained in lockable file cabinets which are locked after office hours, in areas of restricted access. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Records for vested plan participants are destroyed one year after final payment to, or death of, the last participant and/or beneficiary in the plan. Records for nonvested plan participants are destroyed 7 years after written notification to the participant.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Benefits Administration, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORDS ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Plan administrators and Social Security Administration.

PBGC–7

SYSTEM NAME:

Equal Employment Opportunity Discrimination Complaints—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, Equal Employment Opportunity Office, Room 4300–A, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PBGC employee and applicant complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain names, work locations, dates, Social Security numbers, and other information as included on affidavits, interviews, informal and formal discrimination complaint reports and investigative files of complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR Part 1613.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by EEO Officer, staff of Equal Employment Opportunity Commission, staff of the Merit System Protection Board, Complaints examiners, Contract EEO investigators, PBGC EEO investigators and PBGC EEO counselors to investigate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program:

Use—

1. Disclosed to complainant's representative.

2. Portions may be disclosed to the alleged discriminating official and his/her representative.

3. Disclosed to Equal Employment Opportunity Commission and Merit System Protection Board to carry out authorized investigations, to adjudicate appeals and discrimination complaints, and make recommendations regarding discrimination complaints.

4. Disclosed to Contract EEO investigators.

5. Disclosed to the United States Attorney's Office for the purpose of preparing for or conducting litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders, binders and marked exhibits.

RETRIEVABILITY:

Indexed by complainant's name.

SAFEGUARDS:

Records are kept in lockable file cabinets which are locked after office hours in rooms with restricted access.

RETENTION AND DISPOSAL:

An official Discrimination Complaint case file which is resolved in the agency by EEOC or by a United States Court is destroyed 4 years after the resolution of the case. The background record is destroyed 2 years after the resolution of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Equal Employment Opportunity Officer, Division of Personnel Programs and Services, Office of Management Services, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORDS ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from the complainants, respondent and from investigations and interviews.

PBGC–8

SYSTEM NAME:

Employee Adverse Action files—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PBGC employees against whom an adverse action covered by this system has been initiated, or a PBGC employee who has initiated a grievance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notice to employees of disciplinary actions, performance warning letters, adverse actions, reductions-in-force, employees' replies to notices, employees' notice of grievance, employees' notice of appeal, records of hearing proceedings, appeal decisions and rebuttals, notice of action, investigative reports and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

Provide a record keeping system, 1) for grievances and related appeals filed by an employee who alleges his rights regarding compensation, benefits, or other terms and conditions of employment have been adversely affected and, 2) for adverse actions brought against a PBGC employee.

Use—

1. Disclosed to employee's representative.

2. Disclosed to the Office of Personnel Management and Merit Systems Protection Board to carry out their authorized functions.

3. Pursuant to Title VII of the Civil Service Reform Act, records from this system may be furnished to a labor organization upon its request when needed by the organization to perform properly its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is retained manually in file folders.

RETRIEVABILITY:

Indexed by employee name.

SAFEGUARDS:

Records are kept in lockable file cabinets which are locked after office hours in areas of restricted access.

RETENTION AND DISPOSAL:

Grievance files are destroyed 3 years after the case is closed. Adverse action files are destroyed 4 years after the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Division of Personnel Programs and Services, Office of Mangement Services, Pension Benefit Guaranty Corporation, 2202 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from an employee who initiates a grievance, or against whom an adverse action is initiated, employee's supervisors, and other PBGC employees and from investigations and interviews.

PBGC9

SYSTEM NAME:

Plan Participant and Beneficiary Address Identification File—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain plan participants and beneficiaries in terminated pension plans covered by Title IV of ERISA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, social security number, name of pension plan, and address received from the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341, 26 U.S.C. 6103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made only to the extent permitted by 26 U.S.C. 6103 and 26 CFR 404.6103.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by participant or beneficiary name and social security number.

SAFEGUARDS:

Records are kept in locked file cabinets in areas of restricted access under procedures that meet Internal Revenue Service safeguarding standards.

RETENTION AND DISPOSAL:

Records for participants in PBGG trusteed plans for which the address is verified are transferred to PBGC–6 on verification. Records for which IRS has no address, for which the address was not verified, and records for participants in sufficient plans or plans with a third-party trustee will be retained for two years from the date the request was sent to the Internal Revenue Service and then will be sent to Internal Revenue Service for disposal or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Benefits Administration, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from the Internal Revenue Service.

PBGC–10

SYSTEM NAME:

Administrative Appeals File—PBGC

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Plan participants and beneficiaries in terminated pension plans covered by Title IV of ERISA who have filed appeals with PBGC pursuant to 29 CFR 2606.1(b) (5), (6), (7) or (8), Rules for Administrative Review of Agency Decisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the name of pension plan, name of the participant or beneficiary and personal information such as address, social security number, sex, date of birth, date of hire, salary, marital status, medical records, date of commencement of plan participation or employment, statements regarding employment, date of termination of plan participation or retirement, benefit payment data, pay status, Social Security Administration determinations, insurance claims and awards, workman's compensation awards, correspondence relating to the Appeal, calculations of benefit amounts, calculations of amounts subject to recapture, and final determination of the Appeals Board. The individual records listed herein are included only as pertinent or applicable to the individual plan participant or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 4002, 4022, 4041 and 4045, Pub. L. 93–406, 88 Stat. 1004, 1016, 1020, 1027, (1974), as amended by secs. 403(1), 406(a), 403(c) and 403(d), Pub. L. 96–364, 94 Stat. 1302, 1303, 1301, (1980) (29 U.S.C. 1302, 1322, 1341 and 1345).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosed to third parties who will be aggrieved by the decision of the Appeals Board under 29 CFR 2606.58, including disclosure to the employer who maintained the plan, including any predecessor or successor employer and to any member of a controlled group of which the employer is a part.

2. Disclosed to a representative of a participant or beneficiary who has a power of attorney, if necessary under 29 CFR 2606.6, including an official of a labor organization which is the duly-recognized collective bargaining representative of the individual about whom the request is made.

3. Disclosed to third parties, such as banks, insurance companies and trustees, for the purpose of paying benefits to plan participants and beneficiaries.

4. Disclosed to third parties, such as contractors and expert witnesses, for the purpose of providing expert analysis of the appeal.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by participant or beneficiary name, plan name, and appeals number.

SAFEGUARDS:

Manual records are kept in areas of restricted access and in lockable file cabinets which are locked after office hours. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Records are proposed to be retained for a closed file for two fiscal years after the Appeals Board's final opinion is

issued, transferred to a Federal Records Center and destroyed 6 years later.

SYSTEM MANAGER(S) AND ADDRESS:

Clerk of the Appeals Board, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURES:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information may be received from the Plan Administrator, the Plan Sponsor, the employer who maintained the plan, the labor organization which is the duly-recognized collective bargaining representative of the participant, the Social Security Adminstration and the participant and/or beneficiary.

[FR Doc. 82-35375 Filed 12-29-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19371; File No. 4-208]

American Stock Exchange, Inc., et al.; Order Deferring Expansion of an Automated Interface

December 23, 1982.

The Securities and Exchange Commission is extending the pilot phase of the interface between the Intermarket Trading System ("ITS") and the National Association of Securities Dealers' ("NASD") NASDAQ system until June 1, 1983.[1] The purpose of this extension is to allow the Commission to review the comments received in response to its release republishing an order exposure rule that might govern the ITS–NASDAQ linkage.[2] The Commission expects to take further action in the order exposure area shortly.

Accordingly, the Commission hereby issues an order, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)) and particularly Sections 2, 3, 6, 10, 11, 11A, 15, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78k–1, 78*o*, 78*o*–1, 78q, 78w) as follows:

It is hereby ordered that the Commission's order dated April 21, 1981 (Securities Exchange Act Release No. 17744, 46 FR 23856) as amended by the Commission's orders dated March 4, 1982 (Securities Exchange Act Release No. 18537, 47 FR 10682) (the "April 1981 Order"), May 6, 1982 (Securities Exchange Act Release No. 18712) and November 9, 1982 (Securities Exchange Act Release No. 19229), requiring among other things, the American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc.; Midwest Stock Exchange, Inc.; New York Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the ITS and the NASD to act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic inter-dealer quotation system, as modified by the NASD to permit computer assisted execution, is amended to defer the date on which full operation of the Automated Interface, as described in the Section I, paragraph B of the April 1981 Order, must be implemented, from January 15, 1983, until June 1, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35457 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[1] The ITS is governed by a plan ("ITS Plan") filed with, and approved by, the Commission pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 and Rule 11Aa3–2 thereunder. The ITS Plan contains a number of provisions that govern the pilot phase of the ITS–NASDAQ linkage. *See e.g.*, Section 10(d) of the ITS Plan. The Commission interprets the ITS Plan to provide that such provisions will continue to govern the linkage until the full implementation of the linkage becomes effective.

[2] Securities Exchange Act Release No. 19372 (December 23, 1982).

[File No. 1-7527]

Fay's Drug Company, Inc.; Application To Withdraw From Listing and Registration

December 21, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Fay's Drug Company, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on November 22, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have not effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before January 13, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35441 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19296; 812-5254]

Pacific Fidelity Life Insurance Co., et al.; Application

December 23, 1982.

Notice is hereby given that Pacific Fidelity Life Insurance Company ("PFL") Premier Variable Annuity Account ("PVAA"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), Life Investors Management Corporation ("LIMC"), the principal underwriter, and Premier Money Market Fund, Inc. ("PMMF"), 4333 Edgewood Road, N.E., Cedar Rapids, Iowa 52499, an open-end, diversified, management investment company, (hereinafter referred to as "Applicants"), filed an application on July 22, 1982 and amendments thereto on November 10, 1982 and December 22, 1982, pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicants, to the extent requested, from the provisions of

Sections 2(a)(32), 2(a)(35), 26(a), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder. 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 are referred to the Act for a statement of the relevant statutory provisions.

PFL is a stock life insurance company. On March 26, 1982, PFL created PVAA as a separate account for the purpose of investing the net purchase payments received by PFL under certain variable annuity contracts ("Contracts"). LIMC is an Iowa corporation which acts as an investment adviser and principal underwriter of investment companies. PMMF is a corporation organized under the laws of the State of Maryland. PVAA proposes to offer and sell variable annuity contracts and to invest the net purchase payments for each such contract in shares of PMMF. Investments in PMMF may be made only by PVAA. PVAA will reinvest any distributions and dividends in additional shares of PMMF. Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes thereof, from any provision of the Act or its Rules and Regulations, if and to the extent necessary or 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. Applicants submit that the exemptions they request are appropriate in the public interest, fully consistent with the protection of investors and the policy and purposes of the Act and should be granted.

Applicants hereby request an exemption from Sections 26(a) and 27(c)(2) to permit them to sell Contracts without need of an independent trustee or custodian.

Applicants state that PFL is subject to extensive supervision and control by California's insurance authorities and the Insurance Commissioners of each state in which the Contracts will be sold. In addition, Applicants state that under California law and the terms of the Contracts, the assets of PVAA are not chargeable with liabilities arising out of any other business conducted by PFL. Obligations arising under the Contracts are general obligations of PFL and cannot be abrogated without violating California insurance law. Therefore, Applicants assert that such existing regulation of PFL affords substantially the same protection contemplated by the provisions of Sections 26(a) and 27(c)(2) of the Act.

Applicants request an exemption from Section 26(a)(2)(D) of the Act to the extent necessary to permit PVAA to hold the securities of PMMF in book-entry form.

Applicants state that PMMF will use an open account system, and PFL will hold shares of PMMF in book-entry form in trust for the owners of Contracts issued by PVAA. Applicants submit that Contractowners will be adequately protected by this arrangement, and would receive no significant benefit if PFL has in its possession certificates representing the shares of PMMF. Since the number of shares of PMMF that PVAA holds is likely to fluctuate on a daily basis, Applicants contend that a requirement that certificates be issued and redeemed every day will result in unnecessary expense and confusion.

Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary or appropriate to permit PFL to deduct the annual maintenance charge, the withdrawal charge, premium taxes, mortality risk insurance premiums and expense risk charges and the contingent deferred sales charge from the assets of PVAA, as described in the application.

Applicants assert that the annual maintenance charge of $24 per year and the $15 withdrawal charge to be deducted from each Contractowner's account are reasonable. The annual maintenance fee and withdrawal fee are set at a level designed to cover the expenses which PFL reasonably expects to incur in administering the Contracts and in processing withdrawals from or surrenders of Contracts, respectively. Applicants do not expect to profit from such fees, and such fees are reasonable in relation to the services to be performed and costs to be incurred.

Applicants state that they have determined that, whenever a Contractowner withdraws part of his Contract, the cost to Applicants of processing the withdrawal will be approximately $15, that is, the "withdrawal" fee. If a Contractowner surrenders his Contract entirely, Applicants expect to incur additional costs of approximately $12 in connection with the cancellation of the underlying annuity contract. Whenever a Contractowner surrenders his entire Contract, Applicants will be compensated for this latter cost by reimbursing the Contractowner for his annual administrative charge at a rate of $1.00 per month (rather than $2.00) for each full month remaining in the calendar year. Deductions for premium taxes will be reasonable; they will be made only at the time and in the amount the taxes are incurred.

Applicants state that the 0.7% annual charge against the assets of PVAA is designed to compensate PFL for the mortality risks it assumes as the issuer of the Contracts. PFL will profit from the mortality risk premiums to the extent that actual mortality experience is more favorable to PFL than the assumptions contemplated by the annuity tables incorporated in the Contracts. Applicants further state that the expense risk charge, described below, is designed to compensate PFL for the risk that the annual maintenance charge may not be sufficient to cover actual administrative costs in future years. PFL will profit from the expense risk charge only to the extent that actual costs of administration are less than the amount charged.

PVAA assets	Percentage expense risk charge
$0 to $150 million	0.30
$150 to $300 million	.25
$3200 to $450 million	.20
$450 to $600 million	.15
$600 and above	.10

PFL states that it plans to fund distribution expenses, that is, insurance commissions payable to broker-dealers, out of the contingent deferred sales charge, to the extent available. Applicants acknowledge, however, that the deferred sales charges imposed may not be sufficient to pay all distribution expenses. If the contingent sales charge is not sufficient to pay the amounts due to the broker-dealers, then PFL will pay the excess out of its general funds. To the extent PFL realizes a profit from the mortality risk premium or the expense risk charge, those profits will go into the general funds of PFL and may thus be used indirectly to pay sales costs not covered by the deferred sales charge.

To the best of Applicants' knowledge and belief, the mortality risk premium and expense risk charges are within the range of charges currently exacted by similar separate accounts. In this connection, Applicants represent that they reviewed the prospectuses of several comparable products to determine whether the charges were reasonable in relation to industry practice. Applicants further represent that they will maintain, at their offices, the listing of the fifteen separate accounts reviewed by them and the description of the basis upon which Applicants determined those separate

accounts to be comparable to PVAA. Applicants also state that these charges are reasonable in relation to the risks assumed by PFL under the Contracts, and are consistent with the protection of investors insofar as they are designed to be competitive while not exosing PFL to undue risk of loss.

Applicants request an exemption from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), and 27(d) of the Act and Rule 22c–1 to the extent necessary to permit the contingent deferred sales charge pricing arrangement.

Applicants state that in any calendar year, a Contractowner may, in one transaction, redeem up to 10% of the accumulated value of the Contract without incurring a contingent deferred sales charge. Any amount redeemed in excess of that amount will be subject to a contingent deferred sales charge as follows: 5% during the first three Contract years, 3% during the fourth Contract year, 2% during the fifth Contract year, and 1% during the sixth Contract year. No charge will be imposed after the end of the sixth Contract year. The total contingent deferred sales charge on a Contract will not exceed 9% of the purchase payments for such Contract unless and until the Commission, by rule, regulation or otherwise, permits PVAA to impose a higher charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 17, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon 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. Persons who request a hearing will receive any notices and orders issued in this matter. 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35453 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 22799; 70–6767]

Southwestern Electric Power Co.; Proposed Amendment of Ownership Agreement To Reflect Creation of Tax Partnership With Electric Cooperative In Utility Plant And Lignite Reserves

December 23, 1982.

Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71556, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed with this Commission a post-effective amendment, to a declaration previously filed and amended, pursuant to Sections 9(a), 10 and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

By order dated November 23, 1982 (HCAR No. 22732), the Commission authorized SWEPCO to enter into an Ownership, Construction and Operating Agreement ("Ownership Agreement") for the sale of an 11.72% interest in its Pirkey Unit No. 1 ("Pirkey Plant") and 11.8372% of certain lignite reserves ("Lignite Reserves") to Northeast Texas Electric Cooperative, Inc. ("NTEC").

By post-effective amendment SWEPCO seeks authorization of amendments to the Ownership Agreement reflecting that, for the proposes of federal and state income taxes, the participation of SWEPCO and NTEC in the Pirkey Plant shall by considered and taxed as a general partnership ("Tax Partnership"). The Tax Partnership shall be governed by the provisions of the amendent to the Ownership Agreement proposed to be enetered into by SWEPCO and NTEC. The proposed amendment shall also provide for the filing in appropriate circumstances of an election under Section 761(a) of the Internal Revenue Code to be excluded from treatment as a partnership for federal income tax proposes.

Making provision for a Tax Partnership will not affect the property rights of NTEC or SWEPCO under the Ownership Agreement in the completed Pirkey Plant and the Lignite Reserves. Upon completion of the construction of the Pirkey Plan, SWEPCO shall own an undivided 88.28% interest in Perkey Plan as a tenant in common with NETC, which shall own an undivided 11.72% interest in Pirkey Plant, as originally contemplated by the Ownership Agreement. Similarly, SWEPCO and NTEC shall own in the same proportions as tenants in common the Lignite Reserves intended to be the principal fuel to be burned at the Pirkey Plant.

Creation of the Tax Partnership will change the manner in which NTEC acquires its 11.72% interest in such facilities. Under the Ownership Agreement as originally written, the parties intended that a "closing" would take place after all necessary regulatory approvals had been secured. At such closing, NTEC was to pay to SWEPCO an amount equal to 11.72% of all capitalized costs of the Pirkey Plant from inception to the date of closing, and an amount equal to 11.8372% (NTEC's 11.72% share plus one percent of NTEC's percentage share of the cost and expense of the Lignite Reserves) of the total cost and expense which SWEPCO had incurred to the date of closing in connection with such Lignite Reserves. Under the Ownership Agreement as it is proposed to be amended, NTEC shall acquire its 11.72% interest in the Pirkey Plant and the Lignite Reserves by assuming responsibility for and bearing all costs of constructing Pirkey Plant and developing the Lignite Reserves until such time as the amount of such costs borne by NTEC shall equal an amount determined by the following formula:

NPC=.1172 (PP) + .118372 (LR), where:
NPC=NTEC's partnership contribution;
PP=Pirkey Plant construction costs; and
LR=Lignite Reserve development costs,

and thereafter paying its 11.72% share of the cost of completing the construction of Pirkey Plant and its 11.8372% share of the billings and obligations relating to the Lignite Reserves as contemplated originally by the Ownership Agreement.

SWEPCO and NTEC anticipate that as a result of so amending the Ownership Agreement, no capital gains taxes will result from NTEC's acquisition of an interest in Pirkey Plant and the Lignite Reserves. SWEPCO and NTEC propose to share equally in the tax savings which they anticipate will result from amending the Ownership Agreement, such savings to be measured by the capital gains taxes which otherwise would have been payable had a closing taken place under the Ownership Agreement on December 31, 1982 in the manner originally contemplated.

SWEPCO has recently been advised that the Entitlement Assignment Contract ("Entitlement Contract") between SWEPCO and NTEC is regarded by counsel for NTEC and the Rural Electrification Administration as a sale of a property interest. So viewed, the Entitlement Contract is subject to Sections 9(a) and 10 of the Act, except to the extent that NTEC's assignment to SWEPCO of portions of its entitlements

to power and energy generated at the Pirkey Plant are exempt by virture of Rule 41(a) under the Act. Upon completion of construction, Pirkey Plant will be connected to other electric utility assets already owned and operated by SWEPCO. The assignments by NTEC to SWEPCO under the Entitlement contract of NTEC's entitlements to power and energy from Pirkey Plant shall be carried out in accordance with the terms and conditions of the Entitlement Contract.

The declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 17, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended by the post-effective amendment or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35439 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19375; SR-Amex-82-19]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 23, 1982.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006 submitted on November 1, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Rule 347 to increase the exemptive level of reportable gratuities which may be given to any one employee of an Amex member or member organization during a calendar year from $50 to $100. Rule 347 presently requires a member or member organization which gives any compensation to an employee of another member or member organization or other financial concern to first obtain the written consent of the recipient's employer and to file written notice of such consent with exchange. Currently, gratuities valued at $50 or less in total given to any one person specified in Rule 347 during the calendar year are exempt from the rule's consent and notice requirement. The proposed rule change will not affect the dollar value of exempted gratuities given to other persons specified in Rule 347 (i.e., persons other than an employee of a member or member organization). In addition, the proposed rule change would add commodities brokers and dealers to the group of individuals encompassed by the rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19234, November 12, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35456 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19363; File No. 4-281]

Approval of an Amendment to the Consolidated Quotation Plan on a Permanent Basis

December 21, 1982.

On July 7, 1982, the participants in the Consolidated Quotation Plan ("CQ Plan") [1] submitted to the Commission, pursuant to Rule 11Aa3-2 ("Plan Rule") under the Securities Exchange Act of 1934 ("Act"), an amendment to the CQ Plan which proposed amending the CQ Plan to provide for the dissemination of an Intermarket Trading System ("ITS") [2] Computer Assisted Execution System ("CAES") [3] Best Bid and Offer ("BBO") display.[4] On August 19, 1982, the Commission, pursuant to paragraph (c)(4) of the Plan Rule, approved the amendment on a summary effective basis for a period of 90 days from the date notice of the amendment appeared in the **Federal Register.**[5]

The Commission has not received any comment on the amendment. Accordingly, to ensure the continued operational efficiency of the ITS/CAES interface, the Commission, pursuant to paragraph (c)(4) of the Plan Rule, has approved the amendment on a permanent basis. The Commission has determined that such action is in furtherance of the purposes of the Act and necessary to remove impediments to, and perfect mechanisms of, a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35445 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19376; File No. MCC-82-20]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Clearing Corp. ("MCC")

December 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (The "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1982, Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is

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[1] *See* Securities Exchange Act Release No. 15009 (July 28, 1978), 45 FR 34851.

[2] *See* Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413. The ITS is an intermarket communications system operated jointly by certain national securities exchanges and one national securities association, and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to Section 11A(a)(3)(B) of the Act.

[3] CAES is a computerized order routing and execution facility operated by the NASD for NASD members. On May 17, 1982, CAES was interfaced with ITS, and is presently being operated on a pilot basis to facilitate concurrent over-the-counter ("OTC") and exchange trading in 30 securities which are not subject to exchange off-board trading restrictions ("ITS/CAES Securities"). *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856; Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413.

[4] The "ITS/CAES BBO" is a display of the best bid and best offer price, together with the size accompanying those quotations, for each ITS/CAES security based on quotations submitted by exchange and OTC market makers which trade through the interface.

[5] *See* Securities Exchange Act Release No. 18982 (August 19, 1982), 47 FR 37726.

[6] 17 CFR 200.30-3(a)(29).

publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change advises participants that, in order for MCC to accept voluntary offers on behalf of its participants (i.e., to guarantee delivery of a participant's securities to the reorganization agent), they must submit the appropriate authorizations to MCC by the following cut-off dates: (1) For a reorganization with a Chicago agent and a protect period—10:00 a.m. on the expiration date; (2) for a reorganization with a Chicago agent and no protect period—4:30 p.m. on the business day prior to the expiration date; (3) for a reorganization with an agent outside of Chicago and a protect period—4:30 p.m. on the business day prior to the expiration date; and (4) for a reorganization with an agent outside of Chicago and no protect period—4:30 p.m. two business days prior to the expiration date. The proposed rule change further notifies MCC participants that the MSTC Capital Structures Department will communicate with the agent to guarantee delivery of securities twice each day: at 10:00 a.m. (for those authorizations received from participants between 3:00 p.m. the previous day and 10:00 a.m.) and 3:00 p.m. (for those authorizations received from participants after 10:00 a.m. the same day and before 3:00 p.m.). MCC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it provides for the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–MCC–82–20.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35455 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. 19377; File No. MSTC-82-27]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Company ("MSTC")

December 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1982, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change advises participants that, in order for MSTC to accept voluntary offers on behalf of its participants (i.e., to guarantee delivery of a participant's securities to the reorganization agent), they must submit the appropriate authorizations to MSTC by the following cut-off dates: (1) For a reorganization with a Chicago agent and a protect period—10:00 a.m. on the expiration date; (2) for a reorganization with a Chicago agent and no protect period—4:30 pm on the business day prior to the expiration date; (3) for a reorganization with an agent outside of Chicago and a protect period—4:30 pm on the business day prior to the expiration date; and (4) for a reorganization with an agent outside of Chicago and no protect period—4:30 pm two business days prior to the expiration date. The proposed rule change further notifies MSTC participants that the MSTC Capital Structures Department will communicate with the agent to guarantee delivery of securities twice each day: at 10:00 am (for those authorizations received from participants between 3:00 pm the previous day and 10:00 am) and 3:00 pm (for those authorizations received from participants after 10:00 am the same day and before 3:00 pm). MSTC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it provides for the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–82–27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35454 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19355; File No. Sr-MSTC-82-26]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Company

December 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 26, 1982, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change revises MSTC's current fees for the deposit, storage, safekeeping and withdrawal of participant's municipal securities. The proposed rule change reduces the current monthly fee for the storage and safekeeping of participant's municipal securities and the transaction fees for deposits, withdrawals and deliveries to non-members. The proposed changes to the municipal securities fee schedule reflect decreased costs to MSTC in expanding its pilot program to provide depository services for municipal bonds, principally changes in custodian charges.

The proposed rule change also revises MSTC's National Institutional Delivery System ("NIDS") fee schedule to reflect higher charges in the pass-through charges from the Depository Trust Company ("DTC"). DTC charges MSTC for processing data collected through NIDS and MSTC passes those charges to its participants.

Midwest believes the proposed changes to the municipal securities fee schedule and the NIDS fee schedule are consistent with Section 17A of the Act in that they provide for the equitable allocation of reasonable dues, fees and other charges among MSTC participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection or investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-MSTC-82-26.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35440 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19347; File No. SR-NASD-82-25]

Self-Regulatory Organizations; Proposed Rule Change By National Association of Securities Dealers, Inc.; Amendments to Article III, Section 28 of the Rules of Fair Practice and the Board of Governors Interpretation on Private Securities Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 12, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This rule filing involves amendments to Article III, Section 28 of the Rules of Fair Practice and the Board of Governors Interpretation on Private Securities Transactions under Article III, Section 27 of the Rules of Fair Practice. (New material is italicized and deleted material is bracketed.)

Article III, Section 28

Determine Adverse Interest

(a) A member [herein called an] ("executing member") who knowingly executes a transaction for the purchase or sale of a security for the account of a [partner, officer, registered representative or employee of] *person associated with* another member ([herein called an] "employer member"), *or for any account over which such associated person has discretionary authority,* shall use reasonable diligence to determine that the execution of such transaction will not adversely affect the interests of the employer member.

Obligations of Executing Member

[The obligations implicit in the preceding paragraph may be fulfilled by an executing member requesting instruction from an employer member at any time prior to the execution of such a transaction with respet to

(1) The giving of notice, or

(2) The mailing or delivery of duplicate confirmations or statements to such employer member relating to

(a) Such transaction individually, or

(b) To such transactions generally

which instructions shall be followed.

Notice to Employer Member

An executing member shall, prior to the execution of any such transactions, advise the person requesting such execution of the executing member's intent to give notice or information relating to such transaction to the employer member.]

(b) Where an executing member knows that a person associated with an employer member has or will have a financial interest in, or discretionary authority over, any existing or proposed account carried by the executing member, the executing member shall:

(1) notify the employer member in writing, prior to the execution of a transaction for such account, of the executing member's intention to open or maintain such an account;

(2) upon written request by the employer member, transmit duplicate copies of confirmations, statements, or other information with respect to such account; and

(3) notify the person associated with an employer member of the executing member's intention to transmit the information required by paragraphs (1) and (2) of this subsection (b).

Exemption for Transactions in Investment Company Shares

(c) The provisions of subsection (b) of this section shall not be applicable to

transactions in variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940, as amended, or to accounts which are limited to transactions in such securities.

Obligations of Person Associated with a Member

(d) A person associated with a member who opens an account or places an order for the purchase or sale of securities with any other member, shall, where such associated person has a financial interest in such transaction and/or any discretionary authority over such account, notify the executing member of his or her association with an employer member, regardless of any other function, capacity employment of affiliation of such associated person. If the account is established prior to the association of such person with an employer member, the associated person shall notify the executing member promptly after becoming so associated.

[Interpretation the Board of Governors

Transactions Effected for Personnel of Other Members

The exercise of reasonable diligence by the executing member to determine that the execution of a transaction will not adversely affect the interest of the employer member is deemed to require that the executing member send notice promptly in writing to the employer member that the executing member proposes to open an account in the name of a partner, officer, registered representative or an employee of the employer member, or, where such an account is open on the date of this interpretation and notice has not been given to the employer member to this effect, the executing member shall send notice in writing, prior to executing a transaction, that it carries such an account for a partner, officer, registered representative, or employee of such employer member.

The above is not intended to limit in any way the obligation of the executing member under the rule to comply with the instructions of the employer member to send such member copies of confirmations of individual transactions, or of monthly statements, or of both or neither, depending on the instructions given.]

Interpretation of the Board of Governors on Private Securities Transactions

Purchases or redemptions of variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940, for the personal account of the person associated with a member, are also not considered to be private securities transactions for purposes of this Interpretation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Article III, Section 28 of the Rules of Fair Practice addresses the responsibilities of members to avoid adversely affecting the interests of other members when executing transactions for persons associated with the other members (employer members). It requires written notice to "employer members" as well as the provision of duplicate confirmations and/or statements, if requested.

The proposed amendments are intended to accomplish several distinct results. First, the rule would be amended to apply to transactions or accounts over which associated persons exercise discretion, as well as accounts in which such associated persons have a financial interest. For example, an account for a relative of a registered representative of another member would be subject to the reporting requirements if the registered representative placed the orders for the account.

Secondly, the rule would specify an affirmative obligation on persons associated with another member to notify the "executing member" of such association. This would facilitate compliance by the executing members with the notification requirements of Section 28, the "Free-Riding and Withholding" Interpretation, and the requirement, in Article III, Section 21(b) of the Rules of Fair Practice, that such association or employment be recorded on customer accounts. The amended rule would specify that this notification requirement applies even if the associated person has another occupation or affiliation. The amended Rule would also make clear that the notification requirement applies to accounts which exist at the time the person becomes associated with a member, as well as to new accounts.

Third, the rule would be amended to provide an exemption from the notification requirements for transactions in variable contracts or redeemable securities of registered investment companies (e.g. mutual funds and unit investment trusts). It does not appear that such transactions present the same potential for adverse impact on an employer member as might exist with respect to other transactions and the notification requirement appears to be unnecessarily burdensome with respect to such transactions. For the same reasons, the Board believes that such transactions need not be reported by associated persons under the Private Securities Transactions Interpretation and therefore a similar exception is being added to that Interpretation.

Finally, in accordance with the Association's continuing project of updating rules and codifying interpretations, the proposed amendments would incorporate the basic provisions of the Board of Governors existing Interpretation of Section 28, which Interpretation would be repealed.

Statutory Basis.—The proposed change is consistent with the provisions of Section 15A(b)(6) and (b)(8) of the Act in that the notification provisions are intended to aid members in preventing securities transactions by their associated persons that may constitute violations of the Rules of Fair Practice.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe the amendments impose any burden on competition not necessary or appropriate. The portion exempting variable contracts and investment companies shares reduces the burden on competition and the portions expanding the duty of inquiry and duty to report are necessary to attain the objective of making an employer aware of his associated persons' securities activities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Three comment letters were received from members on the proposed amendments to Article III, Section 28, one of which was subsequently withdrawn. One member suggested that

representatives of firms specializing in certain areas, such as mutual funds and direct participation programs, be exempted from the reporting requirements of Section 28. The Board had previously considered the possibility of such an exemption and had decided against it since all representatives are subject to prohibitions against "Free-Riding" and other practices.

Another member questioned whether the reporting requirements of the Board's Private Securities Transaction Interpretation need be applied to transactions in variable contracts and investment company securities. The Board believes this comment to have merit and has proposed to amend the Private Securities Transaction Interpretation to add a specific exemption for transactions in variable contracts and redeemable investment company securities. The adoption of such an exemption does not, of course, prohibit a member from having its own internal policy requiring its representatives to report any transaction executed outside the firm.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450—Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 16, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35443 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19353; File No. SR-NASD-82-23]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Development and Implementation of Trade Acceptance and Reconciliation Service by NASD Market Services, Inc.

Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, and an amendment thereto on November 30, 1982, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. is filing herewith as a state policy, practice or interpretation, a description of a new facility which has been designed, developed and is being placed in operation by NASD Market Services, Inc., a subsidiary of the NASD.

The Trade Acceptance and Reconciliation Service ("TARS") will provide participating firms with a facility for on-line trade reconciliation of over-the-counter transactions cleared through a registered clearing corporation. TARS will commence operation on a pilot basis with six member firms participating. As quickly as technical and operational experience permits, TARS will be made available to all other qualifying NASD members who request to use the service. Any NASD member firm which executes and/or clears over-the-counter trades, has or orders the needed equipment for the purpose of using TARS and is or becomes a member of a clearing corporation which participates in the TARS service may subscribe to TARS upon payment of the applicable fees and charges.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the development and implementation of TARS is to improve the efficiency of the over-the-counter trade comparison process by allowing on-line trade reconciliation. The Association believes that TARS will further the purposes of Section 15A(b)(6) of the Act by streamlining the clearing process for over-the-counter transactions. TARS is also consistent with Section 17A(a)(1)(B) and (C) of the Act in that it will increase the efficiency of the settlement process and will apply data processing and communications techniques to the trade comparison process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

TARS is a service to which members subscribe on a voluntary basis and as such the Association believes that it imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received in connection with the development and implementation of TARS.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under Section 19(b)(2) of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450—5th Street, N.W., Washington, D.C. 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 20, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35444 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19359; Filed No. SR-NSCC-82-27]

Filing of Proposed Rule Change by National Securities Clearing Corp.

December 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 24, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would modify NSCC's rules regarding the terms of issuance of irrevocable letters of credit issued by banks to secure participants' clearing fund obligations. NSCC's current rules provide that NSCC will not accept a letter of credit that may be terminated prior to its expiration date. The proposal would allow NSCC to accept a letter of credit that (i) can be terminated upon written notice from the issuing bank; (ii) can be drawn down by NSCC at any time within five business days after NSCCC's receipt of the bank's termination notice; and (iii) in the event of such early termination, would not require NSCC to certify in writing to the issuing bank that the participant, upon whose behalf the letter of credit was issued, had defaulted in certain obligations to NSCC. The proposed rule also would require that the participant replace the terminated letter of credit with other suitable collateral within such time as NSCC specifies upon its receipt of the termination notice. In its filing, NSCC states that the purpose of the proposed rule change is to adjust NSCC's rules because many banks no longer will issue letters of credit or roll-over existing letters unless they may be terminated prior to their stated expiration date.

NSCC believes that the proposal will not subject NSCC to any additional financial exposure since NSCC will be able to draw down on letters of credit prior to their early expiration without regard to whether the participant, on whose behalf the letter was issued, has unsatisfied liabilities to NSCC. Accordingly, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3) of the Act which provides that a registered clearing agency must be organized and have the capacity to safeguard securities and funds in its custody or control or for which it is responsible.

In order to assist the Commission in determining whether to approve the proposed rule change or to institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35447 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19361; File No. SR-NSCC-82-28]

Filing of Proposed Rule Change by National Securities Clearing Corp.

December 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 29, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit NSCC to consolidate into a single processing stream the comparison, clearance and settlement of listed and over-the-counter ("OTC") securities transactions. NSCC currently processes listed and OTC securities transactions separately. By approving this proposal, the Commission would allow NSCC to enter "Phase II" of its operations pursuant to the Commission's order granting NSCC temporary registration.[1]

NSCC believes that, if approved, the proposal will simplify the processing of securities transactions and will reduce significantly direct and indirect processing costs of NSCC's participants. First, under the current scheme, if a participant has an open long position in a listed security issue and an open short position in the same issue that was sold

[1] National Securities Clearing Corporation, Order Granting Registeation and Statement of Reasons, File No. 600-15, January 13, 1977, 42 FR 3916 (January 21, 1977).

by the participant in the third market, the participant must (i) arrange for two separaate securities movements to satisfy these obligations, one for the listed transaction and another for the off-board trade; and (ii) pay two separate fees for those two movements. Under the proposed rule change, these positions would be netted, resulting in their complete elimination or in a single smaller net long or short position. Consequently, any net position could be satisfied by a smaller movement of securities for one fee, rather than two larger movements for two fees. Second, the proposal also may reduce the size of the participant's clearing fund contribution because that contribution is calculated on the basis of the participant's open long and short positions. Third, if the netting process eliminates the participant's short position, the participant would not be subject to any by-in liability. Notwithstanding those benefits, the proposal permits NSCC to continue separating listed and OTC processing streams for participants that so desire.

NSCC believes that the proposal will affect only NSCC's internal operating procedures and will not jeopardize its ability to safeguard securities or funds in its custody or control or for which it is responsible. Accordingly, NSCC believes that the proposal is consistent with Section 17A(b)(3)(F) of the Act.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Reference should be made to File No. SR-NSCC-82-28.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35448 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19366; SR-NYSE-82-17]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 22, 1982.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10005 submitted on October 27, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend NYSE Rules 123A.47 and 411, concerning error resolution in order executions reported through the exchange's Designated Order Turnaround System ("DOT"). Under the proposed amendments, specialists would be required to guarantee the execution prices reported via the DOT system so that when a reporting error occurred, the specialist would absorb the difference between the reported price and actual price, unless (i) the DOT subscribing organization requested a price change, or (ii) the erroneous price was more than one-half a point away from the actual price.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19224, November 8, 1982) and by publication in the Federal Register (47 FR 51978, November 18, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35452 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19368; File No. SR-OCC-82-27]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation

December 22, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 13, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change establishes new fees for OCC's Prospectus and for reorders of OCC's Risk Disclosure Documents. OCC has determined that it is necessary to establish new fees for distribution of its Prospectus and Risk Disclosure Documents as a result of the adoption of a new options disclosure scheme. Under this scheme, redistribution of the risk disclosure documents is required only as amendments become necessary, rather than annually. Therefore, once the initial distribution to all investors has been accomplished, OCC expects that the volume of risk disclosure documents to be printed will be reduced, thereby increasing OCC's costs of providing the documents. The proposed fee schedule is intended to meet these increased costs. In addition, because the new OCC Prospectus is a brief document which must be given to customers only upon request, relatively few copies have been printed. The proposed fee schedule reflects OCC's costs of printing this briefer document.

The proposed rule also establishes a fee for settlement of foreign currency options exercises. In its filing, OCC stated that its bank will charge OCC for each instruction executed by the bank to effect foreign currency options exercise settlement in the various countries of origin of the foreign currency underlying such options. Through this new fee, OCC will pass on those charges to exercising and assigned foreign currency clearing members.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of

Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concering the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35451 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 19362; File No. SR–Philadep–82–9]

Filing of Proposed Rule Change by the Philadelphia Depository Trust Co.

December 21, 1982.

Pursuant to rule 19b-4 under the Securities Exchange Act of 1934, the Philadelphia Depository Trust Company ("Philadep") submitted to the Commission on November 17, 1982, a proposed rule change. The proposed rule change would implement a new service to participants on a pilot basis: Dividend Reinvestment. Philadep, acting pursuant to a participant's instruction, will arrange with issures' agents for the reinvestment of dividends on qualifying securities. The new service will permit participants to maintain the security on deposit at philadep without losing the benefits available under reinvestment plans. The pilot program will include no more than three (3) qualifying securities for not more than three (3) participants for a period of nine (9) months. No fee will be charged for the service during the pilot period.

Publication of the submission is expected to be made in the **Federal Register** during the week of December 20, 1982. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register.** Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–Philadep–82–9.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35446 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19329; File No. SR–PHLX–1982–16]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Amendment to the Exchange's Certificate of Incorporation

Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 9, 1982, the Philadelphia Stock Exchange filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

Item I. Self-Regulatory Organization's Statement of the Terms and Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (the "Exchange") has proposed to amend its Certificate of Incorporate to specify that its Foreign Currency Options Participants ("FCO Participants") shall be collectively entitled to receive, in the event of the complete or partial liquidation of the Exchange: (i) the unexpended amount, if any, of the contributions made to the Exchange in connection with the purchase of Foreign Currency Options Participations; and (ii) the amount of the Exchange's assets, if any, that are directly attributable to earnings from the Exchange's foreign currency options market. However, no FCO Participant shall be entitled to receive, on the basis of his status as an FCO Participant, an amount greater than the sum(s) contributed to the Exchange in connection with the Foreign Currency Options Participation(s) then-owned by such FCO Participant.

Item II

A Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Certificate Amendment is designed to accurately reflect the equity interest FCO Participants have in the Exchange's foreign currency options operations. This Certificate Amendment is consistent with Section 6(b) of the Securities Exchange Act of 1934 because it would facilitate the fair and equitable administration of the Exchange and broaden access to the Exchange's foreign currency options market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Formal comments on this Certificate Amendment have not been solicited or received.

Item III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

longer period to be apropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change be disapproved.

Item IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 13, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35442 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12891A; (812-5368)]

Chicago Partners I, Chicago Partners II, Winthrop Financial Co., Inc. and Linnaeus-Hawthorne Associates; Errata

This is to correct an error made in Investment Company Release No. 12891, issued December 10, 1982, In the Matter of Chicago Partners I, Chicago Partners II, Winthrop Financial Co., Inc. and Linnaeus-Hawthorne Associates, 225 Franklin Street, Boston, Massachusetts 02110. In the above referenced notice of filing of application it was stated that interested persons may request a hearing until December 31, 1982. The expiration of the notice period should have read 12:30 p.m., December 30, 1982. In addition, the notice stated that the file number for the instant application was 812-8368. The correct file number is 812-5368.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35450 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12892A; (812-5366)]

Merchants Bancorp.; Errata

This is to correct an error made in Investment Company Release No. 12892, issued December 10, 1982 (47 FR 56754; December 20, 1982), in the Matter of Merchants Bancorporation, 8th and Jackson Streets, Topeka, Kansas 66112. In the above referenced notice of filing of application it was stated that interested persons may request a hearing until 5:30 p.m., December 31, 1982. The expiration of the notice period should have read 12:30 p.m., December 30, 1982.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35449 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM—8/589]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology, and Development on Tuesday, January 18, 1983, from 9:30 a.m. to 12:00 noon in room 1207 at the Department of State, 2201 C Street, NW., Washington, D.C. 20502. The meeting will be open to the public.

The Working Group will review the current work underway in the OECD on national treatment and in the OECD, GATT and World Bank on the use of performance requirements. An initial U.S. Government redraft of the 1977 investment policy statement will be presented for discussion and comment. Other investment topics to be raised include: the U.S. bilateral investment treaty program and the status of the EC draft directives.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 17, 1982.

John T. McCarthy,

Acting Executive Secretary.

[FR Doc. 82-35343 Filed 12-29-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/590]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Energy and Development of the Advisory Committee on International Investment, Technology, and Development on Wednesday, January 19, 1983, from 9:30 a.m. to 12:00 noon, in room 1408, at the Department of State, 2201 C Street NW., Washington, D.C. 20502. The meeting will be open to the public.

The purpose of the meeting will be to discuss the following issues: problems encountered in and barriers to private energy investments in oil-importing developing countries; in particular the group will discuss: the National Petroleum Council's recently published study, entitled *Third World Petroleum Development: A Statement of Principles*, and USG involvement and planning for an International Energy Workshop, to be held in the Fall of 1983, on "Barriers to Private Energy Investments in Developing Countries."

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic an Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange

entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 17, 1982.

John T. McCarthy,

Acting Executive Secretary.

[FR Doc. 82-35344 Filed 12-29-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/591]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Panel on Bulk Cargoes under the SOLAS Subcommittee Working Group on Containers and Cargoes will conduct an open meeting on February 3, 1983, at 10:00 a.m., in room 3201 of the Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

The purpose of the meeting it to review the position papers that the U.S. Delegation has forwarded to IMO for presentation at the Twenty-fourth Session of the Subcommittee on Containers and Cargoes to be held at IMO Headquarters in London on February 21–25. The Working Group will also review all papers pertinent to Bulk Solids received from IMO that other delegates will present at the Twenty-fourth Session.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. John F. McAnulty, U.S. Coast Guard (G-MTH-3), Washington, D.C. 20593. Telephone: (202) 426-1578. Or contact Captain S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, New York 10048. Telephone: (212) 432-1280.

Dated: December 13, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-35345 Filed 12-29-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 839]

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing in 1983 have been received from the Governments of the Union of Soviet Socialist Republics, the Polish People's Republic, the German Democratic Republic, the Federal Republic of Germany, Japan, Korea, Italy, Spain, Norway and Taiwan.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F/CM7), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7432).

Dated: December 17, 1982.

James A. Storer,

Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional Council
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	Do.
GOA	Gulf of Alaska	Do.
NWA	Northwest Atlantic	New England, Mid-Atlantic
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks.	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Japan:			
Sunbird, pot fishing vessel	JA-83-0576	NWA, BSA, GOA, SMT	3
Shinsho Maru, cargo/transport vessel	JA-83-0640	BSA, GOA, SNA, NWA	3
Kunashiri Maru, cargo/transport vessel	JA-83-1151	BSA, CRB, SMT, GOA, NWA, SNA	3
Jin Po Maru No. 65, cargo/transport vessel	JA-83-1142	CRB, BSA, GOA, NWA, ABS, PBS, SMT, SNA	3
Kinriki Maru No. 16, cargo/transport vessel	JA-83-0628	BSA, GOA, SMT	3
Kyoshin Maru, cargo/transport vessel	JA-83-0629	BSA, GOA, SMT	3
Tanryo Maru, tanker fuel/water/fish oil	JA-83-2024	BSA, GOA, SMT	3
Suzukaze Maru, Tanker, cargo/transport vessel	JA-83-1058	BSA, GOA, SMT	3
Awashima Maru, cargo/transport vessel	JA-83-1060	BSA, GOA, SMT	3
Nagisa Maru, cargo/transport vessel	JA-83-1061	BSA, GOA, SMT	3
Sachikaze Maru, cargo/transport vessel	JA-83-1057	BSA, GOA, SMT	3
Tenkane Maru, tanker, fuel/water/fish oil	JA-83-0895	BSA, GOA, SMT	3
Kashinwahana Maru No. 1, cargo/transport vessel	JA-83-0884	BSA, GOA, SMT	3
Tokachi Maru, large stern trawler	JA-83-0360	NWA	1, 2
Zao Maru, large stern trawler	JA-83-0361	NWA	1, 2
Shirane Maru, large stern trawler	JA-83-0362	NWA	1, 2
Suzuka Maru, large stern trawler	JA-83-0363	NWA	1, 2
Koyo Maru, large stern trawler	JA-83-0364	NWA	1, 2
Teshio Maru, large stern trawler	JA-83-1169	NWA	1, 2
Banshu Maru No. 6, large stern trawler	JA-83-0373	NWA	1, 2
Banshu Maru No. 7, large stern trawler	JA-83-0374	NWA	1, 2
Taiyo Maru No. 83, meduim stern trawler	JA-83-0380	NWA	1, 2
Daishin Maru No. 16, large stern trawler	JA-83-0376	NWA	1, 2
Mikami Maru, large stern trawler	JA-83-0368	NWA	1, 2
Nihonkai Maru, medium stern trawler	JA-83-0369	NWA	1, 2
Eniwa Maru, large stern trawler	JA-83-0898	NWA	1, 2
Choyoh Maru, cargo/transport vessel	JA-83-0574	BSA, CRB, GOA, NWA, SMT, SNA	3
Suiyo Maru, cargo/transport vessel	JA-83-0575	BSA, CRB, GOA, NWA, SMT, SNA	3
Sekishu Maru, medium stern trawler	JA-83-0573	BSA, GOA	1, 2
Aso Maru, large stern trawler	JA-83-0288	BSA, GOA, SMT	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Niitaka Maru, large stern trawler	JA-83-0289	BSA, GOA, SMT	1, 2
Takachiho Maru, large stern trawler	JA-83-0291	BSA, GOA, SMT	1, 2
Kitakami Maru, medium stern trawler	JA-83-0321	BSA, GOA, SMT	1, 2
Daishin Maru No. 12, large stern trawler	JA-83-0285	BSA, GOA, SMT	1, 2, 3
Daishin Maru No. 22, large stern trawler	JA-83-0286	BSA, GOA, SMT	1, 2, 3
Daishin Maru No. 28, large stern trawler	JA-83-0569	BSA, GOA, SMT	1, 2, 3
Ryuyo Maru, large stern trawler	JA-83-0280	BSA, GOA, SMT	1, 2
Zuiyo Maru, large stern trawler	JA-83-0335	BSA, GOA, SMT	1, 2
Shinmei Maru No. 18, longline fishing vessel	JA-83-1481	ABS	1
Ryusei Maru, cargo/transport vessel	JA-83-0626	BSA, GOA, SNA, SMT, NWA	3
Ryusho Maru, cargo/transport vessel	JA-83-0627	BSA, GOA, SNA, NWA, SMT	3
Miyajima Maru, cargo/transport vessel	JA-83-1101	BSA, GOA, NWA, SNA, SMT	3
Bering Maru, cargo/transport vessel	JA-83-1159	BSA, GOA, NWA, SNA, SMT	3
Nichiyo Maru, cargo/transport vessel	JA-83-1167	BSA, GOA, NWA, SNA, SMT	3
Sun Happiness, cargo/transport vessel	JA-83-0891	BSA, GOA, NWA, SNA, SMT	3
Suoh, cargo/transport vessel	JA-83-0893	BSA, GOA, NWA, SNA, SMT	3
Hakubasan Maru, cargo/transport vessel	JA-83-1027	BSA, GOA, NWA, SNA, SMT	3
Isokaze Maru, cargo/transport vessel	JA-83-1038	BSA, GOA, NWA, SNA, SMT	3
Soyokaze Maru, cargo/transport vessel	JA-83-1040	BSA, GOA, NWA, SNA, SMT	3
Matsukaze Maru, cargo/transport vessel	JA-83-1045	BSA, GOA, NWA, SNA, SMT	3
Harukaze Maru, cargo/transport vessel	JA-83-1049	BSA, GOA, NWA, SNA, SMT	3
Asakaze Maru, cargo/transport vessel	JA-83-1089	BSA, GOA, NWA, SNA, SMT	3
Hakuyo Maru, cargo/transport vessel	JA-83-0017	BSA, CRB, GOA, NWA, SMT, SNA	3
Tohfu Maru, cargo/transport vessel	JA-83-0916	BSA, CRB, GOA, NWA, SMT, SNA	3
Sanyo Maru, cargo/transport vessel	JA-83-0924	BSA, CRB, GOA, NWA, SMT, SNA	3
Fuyo Maru, cargo/transport vessel	JA-83-0925	BSA, CRB, GOA, NWA, SMT, SNA	3
Daiho Maru, cargo/transport vessel	JA-83-1000	BSA, CRB, GOA, NWA, SMT, SNA	3
Ryoyo Maru, cargo/transport vessel	JA-83-1024	BSA, CRB, GOA, NWA, SMT, SNA	3
Fukuyo Maru, cargo/transport vessel	JA-83-1025	BSA, CRB, GOA, NWA, SMT, SNA	3
Kiyo Maru, cargo/transport vessel	JA-83-1026	BSA, CRB, GOA, NWA, SMT, SNA	3
Shuyo Maru, cargo/transport vessel	JA-83-1028	BSA, CRB, GOA, NWA, SMT, SNA	3
Hoyo Maru, cargo/transport vessel	JA-83-1029	BSA, CRB, GOA, NWA, SMT, SNA	3
Tamagawa Maru, cargo/transport vessel	JA-83-1030	BSA, CRB, GOA, NWA, SMT, SNA	3
Kakogawa Maru, cargo/transport vessel	JA-83-1031	BSA, CRB, GOA, NWA, SMT, SNA	3
Uno Maru No. 8, cargo/transport vessel	JA-83-1032	BSA, CRB, GOA, NWA, SMT, SNA	3
Kotoku Maru, cargo/transport vessel	JA-83-1035	BSA, CRB, GOA, NWA, SMT, SNA	3
Reiyo-Maru, cargo/transport vessel	JA-83-1067	BSA, CRB, GOA, NWA, SMT, SNA	3
Juyo Maru, cargo/transport vessel	JA-83-1068	BSA, CRB, GOA, NWA, SMT, SNA	3
Tosa Maru, cargo/transport vessel	JA-83-1071	BSA, CRB, GOA, NWA, SMT, SNA	3
Itoham Maru, cargo/transport vessel	JA-83-1072	BSA, CRB, GOA, NWA, SMT, SNA	3
Nipponham Maru No. 1, cargo/transport vessel	JA-83-1082	BSA, CRB, GOA, NWA, SMT, SNA	3
Hayashikane Maru No. 1, cargo/transport vessel	JA-83-1102	BSA, CRB, GOA, NWA, SMT, SNA	3
Hayashikane Maru No. 2, cargo/transport vessel	JA-83-1103	BSA, CRB, GOA, NWA, SMT, SNA	3
Taihaku Maru, cargo/transport vessel	JA-83-1106	BSA, CRB, GOA, NWA, SMT, SNA	3
Jinyo Maru, cargo/transport vessel	JA-83-1132	BSA, CRB, GOA, NWA, SMT, SNA	3
Meiyo-Maru, cargo/transport vessel	JA-83-1133	BSA, CRB, GOA, NWA, SMT, SNA	3
Kyokushin Maru, cargo/transport vessel	JA-83-1161	BSA, CRB, GOA, NWA, SMT, SNA	3
Hiyo Maru, cargo/transport vessel	JA-83-2025	BSA, CRB, GOA, NWA, SMT, SNA	3
Tsurusaki, cargo/transport vessel	JA-83-0630	BSA, GOA, NWA	3
Tokiwa Maru, cargo/transport vessel	JA-83-0631	BSA, GOA, SNA, NWA	3
Eitoku Maru, cargo/transport vessel	JA-83-1094	BSA, GOA, NWA, SNA	3
Hayatsuki Maru, cargo/transport vessel	JA-83-1037	BSA, GOA, SNA, NWA	3
Hokkai Maru, cargo/transport vessel	JA-83-0922	BSA, GOA, SNA, NWA	3
Hamanasu Maru, cargo/transport vessel	JA-83-0883	GOA, BSA, SNA, NWA	3
Yayoi Maru, cargo/transport vessel	JA-83-0018	BSA, GOA, SNA, NWA	3
Marine Fellow, cargo/transport vessel	JA-83-0003	GOA, BSA, SNA, NWA	3
Shiga Maru, cargo/transport vessel	JA-83-1012	GOA, BSA, NWA	3
Seta Maru, cargo/transport vessel	JA-83-1010	BSA, GOA, NWA	3
Suzuran Maru, cargo/transport vessel	JA-83-1152	GOA, BSA, SNA, NWA	3
Akashia Maru, cargo/transport vessel	JA-83-1156	GOA, BSA, SNA, NWA	3
Nojima Maru, cargo/transport vessel	JA-83-1096	BSA, GOA, NWA, SNA	3
Mizuho Reefer, cargo/transport vessel	JA-83-0016	GOA, BSA, SNA, NWA	3
Shikishima Reefer, cargo/transport vessel	JA-83-0889	GOA, BSA, SNA, NWA	3
Sunny Reefer, cargo/transport vessel	JA-83-0892	GOA, BSA, SNA, NWA	3
Sky Reefer, cargo/transport vessel	JA-83-0907	GOA, BSA, SNA, NWA	3
Fuji Reefer, cargo/transport vessel	JA-83-0908	GOA, BSA, SNA, NWA	3
Sakura Reefer, cargo/transport vessel	JA-83-0909	GOA, BSA, SNA, NWA	3
Ariake Reefer, cargo/transport vessel	JA-83-0910	GOA, BSA, SNA, NWA	3
Akebono Reefer, cargo/transport vessel	JA-83-0911	GOA, BSA, SNA, NWA	3
Yoho Maru, cargo/transport vessel	JA-83-1018	GOA, BSA, SNA, NWA	3
Kaiko Maru, cargo/transport vessel	JA-83-1019	GOA, BSA, SNA, NWA	3
Kentoku Maru, cargo/transport vessel	JA-83-1021	GOA, BSA, SNA, NWA	3
Mishima Maru, cargo/transport vessel	JA-83-1023	GOA, BSA, SNA, NWA	3
Oak Leaf, cargo/transport vessel	JA-83-1051	GOA, BSA, SNA, NWA	3
Mikko Maru, cargo/transport vessel	JA-83-1077	GOA, BSA, SNA, NWA	3
Shinprima Maru, cargo/transport vessel	JA-83-1081	GOA, BSA, SNA, NWA	3
Tokyo Reefer, cargo/transport vessel	JA-83-1135	GOA, BSA, SNA, NWA	3
Osaka Reefer, cargo/transport vessel	JA-83-2011	GOA, BSA, SNA, NWA	3
Yamato Reefer, cargo/transport vessel	JA-83-2019	GOA, BSA, SNA, NWA	3
Kashima Maru, factory ship	JA-83-0001	BSA, NWA, GOA, SNA	2, 3
Shinryu Maru No. 18, cargo/transport vessel	JA-83-0906	BSA, SNA, NWA	3
Karasaki Maru, cargo/transport vessel	JA-83-1011	BSA, GOA, SNA, NWA	3
Hoko Maru No. 31, cargo/transport vessel	JA-83-1083	BSA, GOA, SNA, NWA	3
Shinsei Maru, cargo/transport vessel	JA-83-0890	BSA, GOA, NWA	3
Kunisaki, cargo/transport vessel	JA-83-0899	BSA, GOA, NWA	3
Shoken Maru, cargo/transport vessel	JA-83-0930	BSA, GOA, NWA	3
Tensei Maru, cargo/transport vessel	JA-83-0896	BSA, GOA, NWA	3
Hakko Arrow, cargo/transport vessel	JA-83-0880	NWA, BSA, GOA, SMT	3
Hakko Boomerang, cargo/transport vessel	JA-83-0881	NWA, BSA, GOA, SMT	3
Hakko Cardioid, cargo/transport vessel	JA-83-0882	NWA, BSA, GOA, SMT	3
Shinwa Maru, cargo/transport vessel	JA-83-0904	NWA, BSA, GOA, SMT	3
Kendric, cargo/transport vessel	JA-83-0912	NWA, BSA, GOA, SMT	3
Daiei Maru No. 52, cargo/transport vessel	JA-83-0913	NWA, BSA, GOA, SMT	3
Nissei Maru, cargo/transport vessel	JA-83-0914	NWA, BSA, GOA, SMT	3

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Sanuki Maru, cargo/transport vessel	JA-83-0915	NWA, BSA, GOA, SMT	3
Phoenix, cargo/transport vessel	JA-83-0917	NWA, BSA, GOA, SMT	3
Falcon, cargo/transport vessel	JA-83-0918	NWA, BSA, GOA, SMT	3
Miyashima Maru, cargo/transport vessel	JA-83-0919	NWA, BSA, GOA, SMT	3
Matsushima Maru, cargo/transport vessel	JA-83-0920	NWA, BSA, GOA, SMT	3
Takeshima Maru, cargo/transport vessel	JA-83-0921	NWA, BSA, GOA, SMT	3
Kisaragi Maru, cargo/transport vessel	JA-83-0929	NWA, BSA, GOA, SMT	3
Sakura Maru, cargo/transport vessel	JA-83-1001	NWA, BSA, GOA, SMT	3
Dairyo Maru, cargo/transport vessel	JA-83-1002	NWA, BSA, GOA, SMT	3
Miho Maru, cargo/transport vessel	JA-83-1069	NWA, BSA, GOA, SMT	3
Daien Maru No. 18, cargo/transport vessel	JA-83-1074	NWA, BSA, GOA, SMT	3
Daitoku Maru No. 31, cargo/transport vessel	JA-83-1092	NWA, BSA, GOA, SMT	3
Hirotsuki Maru, cargo/transport vessel	JA-83-1146	NWA, BSA, GOA, SMT	3
Daigen Maru, cargo/transport vessel	JA-83-1147	NWA, BSA, GOA, SMT	3
Wakatsuki Maru, cargo/transport vessel	JA-83-1150	NWA, BSA, GOA, SMT	3
Komeshima Maru, cargo/transport vessel	JA-83-2021	NWA, BSA, GOA, SMT	3
Takatsuki Maru, cargo/transport vessel	JA-83-2022	NWA, BSA, GOA, SMT	3
Akizuki Maru, cargo/transport vessel	JA-83-2023	NWA, BSA, GOA, SMT	3
Eihei Maru, cargo/transport vessel	JA-83-1039	BSA, GOA, NWA, SMT, SNA	3
Eiho Maru, cargo/transport vessel	JA-83-1062	BSA, GOA, MWA, SMT, SNA	3
Seishu Maru No. 2, cargo/transport vessel	JA-83-0928	BSA, GOA, NWA, SNA, SMT	3
Taisei Maru No. 16, cargo/transport vessel	JA-83-1052	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 87, cargo/transport vessel	JA-83-1053	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 98, cargo/transport vessel	JA-83-1054	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 52, cargo/transport vessel	JA-83-1055	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 41, cargo/transport vessel/tanker	JA-83-1056	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 101, cargo/transport vessel/tanker	JA-83-1144	NWA, BSA, SNA, GOA, SMT	3
Marine Ace, cargo/transport vessel	JA-83-0002	BSA, GOA, NWA, SNA, SMT	3
Yahata Maru No. 58, medium stern trawler	JA-83-0632	BSA	1, 2
Soho Maru No. 52, medium stern trawler	JA-83-0633	BSA	1, 2
Ryoei Maru No. 38, medium stern trawler	JA-83-0634	BSA	1, 2
Kyoyo Maru No. 8, medium stern trawler	JA-83-0635	BSA	1, 2
Taisei Maru No. 35, medium stern trawler	JA-83-0636	BSA	1, 2
Tenyu Maru No. 57, medium stern trawler	JA-83-0637	BSA	1, 2
Yakushi Maru No. 51, medium stern trawler	JA-83-0638	BSA	1, 2
Shoei Maru No. 5, medium stern trawler	JA-83-0639	BSA	1, 2
Daiei Maru No. 5, tanker fuel/water	JA-83-0007	BSA, GOA, SNA	3
Tenyoshi Maru, tanker fuel/water	JA-83-0008	BSA, GOA, SNA	3
Rich Seagull, tanker fuel/water	JA-83-0888	BSA, GOA, SNA	3
Tenkai Maru, tanker fuel/water	JA-83-0894	BSA, GOA, SNA	3
Freezer Prince, cargo/transport vessel	JA-83-0571	BSA, GOA	3
Tsuru Maru, cargo/transport vessel	JA-83-1085	BSA, CRB, GOA	3
Nikka Maru, cargo/transport vessel	JA-83-0927	BSA, CRB, GOA	3
Sanei Maru, cargo/transport vessel	JA-83-0568	BSA, GRB, GOA	3
Yuwasu Maru, cargo/transport vessel	JA-83-0005	BSA, CRB, GOA	3
Yachiyo Maru No. 26, cargo/transport vessel	JA-83-1079	GOA, BSA, SNA	3
Wakashio Maru No. 32, cargo/transport vessel	JA-83-1121	GOA, BSA, SNA	3
Yachiyo Maru No. 15, cargo/transport vessel	JA-83-1123	GOA, BSA, SNA	3
Tsune Maru No. 31, longliner/gillnet	JA-83-0601	GOA, BSA	1,2
Kiyo Maru No. 55, longliner/gillnet	JA-83-0602	GOA, BSA	1,2
Fukuyoshi Maru No. 85, longliner/gillnet	JA-83-0603	GOA, BSA	1,2
Fukuyoshi Maru No. 8, longliner/gillnet	JA-83-0624	GOA, BSA	1,2
Hatsue Maru No. 38, longliner/gillnet	JA-83-0605	GOA, BSA	1,2
Hatsue Maru No. 68, longliner/gillnet	JA-83-0562	GOA, BSA	1,2
Eikyu Maru No. 82, longliner/gillnet	JA-83-0607	GOA, BSA	1,2
Sumiyoshi Maru No. 53, longliner/gillnet	JA-83-0608	GOA, BSA	1,2
Matsuei Maru No. 88, longliner/gillnet	JA-83-0609	GOA, BSA	1,2
Ebisu Maru No. 88, longliner/gillnet	JA-83-0610	GOA, BSA	1,2
Mito Maru No. 82, longliner/gillnet	JA-83-0611	GOA, BSA	1,2
Tomi Maru No. 88, longliner/gillnet	JA-83-0612	GOA, BSA	1,2
Shintoku Maru No. 25, longliner/gillnet	JA-83-0613	GOA, BSA	1,2
Shinko Maru No. 3, longliner/gillnet	JA-83-0614	GOA, BSA	1,2
Choyo Maru No. 81, longliner/gillnet	JA-83-0615	GOA, BSA	1,2
Tenyu Maru No. 37, longliner/gillnet	JA-83-0616	GOA, BSA	1,2
Ryuho Maru No. 38, longliner/gillnet	JA-83-0557	GOA, BSA	1,2
Tenyo Maru No. 25, longliner/gillnet	JA-83-0618	GOA, BSA	1,2
Ryusho Maru No. 15, longliner/gillnet	JA-83-0619	GOA, BSA	1,2
Ryusho Maru No. 18, longliner/gillnet	JA-83-0620	GOA, BSA	1,2
Anyo Maru No. 21, longliner/gillnet	JA-83-0621	GOA, BSA	1,2
Anyo Maru No. 22, longliner/gillnet	JA-83-0622	GOA, BSA	1,2
Yamato Maru, large stern trawler	JA-83-0339	GOA, BSA	1,2
Rikuzen Maru, large stern trawler	JA-83-0340	GOA, BSA	1,2
Kongo Maru, large stern trawler	JA-83-0341	GOA, BSA	1,2
Haruna Maru, large stern trawler	JA-83-0350	GOA, BSA	1,2
Tenyo Maru No. 2, large stern trawler	JA-83-0332	GOA, BSA	1,2
Tenyo Maru No. 3, large stern trawler	JA-83-0333	GOA, BSA	1,2
Tenyo Maru No. 5, large stern trawler	JA-83-0334	BSA, GOA	1, 2
Tenyo Maru, large stern trawler	JA-83-0352	BSA, GOA	1, 2
Akebono Maru No. 31, medium stern trawler	JA-83-0306	BSA, GOA	1, 2
Akebono Maru No. 32, medium stern trawler	JA-83-0307	BSA, GOA	1, 2
Akebono Maru No. 27, medium stern trawler	JA-83-0308	BSA, GOA	1, 2
Akebono Maru No. 11, medium stern trawler	JA-83-0310	BSA, GOA	1, 2
Akebono Maru No. 15, medium stern trawler	JA-83-0312	BSA	1, 2
Akebono Maru No. 16, medium stern trawler	JA-83-0313	BSA, GOA	1, 2
Akebono Maru No. 17, medium stern trawler	JA-83-0314	BSA	1, 2
Akebono Maru No. 18, medium stern trawler	JA-83-0315	BSA	1, 2
Akebono Maru No. 21, medium stern trawler	JA-83-0316	BSA	1, 2
Akebono Maru No. 22, medium stern trawler	JA-83-0317	BSA, GOA	1, 2
Shizuoka Maru, medium stern trawler	JA-83-0318	BSA, GOA	1, 2
Akebono Maru No. 72, large stern trawler	JA-83-0338	BSA, GOA	1, 2
Daian Maru No. 188, medium stern trawler	JA-83-0553	BSA	1, 2
Shinnichi Maru No. 38, medium stern trawler	JA-83-0563	BSA	1, 2
Shunyoo Maru No. 118, medium stern trawler	JA-83-0564	BSA	1, 2
Zuihoo Maru No. 28, medium stern trawler	JA-83-0565	BSA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Akebono Maru No. 1, medium stern trawler	JA-83-1153	BSA, GOA	1, 2
Akebono Maru No. 2, medium stern trawler	JA-83-1154	BSA, GOA	1, 2
Ohtori Maru, large stern trawler	JA-83-0342	BSA, GOA	1, 2, 3
Chikubu Maru, large stern trawler	JA-83-0336	BSA, GOA	1, 2
Tsuda Maru, large stern trawler	JA-83-0337	BSA, GOA	1, 2
Koyo Maru No. 21, medium stern trawler	JA-83-0292	BSA, GOA	1, 2
Koyo Maru No. 2, large stern trawler	JA-83-0297	BSA, GOA	1, 2
Koyo Maru No. 3, large stern trawler	JA-83-0343	BSA, GOA	1, 2
Zuiyo Maru No. 3, large stern trawler	JA-83-0331	BSA, GOA	1, 2
Zuiyo Maru No. 2, large stern trawler	JA-83-0351	BSA, GOA	1, 2
Anyo Maru No. 8, medium stern trawler	JA-83-0283	BSA	1, 2
Anyo Maru No. 12, medium stern trawler	JA-83-0500	BSA	1, 2
Anyo Maru No. 18, medium stern trawler	JA-83-1175	BSA, GOA	1, 2
Tomi Maru No. 85, medium stern trawler	JA-83-0282	BSA, GOA	1, 2
Tomi Maru No. 83, medium stern trawler	JA-83-1170	BSA, GOA	1, 2
Eikyu Maru No. 2, medium stern trawler	JA-83-0299	BSA	1, 2
Eikyu Maru No. 11, medium stern trawler	JA-83-0300	BSA	1, 2
Eikyu Maru No. 12, medium stern trawler	JA-83-0411	BSA	1, 2
Eikyu Maru No. 3, medium stern trawler	JA-83-1174	BSA	1, 2
Koshin Maru No. 11, medium stern trawler	JA-83-0303	BSA, GOA	1, 2
Fukuyoshi Maru No. 38, medium stern trawler	JA-83-0304	BSA, GOA	1, 2
Kyowa Maru No. 15, medium stern trawler	JA-83-0305	BSA, GOA	1, 2
Mineshima maru, factory ship	JA-83-0080	BSA	2, 3
Ebisu Maru No. 21, Danish seiner	JA-83-0091	BSA	1
Kaiun Maru No. 78, Danish seiner	JA-83-0092	BSA	1
Shuyo Maru, pair trawler	JA-83-0110	BSA	1
Eiyo Maru, pair trawler	JA-83-0111	BSA	1
Koyo Maru, pair trawler	JA-83-0112	BSA	1
Fukuyo Maru, pair trawler	JA-83-0113	BSA	1
Katori Maru, pair trawler	JA-83-0114	BSA	1
Katsuki Maru, pair trawler	JA-83-0115	BSA	1
Aora Maru, pair trawler	JA-83-0116	BSA	1
Wakara Maru, pair trawler	JA-83-0117	BSA	1
Washima Maru, pair trawler	JA-83-0122	BSA	1
Toyoshima Maru, pair trawler	JA-83-0123	BSA	1
Shosei Maru No. 30, Danish seiner	JA-83-0556	BSA	1
Heikyu Maru No. 35, Danish seiner (stern chute)	JA-83-0567	BSA	1
Katsuyama Maru, pair trawler	JA-83-0833	BSA	1
Tateyama Maru, pair trawler	JA-83-0835	BSA	1
Nishiyama Maru, pair trawler	JA-83-0836	BSA	1
Matsuyama Maru, pair trawler	JA-83-1157	BSA	1
Mitsu Maru No. 51, Danish seiner (stern chute)	JA-83-1559	BSA	1
Kaiko Maru No. 8, Danish seiner (stern chute)	JA-83-1560	BSA	1
Shikishima Maru, factory ship	JA-83-0030	BSA	2, 3
Ebisu Maru No. 11, Danish seiner	JA-83-0042	BSA	1
Seiho Maru No. 15, Danish seiner	JA-83-0043	BSA	1
Hokko Maru No. 17, Danish seiner	JA-83-0050	BSA	1
Mizuho Maru, pair trawler	JA-83-0060	BSA	1
Akiho Maru, pair trawler	JA-83-0061	BSA	1
Syunyo Maru, pair trawler	JA-83-0062	BSA	1
Rakuyo Maru, pair trawler	JA-83-0063	BSA	1
Wayo Maru, pair trawler	JA-83-0064	BSA	1
Junyo Maru, pair trawler	JA-83-0065	BSA	1
Yashima Maru, pair trawler	JA-83-0070	BSA	1
Tsushima Maru, pair trawler	JA-83-0071	BSA	1
Dejima Maru, pair trawler	JA-83-1179	BSA	1
Hirado Maru, pair trawler	JA-83-1180	BSA	1
Kaiun Maru No. 62, Danish seiner	JA-83-1482	BSA	1
Otoha Maru, pair trawler	JA-83-0010	BSA	1
Kureha Maru, pair trawler	JA-83-0011	BSA	1
Hokkai Maru, pair trawler	JA-83-0012	BSA	1
Hakurei Maru, pair trawler	JA-83-0013	BSA	1
Hokushin Maru, pair trawler	JA-83-0014	BSA	1
Hokoto Maru, pair trawler	JA-83-0015	BSA	1
Nitto Maru No. 75, medium stern trawleer	JA-83-0406	BSA	1
Hoyo Maru, factory ship	JA-83-0190	BSA	2, 3
Yuryo Maru No. 35, Danish seiner	JA-83-0201	BSA	1
Soho Maru No. 68, Danish seiner	JA-83-0204	BSA	1
Kakuyo Maru No. 1, pair trawler	JA-83-0210	BSA	1
Kakuyo Maru No. 2, pair trawler	JA-83-0211	BSA	1
Kakuyo Maru No. 3, pair trawler	JA-83-0212	BSA	1
Kakuyo Maru No. 5, pair trawler	JA-83-0213	BSA	1
Kakuyo Maru No. 7, pair trawler	JA-83-0214	BSA	1
Kakuyo Maru No. 8, pair trawler	JA-83-0215	BSA	1
Nitto Maru No. 35, pair trawler	JA-83-0220	BSA	1
Nitto Maru No. 36, pair trawler	JA-83-0221	BSA	1
Tenyu Maru No. 28, Danish seiner (stern chute)	JA-83-1483	BSA	1
Soho Maru No. 32, Danish seiner	JA-83-2007	BSA	1
Kakuyo Maru No. 11, pair trawler	JA-83-2008	BSA	1
Kakuyo Maru No. 12, pair trawler	JA-83-2009	BSA	1
Nisshin Maru No. 2, factory ship	JA-83-0140	BSA	2, 3
Akashi Maru No. 51, pair trawler	JA-83-0162	BSA	1
Akashi Maru No. 52, pair trawler	JA-83-0163	BSA	1
Akashi Maru No. 58, pair trawler	JA-83-0164	BSA	1
Akashi Maru No. 59, pair trawler	JA-83-0165	BSA	1
Akashi Maru No. 63, pair trawler	JA-83-0166	BSA	1
Akashi Maru No. 65, pair trawler	JA-83-0167	BSA	1
Akashi Maru No. 66, pair trawler	JA-83-0168	BSA	1
Akashi Maru No. 67, pair trawler	JA-83-0169	BSA	1
Akashi Maru No. 68, pair trawler	JA-83-0170	BSA	1
Akashi Maru No. 69, pair trawler	JA-83-0171	BSA	1
Akashi Maru No. 71, pair trawler	JA-83-0172	BSA	1
Akashi Maru No. 72, pair trawler	JA-83-0173	BSA	1
Akashi Maru No. 73, pair trawler	JA-83-0174	BSA	1

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Akashi Maru No. 75, pair trawler	JA-83-0175	BSA	1
Akashi Maru No. 76, pair trawler	JA-83-0176	BSA	1
Akashi Maru No. 77, pair trawler	JA-83-0177	BSA	1
Akashi Maru No. 18, pair trawler	JA-83-0178	BSA	1
Akatsuki Maru No. 1, Danish seiner (stern chute)	JA-83-1129	BSA	1
Shoken Maru No. 8, Danish seiner	JA-83-1160	BSA	1
Soyo Maru, factory ship	JA-83-0240	BSA	2, 3
Taisei Maru No. 51, medium stern trawler	JA-83-0250	BSA	1
Mutsu Maru No. 52, medium stern trawler	JA-83-0251	BSA	1
Tora Maru No. 18, medium stern trawler	JA-83-0252	BSA	1
Zenpo Maru No. 21, medium stern trawler	JA-83-0253	BSA	1
Kakudai Maru No. 25, medium stern trawler	JA-83-0254	BSA	1
Fuji Maru No. 1, medium stern trawler	JA-83-0255	BSA	1
Kaiko Maru No. 3, medium stern trawler	JA-83-0258	BSA	1
Akashi Maru No. 19, pair trawler	JA-83-1136	BSA	1
Hoken Maru No. 38, medium stern trawler	JA-83-1164	BSA	1
Eikyu Maru No. 16, medium stern trawler	JA-83-0420	BSA	1, 2
Koryo Maru No. 108, medium stern trawler	JA-83-0421	BSA	1, 2
Taisei Maru No. 68, medium stern trawler	JA-83-0428	BSA	1, 2
Tomi Maru No. 53, medium stern trawler	JA-83-0433	BSA	1, 2
Tomi Maru No. 55, medium stern trawler	JA-83-0437	BSA	1, 2
No. 8 Mitomaru, medium stern trawler	JA-83-0435	BSA	1, 2
Yahata Maru No. 56, medium stern trawler	JA-83-0441	BSA	1, 2
Kohoku Maru No. 16, medium stern trawler	JA-83-0442	BSA	1, 2
Kohoku Maru No. 17, medium stern trawler	JA-83-0443	BSA	1, 2
Seitoku Maru No. 105, medium stern trawler	JA-83-0447	BSA	1, 2
Jukyu Maru No. 18, medium stern trawler	JA-83-0402	BSA	1, 2
Yuamasan Maru No. 81, medium stern trawler	JA-83-0409	BSA	1, 2
Yamasan Maru No. 85, medium stern trawler	JA-83-0410	BSA	1, 2
Daito Maru No. 38, medium stern trawler	JA-83-0413	BSA	1, 2
Shoyo Maru, medium stern trawler	JA-83-1394	BSA	1, 2
Kaiyo Maru No. 7, medium stern trawler	JA-83-0431	BSA	1, 2
Kaiyo Maru No. 8, medium stern trawler	JA-83-0432	BSA	1, 2
Kyoyo Maru No. 2, medium stern trawler	JA-83-0424	BSA	1, 2
Manyo Maru No. 31, medium stern trawler	JA-83-0445	BSA	1, 2
Manyo Maru No. 32, medium stern trawler	JA-83-0446	BSA	1, 2
Shotoku Maru No. 35, medium stern trawler	JA-83-0438	BSA	1, 2
Hokko Maru No. 57, medium stern trawler	JA-83-0407	BSA	1, 2
Hokko Maru No. 77, medium stern trawler	JA-83-0100	BSA	1, 2
Tora Maru No. 31, medium stern trawler	JA-83-0422	BSA	1, 2
Hatsue Maru No. 62, medium stern trawler	JA-83-0403	BSA	1, 2
Chuyo Maru No. 21, medium stern trawler	JA-83-0418	BSA	1, 2
Chuyo Maru No. 22, medium stern trawler	JA-83-0419	BSA	1, 2
Tomi Maru No. 82, medium stern trawler	JA-83-0434	BSA	1, 2
Hokuyu Maru No. 68, medium stern trawler	JA-83-1177	BSA	1, 2
Daito Maru No. 58, medium stern trawler	JA-83-1176	BSA	1, 2
Taisei Maru No. 3, medium stern trawler	JA-83-0449	BSA	1, 2
Taisei Maru No. 16, medium stern trawler	JA-83-0450	BSA	1, 2
Yashio Maru No. 11, medium stern trawler	JA-83-0452	BSA	1, 2
Shoshin Maru No. 18, medium stern trawler	JA-83-0454	BSA	1, 2
Shoshin Maru No. 21, medium stern trawler	JA-83-0453	BSA	1, 2
Narita Maru No. 35, medium stern trawler	JA-83-0456	BSA	1, 2
Hokuo Maru No. 25, medium stern trawler	JA-83-0457	BSA	1, 2
Hamazen Maru No. 35, medium stern trawler	JA-83-0461	BSA	1, 2
Yuryo Maru No. 31, medium stern trawler	JA-83-0466	BSA	1, 2
Kaiyo Maru No. 53, medium stern trawler	JA-83-0464	BSA	1, 2
Seiju Maru No. 28, medium stern trawler	JA-83-0465	BSA	1, 2
Fukuyoshi Maru No. 28, medium stern trawler	JA-83-0472	BSA	1, 2
Ryoan Maru No. 25, medium stern trawler	JA-83-0475	BSA	1, 2
Ryoan Maru No. 28, medium stern trawler	JA-83-0426	BSA	1, 2
Sachi Maru No. 22, medium stern trawler	JA-83-0477	BSA	1, 2
Ryuho Maru No. 37, medium stern trawler	JA-83-0480	BSA	1, 2
Ginryu Maru No. 5, medium stern trawler	JA-83-1171	BSA	1, 2
Daikichi Maru No. 32, medium stern trawler	JA-83-0554	BSA	1, 2
Shinun Maru No. 8, medium stern trawler	JA-83-0494	BSA	1, 2
Daikichi Maru No. 37, medium stern trawler	JA-83-0483	BSA	1, 2
Daikichi Maru No. 51, medium stern trawler	JA-83-0484	BSA	1, 2
Ryujin Maru No. 8, medium stern trawler	JA-83-0486	BSA	1, 2
Koei Maru No. 15, medium stern trawler	JA-83-1396	BSA	1, 2
Koei Maru No. 35, medium stern trawler	JA-83-0489	BSA	1, 2
Koei Maru No. 51, medium stern trawler	JA-83-0488	BSA	1, 2
Yakushi Maru No. 31, medium stern trawler	JA-83-0496	BSA	1, 2
Fukucho Maru No. 23, medium stern trawler	JA-83-0495	BSA	1, 2
Ryujin Maru No. 11, medium stern trawler	JA-83-1172	BSA	1, 2
Kotobuki Maru No. 25, medium stern trawler	JA-83-0502	BSA	1, 2
Ryuho Maru No. 31, medium stern trawler	JA-83-0506	BSA	1, 2
Kashima Maru No. 23, medium stern trawler	JA-83-0508	BSA	1, 2
Eikyu Maru No. 35, medium stern trawler	JA-83-0511	BSA	1, 2
Dainichi Maru No. 31, medium stern trawler	JA-83-0514	BSA	1, 2
Choun Maru No. 21, medium stern trawler	JA-83-0519	BSA	1, 2
Daitoku Maru No. 31, medium stern trawler	JA-83-0516	BSA	1, 2
Meisho Maru No. 35, medium stern trawler	JA-83-0522	BSA	1, 2
Dairin Maru No. 26, medium stern trawler	JA-83-0524	BSA	1, 2
Koshin Maru No. 21, medium stern trawler	JA-83-0525	BSA	1, 2
Ryoan Maru No. 31, medium stern trawler	JA-83-0459	BSA	1, 2
Hakuryu Maru No. 72, medium stern trawler	JA-83-1178	BSA	1, 2
Ryujin Maru No. 52, medium stern trawler	JA-83-0548	BSA	1, 2
Fukuho Maru No. 18, medium stern trawler	JA-83-0528	BSA	1, 2
Teisho Maru No. 18, medium stern trawler	JA-83-0535	BSA	1, 2
Kaiun Maru No. 38, medium stern trawler	JA-83-0533	BSA	1, 2
Kumano Maru No. 15, medium stern trawler	JA-83-0534	BSA	1, 2
Kyowa Maru No. 11, medium stern trawler	JA-83-0566	BSA	1, 2
Shinei Maru No. 21, medium stern trawler	JA-83-0537	BSA	1, 2
Yoshi Maru No. 81, medium stern trawler	JA-83-0555	BSA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Fukushin Maru No. 5, medium stern trawler	JA-83-0531	BSA	1, 2
Shinei Maru No. 53, medium stern trawler	JA-83-0487	BSA	1, 2
Fukui Maru No. 8, medium stern trawler	JA-83-0542	BSA	1, 2
Anyo Maru No. 11, medium stern trawler	JA-83-0541	BSA	1, 2
Orient Maru No. 3, medium stern trawler	JA-83-0551	BSA	1, 2
Daiei Maru No. 2, medium stern trawler	JA-83-0544	BSA	1, 2
Fukui Maru No. 18, medium stern trawler	JA-83-1173	BSA	1, 2
Tomi Maru No. 58, medium stern trawler	JA-83-0467	BSA	1, 2
Tomi Maru No. 51, medium stern trawler	JA-83-0897	BSA	1, 2
Kalun Maru No. 65, medium stern trawler	JA-83-2010	BSA	1, 2
Hoken Maru No. 8, medium stern trawler	JA-83-0425	BSA	1, 2
**Zuiyo Maru No. 3*, large stern trawler	JA-83-0331	BSA, GOA	1, 2, 3
**Tenyi Maru*, large stern trawler	JA-83-0352	BSA, GOA	1, 2, 3
**Zuiyo Maru No. 2*, large stern trawler	JA-83-0351	BSA, GOA	1, 2, 3
**Rikuzen Maru*, stern trawler/factory ship	JA-83-0340	BSA, GOA	1, 2, 3
**Koyo Maru No. 3*, stern trawler/factory ship	JA-83-0343	BSA, GOA	1, 2, 3
**Haruna Maru*, stern trawler/factory ship	JA-83-0350	BSA, GOA	1, 2, 3
**Kongo Maru*, stern trawler/factory ship	JA-83-0341	BSA, GOA	1, 2, 3
**Chikubu-Maru*, stern trawler/factory ship	JA-83-0336	BSA, GOA	1, 2, 3
**Tsuda-Maru*, stern trawler/factory ship	JA-83-0337	BSA, GOA	1, 2, 3
**Daishin Maru No. 28*, stern trawler/factory ship	JA-83-0569	BSA, GOA	1, 2, 3
**Ohtori Maru*, stern trawler/factory ship	JA-83-0342	BSA, GOA	1, 2, 3
**Akebono Maru No. 72*, stern trawler/factory ship	JA-83-0338	BSA, GOA	1, 2, 3
German Democratic Republic:			
**F. C. Weiskopf*, stern trawler/factory ship	CG-83-0030	NWA	1, 2
**Peter Nell*, stern trawler/factory ship	GC-83-0022	NWA	1, 2
**Willi Bredel*, stern trawler/factory ship	GC-83-0024	NWA	1, 2
**Arnold Zweig*, stern trawler/factory ship	GC-83-0046	NWA	1, 2
U.S.S.R.:			
Raduzhny, cargo/transport	UR-83-0302	GOA, BSA, WOC	3
Sulak, factory ship	UR-83-0238	BSA, GOA	2, 3
Kamchatskie Gory, cargo/transport vessel	UR-83-0260	GOA, BSA, WOC	3
Sajanskie gory, cargo/transport vessel	UR-83-0262	GOA, BSA, WOC	3
Altayskie Gory, cargo/transport vessel	UR-83-0259	GOA, BSA, WOC	3
Ostrov Shokalskogo, cargo/transport vessel	UR-83-0257	GOA, BSA, WOC	3
Ostrov Ushakova, cargo/transport vessel	UR-83-0258	GOA, BSA, WOC	3
Ostrov Shnidta, cargo/transport vessel	UR-83-0256	GOA, BSA, WOC	3
Ostrov Lisyanskogo, cargo/transport vessel	UR-83-0254	GOA, BSA, WOC	3
Khrustalnyi Bereg, cargo/transport vessel	UR-83-0732	GOA, BSA, WOC	3
Chukotskiy Bereg, cargo/transport vessel	UR-83-0749	GOA, BSA, WOC	3
Zvezdnyi Bereg, cargo/transport vessel	UR-83-0726	GOA, BSA, WOC	3
**Turkul*, large stern trawler	UR-83-0172	GOA, BSA	2, 3
**Svetlaja*, large stern trawler	UR-83-0080	BSA, GOA	2, 3
Taiwan:			
**Chief Dragon 737*, bottom trawler	TW-83-0055	GOA	2, 3
**Chief Dragon 101*, bottom trawler	TW-83-0001	GOA	2, 3
**Highly No. 303*, refrigeration carrier	TW-83-0054	GOA	2, 3
**Highly No. 707*, refrigeration carrier	TW-83-0061	GOA	2, 3
No. 1 Hui Ching, longline fishing vessel	TW-83-3036	PBS	1
Yih Hsing, longline fishing vessel	TW-83-3044	PBS	1
Sheng Peng No. 1, longline fishing vessel	TW-83-3049	PBS	1
Feng Yuan No. 51, longline fishing vessel	TW-83-3107	PBS	1
Tong Ann No. 31, longline fishing vessel	TW-83-3097	PBS	1
Horng Jia, longline fishing vessel	TW-83-3102	PBS	1
Fu Peng No. 1, longline fishing vessel	TW-83-3109	PBS	1
Chung Sha No. 1, longline fishing vessel	TW-83-3053	PBS	1
Ying Ruey Shiang No. 3, longline fishing vessel	TW-83-3013	PBS	1
Yung Chang Fu No. 1, longline fishing vessel	TW-83-3094	PBS	1
Peng Mao No. 6, longline fishing vessel	TW-83-3099	PBS	1
Shin Tai No. 7, longline fishing vessel	TW-83-3111	PBS	1
Tong Mong No. 61, longline fishing vessel	TW-83-3089	PBS	1
No. 3 Chien Jia, longline fishing vessel	TW-83-3075	PBS	1
Chin Min Man, longline fishing vessel	TW-83-3074	PBS	1
Chin Huey No. 21, longline fishing vessel	TW-83-3073	PBS	1
Chin Huey No. 22, longline fishing vessel	TW-83-3072	PBS	1
Min Hong No. 31, longline fishing vessel	TW-83-3071	PBS	1
Yung Chang Yu No. 11, longline fishing vessel	TW-83-3068	PBS	1
Shin Yuan Cheng No. 22, longline fishing vessel	TW-83-3067	PBS	1
Shin Yuan Seng No. 21, longline fishing vessel	TW-83-3066	PBS	1
Tong Hui No. 32, longline fishing vessel	TW-83-3065	PBS	1
Tong Chou No. 7, longline fishing vessel	TW-83-3064	PBS	1
Tong Sheng No. 11, longline fishing vessel	TW-83-3063	PBS	1
Tong Sheng, longline fishing vessel	TW-83-3062	PBS	1
Yung Chang Fu No. 31, longline fishing vessel	TW-83-3061	PBS	1
Kuo Yuon No. 72, longline fishing vessel	TW-83-3060	PBS	1
Kuo Zong No. 3, longline fishing vessel	TW-83-3059	PBS	1
Kuo Zong No. 12, longline fishing vessel	TW-83-3058	PBS	1
Hai I No. 1, longline fishing vessel	TW-83-3052	PBS	1
Yu Hsing, longline fishing vessel	TW-83-3046	PBS	1
Horng Hsing, longline fishing vessel	TW-83-3045	PBS	1
Hui Fah, longline fishing vessel	TW-83-3043	PBS	1
Yung Hsing, longline fishing vessel	TW-83-3042	PBS	1
Sur Ton No. 3, longline fishing vessel	TW-83-3020	PBS	1
Sur Ton No. 1, longline fishing vessel	TW-83-3019	PBS	1
Chiau Loong No. 11, longline fishing vessel	TW-83-3017	PBS	1
Ruey Fong No. 3, longline fishing vessel	TW-83-3016	PBS	1
Ying Yih Shiang, longline fishing vessel	TW-83-3015	PBS	1
Ying Kuo Shiang No. 7, longline fishing vessel	TW-83-3012	PBS	1
Yen Horng No. 1, longline fishing vessel	TW-83-3005	PBS	1
Yu Kuo No. 11, longline fishing vessel	TW-83-3004	PBS	1
Chief Dragon 101, medium stern trawler	TW-83-0001	BSA, GOA	1, 2
Chief Dragon 737, medium stern trawler	TW-83-0055	BSA, GOA	1, 2
Golden Dragon No. 1, large stern trawler	TW-83-0004	BSA, GOA	1, 2
Highly No. 301, large stern trawler	TW-83-0002	BSA, GOA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Highly No. 302, medium stern trawler	TW-83-0003	BSA, GOA	1, 2
Highly No. 303, cargo/transport vessel	TW-83-0054	BSA, GOA	2, 3
Highly No. 707, cargo/transport vessel	TW-83-0061	BSA, GOA	2, 3
Korea:			
**No. 7 Sang Won*, stern trawler	KS-83-0041	BSA, GOA	1, 2, 3
**Gaecheog-Ho*, factory ship	KS-83-0112	BSA, GOA	2, 3
**Kyungyang-Ho*, stern trawler	KS-83-0085	BSA, GOA	1, 2, 3
**Gaeyang-Ho*, stern trawler	KS-83-0001	BSA, GOA	1, 2, 3
**Cheogyang-Ho*, stern trawler	KS-83-0003	BSA, GOA	1, 2, 3
**Keumkangsan-Ho*, stern trawler	KS-83-0084	BSA, GOA	1, 2, 3
**Hwarang-Ho*, stern trawler	KS-83-0127	BSA, GOA	1, 2, 3
**Shin An Ho*, large stern trawler	KS-83-0047	BSA, GOA	1, 2, 3
**Nam Bug Ho*, stern trawler	KS-83-0033	BSA, GOA	1, 2, 3
**No. 52 Dae Jin*, large stern trawler	KS-83-0037	BSA, GOA	1, 2, 3
**Oyang Ho*, factory type stern trawler	KS-83-0006	BSA, GOA	1, 2, 3
**Dongsan Ho*, large stern trawler	KS-83-0039	BSA, GOA	1, 2, 3
**Tae Baek Ho*, large stern trawler	KS-83-0042	BSA, GOA	1, 2, 3
**Dae Sung Ho*, large stern trawler	KS-83-0051	BSA, GOA	1, 2, 3
**Han Kil Ho*, medium stern trawler	KS-83-0044	BSA, GOA	1, 2, 3
**Han Jin Ho*, medium stern trawler	KS-83-0045	BSA, GOA	1, 2, 3
**Han Il Ho*, medium stern trawler	KS-83-0107	BSA, GOA	1, 2, 3
**No. 70 Oyang Ho*, stern trawler	KS-83-0048	BSA, GOA	1, 2, 3
**Yuyang Ho*, large stern trawler	KS-83-0104	BSA, GOA	1, 2, 3
**Shinyang Ho*, large stern trawler	KS-83-0122	BSA, GOA	1, 2, 3
**No. 1 Hansung*, large stern trawler	KS-83-0106	BSA, GOA	1, 2, 3
**No. 215 Tae Baek*, medium stern trawler	KS-83-0105	BSA, GOA	1, 2, 3
**No. 315 Tae Baek*, medium stern trawler	KS-83-0117	BSA, GOA	1, 2, 3
Gae Yang Ho, large stern trawler	KS-83-0001	BSA, GOA	1, 2
Sunflower No. 7, large stern trawler	KS-83-0002	BSA, GOA	1, 2
Cheog Yang Ho, large stern trawler	KS-83-0003	BSA, GOA	1, 2
Pung Yang Ho, large stern trawler	KS-83-0004	BSA, GOA	1, 2
Oyang Ho, large stern trawler	KS-83-0006	BSA, GOA	1, 2
Nambug, large stern trawler	KS-83-0033	BSA, GOA	1, 2
Crystal Dahlia, large stern trawler	KS-83-0034	BSA, GOA	1, 2
Daejin No. 52, large stern trawler	KS-83-0037	BSA, GOA	1, 2
Dongsan-Ho, large stern trawler	KS-83-0039	BSA, GOA	1, 2
No. 7 Sang Won, medium stern trawler	KS-83-0041	BSA, GOA	1, 2
Soo Gong No. 51, large stern trawler	KS-83-0042	BSA, GOA	1, 2
Han Kil Ho, medium stern trawler	KS-83-0044	BSA, GOA	1, 2
Han Jin Ho, medium stern trawler	KS-83-0045	BSA, GOA	1, 2
Shin An Ho, large stern trawler	KS-83-0047	BSA, GOA	1, 2
No. 70 Oyang Ho, medium stern trawler	KS-83-0048	BSA, GOA	1, 2
Dae Sung Ho, large stern trawler	KS-83-0051	BSA, GOA	1, 2
Kyung Yang Ho, large stern trawler	KS-83-0085	BSA, GOA	1, 2
No. 303 Dai Ho, medium stern trawler	KS-83-0095	BSA, GOA	1, 2
Salvia, medium stern trawler	KS-83-0103	BSA, GOA	1, 2
Yuyang Ho, large stern trawler	KS-83-0104	BSA, GOA	1, 2
No. 305 Jinam, medium stern trawler	KS-83-0105	BSA, GOA	1, 2
No. 1 Han Sung, large stern trawler	KS-83-0106	BSA, GOA	1, 2
Hanil Ho, medium stern trawler	KS-83-0107	BSA, GOA	1, 2
Soo Gong No. 91, medium stern trawler	KS-83-0115	BSA, GOA	1, 2
So Gong No. 92, medium stern trawler	KS-83-0116	BSA, GOA	1, 2
Jinam No. 308, medium stern trawler	KS-83-0117	BSA, GOA	1, 2
No. 71 Dong Bang, medium stern trawler	KS-83-0121	BSA, GOA	1, 2
Shin Yang Ho, medium stern trawler	KS-83-0122	BSA, GOA	1, 2
No. 707 Dai Ho, large stern trawler	KS-83-0123	BSA, GOA	1, 2
No. 201 O Dae Yang, longline fishing vessel	KS-83-0128	BSA, GOA	1, 2
No. 3 Chil Bo San Ho, cargo/transport vessel	KS-83-0074	BSA, GOA	3
No. 5 Chil Bo San Ho, cargo/transport vessel	KS-83-0075	BSA, GOA	3
No. 6 Chil Bo San Ho, cargo/transport vessel	KS-83-0076	BSA, GOA	3
Tae Yang No. 12, cargo/transport vessel	KS-83-0081	BSA, GOA	3
Gae Cheog Ho No. 2, cargo/transport vessel	KS-83-0090	BSA, GOA	3
Ill Woo No. 58, cargo/transport vessel	KS-83-0091	BSA, GOA	3
No. 77 Dong Bang, cargo/transport vessel	KS-83-0118	BSA, GOA	3
501 Dong Soo, cargo/transport vessel	KS-83-0119	BSA, GOA	3
No. 1 Chil Bo San, cargo/transport vessel	KS-83-0133	BSA, GOA	3
No. 2 Chil Bo San, cargo/transport vessel	KS-83-0134	BSA, GOA	3
Book Neung, factory ship	KS-83-0079	BSA, GOA	3
Kum Kang San Ho, medium stern trawler	KS-83-0084	BSA, GOA	3
Gae Cheog Ho, factory ship	KS-83-0112	BSA, GOA	3
Hwa Rang Ho, medium stern trawler	KS-83-0127	BSA, GOA	3
Federal Republic of Germany: *Friedrich Busse, large stern trawler	GE-83-0010	BSA, GOA	1, 2
Italy:			
Assunta Tontini Madre, large stern trawler	IT-83-0001	NWA	1
Tontini Pesca Terzo, medium stern trawler	IT-83-0002	NWA	1
Tontini Pesca Quarto, large stern trawler	IT-83-0003	NWA	1
De Giosa T., medium stern trawler	IT-83-0004	NWA	1
Antonietta Madre, medium stern trawler	IT-83-0013	NWA	1
De Giosa L., medium stern trawler	IT-83-0023	NWA	1
Maria Michela, medium stern trawler	IT-83-0024	NWA	1
De Giosa Giuseppe, medium stern trawler	IT-83-0016	NWA	1
Stanislava, large stern trawler	IT-83-0019	NWA	1
Maria C., medium stern trawler	IT-83-0021	NWA	1
Giovanni C., medium stern trawler	IT-83-0022	NWA	1
Sagitta, medium stern trawler	IT-83-0007	NWA	1
Arone, medium stern trawler	IT-83-0008	NWA	1
Gabriella C., medium stern trawler	IT-83-0010	NWA	1
Corrado Seconda, large stern trawler	IT-83-0012	NWA	1
Carlo Di Fazio, medium stern trawler	IT-83-0015	NWA	1
Belka, medium stern trawler	IT-83-0006	NWA	1
Tortorelli E., medium stern trawler	IT-83-0011	NWA	1
Spain:			
Peixe Do Mar, side trawler	IT-83-0005	NWA	1, 2
Anuska, side trawler	IT-83-0012	NWA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Area Cova, side trawler	IT-83-0015	NWA	1, 2
Conbaroya II, medium stern trawler	IT-83-0015	NWA	1, 2
Toralla, medium stern trawler	SP-83-0016	NWA	1, 2
Pescapuerta Primero, side trawler	SP-83-0019	NWA	1, 2
Pescapuerta Tercero, medium stern trawler	SP-83-0020	NWA	1, 2
Playa de Mogor, medium stern trawler	SP-83-0021	NWA	1, 2
Xeitosino, medium stern trawler	SP-83-0022	NWA	1, 2
Puente Minor, medium stern trawler	SP-83-0023	NWA	1, 2
Madroa, small stern trawler	SP-83-0024	NWA	1, 2
Chicha Touza, medium stern trawler	SP-83-0025	NWA	1, 2
Puxeiros, side trawler	SP-83-0028	NWA	1, 2
Monte Furado, medium stern trawler	SP-83-0029	NWA	1, 2
Canton de Cora, medium stern trawler	SP-83-0030	NWA	1, 2
Corba, medium stern trawler	SP-83-0031	NWA	1, 2
Pescamaro Uno, medium stern trawler	SP-83-0034	NWA	1, 2
Laxe Dos Picos, medium stern trawler	SP-83-0035	NWA	1, 2
Orballo, medium stern trawler	SP-83-0036	NWA	1, 2
Tito Marquez, medium stern trawler	SP-83-0038	NWA	1, 2
Vixiador, medium stern trawler	SP-83-0039	NWA	1, 2
Mouta, medium stern trawler	SP-83-0040	NWA	1, 2
Altamar, side trawler	SP-83-0042	NWA	1, 2
Nuska, medium stern trawler	SP-83-0043	NWA	1, 2
Perca, medium stern trawler	SP-83-0045	NWA	1, 2
Fragana, medium stern trawler	SP-83-0046	NWA	1, 2
Conbaroya III, medium stern trawler	SP-83-0047	NWA	1, 2
Villa de Marin, medium stern trawler	SP-83-0051	NWA	1, 2
Puente Toralla, small stern trawler	SP-83-0052	NWA	1, 2
Zamanes, side trawler	SP-83-0053	NWA	1, 2
Marde Galilea, small stern trawler	SP-83-0055	NWA	1, 2
Kantxope, medium stern trawler	SP-83-0056	NWA	1, 2
Ana Maria Gandon, medium stern trawler	SP-83-0057	NWA	1, 2
Suemar Uno, medium stern trawler	SP-83-0059	NWA	1, 2
Egunsentia, medium stern trawler	SP-83-0062	NWA	1, 2
Izarra, medium stern trawler	SP-83-0064	NWA	1, 2
Rio Verdugo, medium stern trawler	SP-83-0065	NWA	1, 2
Pineiro Correa, medium stern trawler	SP-83-0066	NWA	1, 2
Alteamar Uno, medium stern trawler	SP-83-0067	NWA	1, 2
Capitan Jorge Segundo, side trawler	SP-83-0069	NWA	1, 2
Pegago Tercero, medium stern trawler	SP-83-0070	NWA	1, 2
Maposa Quinto, medium stern trawler	SP-83-0072	NWA	1, 2
Mayi Cuatro, medium stern trawler	SP-83-0073	NWA	1, 2
Puente de Gondomar, medium stern trawler	SP-83-0077	NWA	1, 2
Vilachan, medium stern trawler	SP-83-0078	NWA	1, 2
Pevegasa Segundo, medium stern trawler	SP-83-0083	NWA	1, 2
Maposa Sexto, side trawler	SP-83-0085	NWA	1, 2
Ancora D'Ouro, medium stern trawler	SP-83-0090	NWA	1, 2
Farpesca Cuarto, medium stern trawler	SP-83-0093	NWA	1, 2
Jose Puerta Prado, side trawler	SP-83-0094	NWA	1, 2
Pegago Segundo, side trawler	SP-83-0098	NWA	1, 2
Freire Lopez, medium stern trawler	SP-83-0106	NWA	1, 2
Manuel Nores, medium stern trawler	SP-83-0107	NWA	1, 2
Peixino, medium stern trawler	SP-83-0108	NWA	1, 2
Puente Lourido, medium stern trawler	SP-83-0109	NWA	1, 2
Ur Ertza, medium stern trawler	SP-83-0110	NWA	1, 2
Cudillero, medium stern trawler	SP-83-0111	NWA	1, 2
Pescapuerta Segundo, medium stern trawler	SP-83-0112	NWA	1, 2
Playa de Pesmar, medium stern trawler	SP-83-0113	NWA	1, 2
Tasarte, medium stern trawler	SP-83-0114	NWA	1, 2
Andes, medium stern trawler	SP-83-0117	NWA	1, 2
Anguiacho, medium stern trawler	SP-83-0118	NWA	1, 2
Capitan Emilio, side trawler	SP-83-0123	NWA	1, 2
Valle de Asua, side trawler	SP-83-0102	NWA	1, 2
Cruna, medium stern trawler	SP-83-0124	NWA	1, 2
Isla Alegranza, medium stern trawler	SP-83-0126	NWA	1, 2
Isla Graciosa, medium stern trawler	SP-83-0127	NWA	1, 2
Isla Montana Clara, medium stern trawler	SP-83-0128	NWA	1, 2
Playa de Cadiz, medium stern trawler	SP-83-0136	NWA	1, 2
Playa de Menduina, small stern trawler	SP-83-0137	NWA	1, 2
Suemar Dos, medium stern trawler	SP-83-0143	NWA	1, 2
Villa Ana, side trawler	SP-83-0145	NWA	1, 2
Punta de Robaleira, small stern trawler	SP-83-0148	NWA	1, 2
Maposa Primero, side trawler	SP-83-0149	NWA	1, 2
Maposa Segundo, side trawler	SP-83-0150	NWA	1, 2
Pegago Cuarto, side trawler	SP-83-0151	NWA	1, 2
Navijosa Quinto, side trawler	SP-83-0152	NWA	1, 2
Navijosa Sexto, side trawler	SP-83-0153	NWA	1, 2
Navijosa VII, side trawler	SP-83-0154	NWA	1, 2
Costa Del Cabo, side trawler	SP-83-0159	NWA	1, 2
Navijosa Octavo, medium stern trawler	SP-83-0160	NWA	1, 2
Maposa Cuarto, medium stern trawler	SP-83-0161	NWA	1, 2
Maposa Octavo, medium stern trawler	SP-83-0163	NWA	1, 2
Maposa Septimo, medium stern trawler	SP-83-0164	NWA	1, 2
Codeside, medium stern trawler	SP-83-0165	NWA	1, 2
Maposa Tercero, medium stern trawler	SP-83-0166	NWA	1, 2
Maria Teresa Rodriguez, medium stern trawler	SP-83-0167	NWA	1, 2
Navijosa Noveno, medium stern trawler	SP-83-0168	NWA	1, 2
Maria Eugenia G, medium stern trawler	SP-83-0170	NWA	1, 2
Mirador Del Fito, medium stern trawler	SP-83-0171	NWA	1, 2
Pinzon Primero, medium stern trawler	SP-83-0172	NWA	1, 2
Congelamar Segundo, medium stern trawler	SP-83-0173	NWA	1, 2
Congelamar Primero, medium stern trawler	SP-83-0174	NWA	1, 2
Poland:			
Cassiopeia, large stern trawler	PL-83-0099	WOC, GOA, BSA	1, 2
Saturn, large stern trawler	PL-83-0056	WOC, GOA, BSA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Regulus, large stern trawler	PL-83-0095	WOC, GOA, BSA	1, 2
Indus, large stern trawler	PL-83-0094	WOC, GOA, BSA	1, 2
Antares, large stern trawler	PL-83-0037	WOC, GOA, BSA	1, 2
Pollux, large stern trawler	PL-83-0006	WOC, GOA, BSA	1, 2
Gemini, large stern trawler	PL-83-0048	WOC, GOA, BSA	1, 2
Grinwal, large stern trawler	PL-83-0007	WOC, GOA, BSA	1, 2
Musiel, large stern trawler	PL-83-0012	WOC, GOA, BSA	1, 2
Kolias, large stern trawler	PL-83-0050	WOC, GOA, BSA	1, 2
Marlin, large stern trawler	PL-83-0034	WOC, GOA, BSA	1, 2
Walen, large stern trawler	PL-83-0009	WOC, GOA, BSA	1, 2
Parma, large stern trawler	PL-83-0084	WOC, GOA, BSA	1, 2
Bogar, large stern trawler	PL-83-0085	WOC, GOA, BSA	1, 2
Delfin, large stern trawler	PL-83-0065	WOC, GOA, BSA	1, 2
Awior, large stern trawler	PL-83-0060	WOC, GOA, BSA	1, 2
Hajduk, large stern trawler	PL-83-0066	WOC, GOA, BSA	1, 2
Aquila, large stern trawler	PL-83-0097	WOC, GOA, BSA	1, 2
Amarel, large stern trawler	PL-83-0046	WOC, GOA, BSA	1, 2
Sagitta, large stern trawler	PL-83-0040	WOC, GOA, BSA	1, 2
Arcturus, large stern trawler	PL-83-0038	WOC, GOA, BSA	1, 2
Wineta, cargo/transport vessel	PL-83-0061	WOC, GOA, BSA, NWA	3
Buran, cargo/transport vessel	PL-83-0033	GOA, BSA, WOC, NWA	3
Zulawy, cargo/transport vessel	PL-83-0041	BSA, GOA, WOC, NWA	3
Halniak, cargo/transport vessel	PL-83-0029	GOA, BSA, WOC, NWA	3
Kaszuby, 2, cargo/transport vessel	PL-83-0027	GOA, BSA, WOC, NWA	3
Lewanter, cargo/transport vessel	PL-83-0030	GOA, BSA, WOC, NWA	3
Mazury, cargo/transport vessel	PL-83-0098	GOA, BSA, WOC, NWA	3
Norway: *Ole Saetremyr*	NO-83-0003	GOA, BSA	1, 2, 3
Japan:			
Zuiyo Maru No. 3, large stern trawler	JA-83-0031	BSA, GOA	1, 2, 3
Tenyo Maru, large stern trawler	JA-83-0352	BSA, GOA	1, 2, 3
Zuiyo Maru No. 2, large stern trawler	JA-83-0351	BSA, GOA	1, 2, 3
The Japanese and Western Alaska Fisheries Inc., Suite 1210, 111, 3rd Avenue Building, Seattle, Washington, 98101, USA, has applied to engage in a joint venture fishery aimed at producing 45,000 mt of pollock, pacific cod and bycatch during the early part of 1983.			
Rikuzen Maru, stern trawler/factory ship	JA-83-0340	BSA, GOA	1, 2, 3
Koyo Maru No. 3, stern trawler/factory ship	JA-83-0343	BSA, GOA	1, 2, 3
Haruna Maru, stern trawler/factory ship	JA-83-0350	BSA, GOA	1, 2, 3
Kongo Maru, stern trawler/factory ship	JA-83-0341	BSA, GOA	1, 2, 3
The Japanese and Universal Seafoods Ltd., P.O. Box 94 N.E., 90th Street, Erdmond, Washington 98052, have applied to engage in a joint venture fishery aimed at producing 60,000 mt of pollock, pacific cod and bycatch during 9 months of the first of the year in 1983.			
Chikubu Maru, stern trawler/factory ship	JA-83-0336	BSA, GOA	1, 2, 3
The Japanese and Clinton E. Atkinson, 8000 Crest Drive, N.E., Seattle, Washington, 98115, have applied to engage in a joint venture fishery aimed at producing 17,000 mt of pollock, pacific cod and bycatch during approximately 70 days from early May in 1983.			
Tsuda Maru, stern trawler/factory ship	JA-83-0337	BSA, GOA	1, 2, 3
The Japanese and Clinton E. Atkinson, 8000 Crest Drive, N.E., Seattle, Washington, 98115, have applied to engage in a joint venture fishery aimed at producing 17,000 mt of pollock, pacific cod and bycatch during approximately one month from early April, 1983.			
Daishin Maru No. 28, stern trawler/factory ship	JA-83-0569	BSA, GOA	1, 2, 3
The Japanese and Whitney-Fidalgo Seafoods, Inc., 2360 West Commodore Way, P.O. Box 99008, Seattle, Washington 98199, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of pollock, Pacific cod and bycatch from the end of January 1983.			
Ohtori Maru, stern trawler/factory ship	JA-83-0342	BSA, GOA	1, 2, 3
The Japanese and Whitney-Fidalgo Seafoods, Inc., 2360 West Commodore Way, P.O. Box 99008, Seattle, Washington 98199, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of pollock, Pacific cod and bycatch from the beginning of June 1983.			
Akebono Maru No. 72, stern trawler/factory ship	JA-83-0338	BSA, GOA	1, 2, 3
The Japanese and Peter Pan Seafoods, Inc., 1220 Dexter Horton Bldg., Seattle, Washington 98104, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of pollock, Pacific cod and bycatch from January to April 1983.			
German Democratic Republic:			
F. C. Weiskopf, stern trawler/factory ship	GC-83-0030	NWA	1, 2
Peter Nell, stern trawler/factory ship	GC-83-0022	NWA	1, 2
Willi Bredel, stern trawler/factory ship	GC-83-0024	NWA	1, 2
Arnold Zweig, stern trawler/factory ship	GC-83-0046	NWA	1, 2
The German Democratic Republic and William Quinby, President, Joint Trawlers (North America) Ltd., P.O. Box 1209, Gloucester, Massachusetts 01930, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of Atlantic Mackerel during the year 1983.			
U.S.S.R.:			
Sulak, factory ship	UR-83-0238	BSA, GOA	2, 3
The Union of the Soviet Socalist Republics and the Marine Resources Co. (MRC), 192 Nickerson, Suite 307, Seattle, Washington 98109, have applied to engage in a joint venture fishery aimed at producing Groundfish Species of 35,000 mt of yellow sole and other flounder, 20,000 mt Atka mackerel, 20,000 mt of pollock, 15,000 mt of cod and 1,000 mt of other species during the months of February to September 1983 in the Bering Sea and Aleutian Islands. Groundfish of the Gulf of Alaska species, pollock 5,000 mt, Atka mackerel 5,000 mt, cod 2,000 mt and 1,000 mt of other species during April to September 1983.			
Turkul, large stern trawler	UR-83-0172	BSA, GOA	2, 3
Svetlaja, large stern trawler	UR-83-0080	BSA, GOA	2, 3

Nation/vessel name/vessel type	Application No.	Fishery	Activity
The Union of the Soviet Socalist Republics and the Marine Resources Co. (MRC), 192 Nickerson, Suite 307, Seattle, Washington 98109, have applied to engage in a joint venture fishery aimed at producing-35,000 mt of yellowfin sole and other flounder, 20,000 mt Atka mackerel, 20,000 mt pollock, 15,000 mt of cod and 1,000 mt of other species in the Bering Sea and Aleutian Islands from February to September 1983. Groundfish of the Gulf of Alaska species, pollock 5,000 mt, Atka mackerel 5,000 mt, cod 2,000 mt and 1,000 mt of other species during the months of April to September 1983.			
Taiwan:			
Chief Dragon 737, bottom trawler	TW-83-0055	GOA	2, 3
Chief Dragon 101, bottom trawler	TW-83-0001	GOA	2, 3
Highly No. 303, refrigeration carrier	TW-83-0054	GOA	2, 3
Highly No. 707, refrigeration carrier	TW-83-0061	GOA	2, 3
Taiwan, Ms. Sara Hemphill, Alaska Contact Ltd., 750 West Second Ave., Suite 203, Anchorage, Alaska 99501, and Mr. Conan Huang, Dragon (North America) Inc., 2208—43rd Place, S.E., Bothell, Washington 98011, have applied to engage in a joint venture fishery aimed at producing 1,500 mt of flounder and turbots, 1,800 mt of Pacific cod and 200 mt of other species from January 1st to December 31st 1983.			
Korea:			
No. 7 Sang Won, stern trawler	KS-83-0041	BSA, GOA	1, 2, 3
The Republic of Korea and Mr. Richard Schwindt, North Pacific Corp., 4204, Meridian, Suite #108, Bellingham, Washington 98225, USA, have applied to engage in a joint venture fishery aimed at producing 2,100 mt of pollock, 400 mt of pacific cod and 6,100 mt of other species during the months of March 1983 to October 1983.			
Gaecheog Ho, factory ship	KS-83-0112	BSA, GOA	2, 3
Kyungyang Ho, stern trawler	KS-83-0085	BSA, GOA	1, 2, 3
Gaeyang Ho, stern trawler	KS-83-0001	BSA, GOA	1, 2, 3
Cheogyang Ho, stern trawler	KS-83-0003	BSA, GOA	1, 2, 3
Keumkangsan Ho, stern trawler	KS-83-0084	BSA, GOA	1, 2, 3
Hwarang Ho, stern trawler	KS-83-0127	BSA, GOA	1, 2, 3
The Republic of Korea and Fish Producers Associates, Inc., (FPA), P.O. Box 273, Vancouver, Washington 98660, USA, have applied to engage in a joint venture fishery aimed at producing 31,900 mt of pollock, pacific cod and flounders and 100 mt bycatch species from January 25th to October 31st, 1983.			
Shin An Ho, large stern trawler	KS-83-0047	BSA, GOA	1, 2, 3
Nam Bug Ho, stern trawler	KS-83-0033	BSA, GOA	1, 2, 3
No. 52, Dae Jin, large stern trawler	KS-83-0037	BSA, GOA	1, 2, 3
Oyang Ho, factory type stern trawler	KS-83-0006	BSA, GOA	1, 2, 3
Dongsan Ho, large stern trawler	KS-83-0039	BSA, GOA	1, 2, 3
Tae Baek Ho, large stern trawler	KS-83-0042	BSA, GOA	1, 2, 3
Dae Sung Ho, large stern trawler	KS-83-0051	BSA, GOA	1, 2, 3
Han Kil Ho, medium stern trawler	KS-83-0044	BSA, GOA	1, 2, 3
Han Jin Ho, medium stern trawler	KS-83-0045	BSA, GOA	1, 2, 3
Han Il Ho, medium stern trawler	KS-83-0107	BSA, GOA	1, 2, 3
No. 70 Oyang Ho, stern trawler	KS-83-0048	BSA, GOA	1, 2, 3
Yuyang Ho, large stern trawler	KS-83-0104	BSA, GOA	1, 2, 3
Shinyang Ho, large stern trawler	KS-83-0122	BSA, GOA	1, 2, 3
No. 1 Hansung, large stern trawler	KS-83-0106	BSA, GOA	1, 2, 3
No. 215 Tae Baek, medium stern trawler	KS-83-0105	BSA, GOA	1, 2, 3
No. 315 Tae Baek, medium stern trawler	KS-83-0117	BSA, GOA	1, 2, 3
The Republic of Korea and J. V. Fisheries Ltd., Canal Place Office Park, 150 Nickerson, Suite 207, Seattle, Washington 98109, USA, have applied to engage in a joint venture fishery aimed at producing 16,500 mt of pollock, 1,500 mt of pacific cod, flounder and bycatch during the months of February 15th to April 31, 1983 and September 15th to October 15, 1983.			
Federal Republic of Germany: *Friedrich Busse*, large stern trawler	GE-83-0010	BSA, GOA	1, 2
The Federal Republic of Germany and Jeff Hendriks and Associates, Commercial Ocean Fisheries, P.O. Box 190, Anacortes, Washington 98221, have applied to engage in a joint venture fishery aimed at producing pacific cod BSA 5,000 mt, GOA 1,000 mt and Alaska pollock BSA 1,000 mt, GOA 1,000 mt, in approximately February to September 1983.			

*Joint ventures.

[FR Doc. 82-34914 Filed 12-28-82; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 82-13]

Independent Review of Proposed Advanced Automation Plan; Notice of Pending Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation, as part of the Federal Aviation Administration's Advanced Automation Program, has contracted for an independent review of the feasibility of the first phase of the proposed program. The purpose of this Notice is to advise the public that the review is taking place and that all documents reviewed by the contractor will be available for public review upon request.

ADDRESS: All requests to review the documents should be sent to: Valerio R. Hunt, Federal Aviation Administration, Office of Advanced Automation Program (AAP-1), 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Blum, Office of the Secretary, Department of Transportation, Office of Installations and Logistics (M-62), 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4237.

SUPPLEMENTARY INFORMATION:

Background

A long and thorough review of the air traffic control system and its automation support capability was undertaken in 1981. Many alternatives were considered. The FAA Administrator announced the results of this review in his National Airspace System Plan of December, 1981. This plan included the Advanced Automation Program which consists of two major acquisitions. The first is the acquisition and implementation of the Host Computer System. The "host" computers will replace the existing 9020 computers, but will continue to utilize the current enroute software and display subsystems.

The Department of Transportation has entered into a contract with Western Electric Company, Inc., to provide an independent, outside analysis based on analogous Bell System experiences, to review the rehost objectives, assess the FAA's estimates of software changes required for rehost, and recommend key

areas which must be accounted for to ensure a successful transition to the rehost environment. In the performance of this contract, Western Electric's affiliate, Bell Telephone Laboratories, will have access to certain information concerning the existing hardware and software systems, FAA's rehost objectives and previous options analyses. All documents that Bell Laboratories will receive from the Government in connection with its duties under the contract will be in the public domain.

The purpose of this Notice is to advise all interested parties of the existence of that contract.

Issued in Washington, D.C., on December 17, 1982.

Robert L. Fairman,

Assistant Secretary for Administration.

[FR Doc. 82-35067 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Draft Advisory Circular on Emergency Exits in Small Airplanes; Availability and Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular availability and request for comments.

SUMMARY: The draft Advisory Circular (AC) sets forth an acceptable means, but not the only means, of showing compliance with the Federal Aviation Regulations applicable to the size and shape of the emergency exits in small airplanes.

DATE: Commenters must identify file AC 23.807-1, Subject: Emergency Exits in Small Airplanes, and comments must be received on or before February 14, 1983.

ADDRESS: Send all comments to the draft Advisory Circular to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ervin E. Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. Commercial telephone (816) 374-6941 or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft Advisory Circular by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Background

Civil Air Regulation (CAR) 3.387 and FAR 23.807 have required that all emergency exits have sufficient size and shape to admit a 19-x-26-inch ellipse. Time to egress through an exit is normally proportional to the total open area and the width of the exit. Area of a 19-x-26-inch ellipse is 388 square inches. Comparison studies for evacuation demonstrations with the standard 19-x-26-inch ellipse have shown that the duration to egress was equal or less with exits having a total open area equal to or greater than 388 square inches and a width greater than 19 inches, but lacking the shape to admit a 19-x-26-inch ellipse. The AC provides guidance on conducting equivalent level of safety findings for other sizes and shapes of emergency exits provided that the exit has a total open area equal to or greater than 388 square inches and the width is not less than 19 inches.

Comments Invited

Interested parties are invited to submit comments on the draft AC. Comments received on the draft AC may be inspected at the offices of the Regulations and Policy Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, December 8, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-35475 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Lewis & Clark County, Montana

AGENCY: Federal Highway Administration (FHWA), DOT.

SUMMARY: The FHWA is issuing this notice to advise that an environmental impact statement will be prepared for a proposed highway project in Lewis & Clark County, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald L. Eller, Program Development Engineer, Federal Highway Administration, Federal Office Building, 301 S. Park, Drawer 10056, Helena, Montana 59626, Telephone (406) 449-5310; or Mr. Steve Kologi, Chief, Preconstruction Section, Montana Department of Highways, 2701 Prospect Street, Helena, Montana 59620, Telephone (406) 449-2495.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Montana Department of Highways will prepare an environmental impact statement (EIS) on a proposal to improve 6.0 miles of U.S. Highway 12 between the base of MacDonald Pass and Helena. A previous EIS Statement was developed for this project and approved 25 January 1975 but subsequent litigation found that document inadequate. Accordingly, to comply with the court ruling, we will commence studies to fully consider the environmental impact of this project.

The present highway is a substandard old two lane highway. Prior to the halt of work on the project, some of the right-of-way needed for the 4-lane construction had been acquired. No homes or businesses have been relocated.

The Department of Highways has retained a Consultant Engineering firm to expedite the studies. A scoping meeting will be held at or near the project location. This meeting will be advertised locally but anyone wishing to be invited is requested to notify the Department of Highways at the following address: Mr. Steve Kologi, Chief, Preconstruction Section, Montana Department of Highways, 2701 Prospect Street, Helena, Montana 59620.

Alternatives to be considered will include the taking of no action through a 4-lane project. New alignment outside the present corridor is not contemplated; however, minor realignment and encroachment outside the present right-of-way will be evaluated based on geometric and environmental considerations. Some significant issues to be addressed will be the impact on built up and landscaped front yards and the City of Helena Tenmile water transmission mains.

To ensure that the full range of issues related to this proposed action and the EIS are addressed, comments and suggestions should be directed to the FHWA at the address provided above.

Issued on December 22, 1982.

Volmer K. Jensen,

Division Administrator, Helena, Montana.

[FR Doc. 82-35315 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket S-726 Sub 1]

Equity Carriers, Inc., et al.; Show Cause Notice

In the matter of Section 605(c) of the Merchant Marine Act, 1936, as amended.

Notice was given in the Federal Register on November 22, 1982, (47 FR 52592), Docket S-726, that Equity Carriers, Inc. (Carriers), and Equity Bulkship I-III Companies L.P. and Equity Maritime I-III Companies L.P. (collectively, Maritime) have filed an application dated November 9, 1982, for amendment of the Operating-Differential Subsidy Agreement (ODSA) held by Carriers, Contract No. MA/MSB-439.

The applicants have requested that Carriers be permitted to withdraw the dry bulk vessels STAR OF TEXAS and SPIRIT OF TEXAS from ODSA MA/MSB-439 and that the six 80,000 DWT OBOs to be constructed for the Maritime companies be substituted in lieu of those vessels. Subsidy payments for the operation of the OBOs are proposed to be fixed at a yearly lump sum of $1.8 million per vessel for a period of six and one-half years commencing at the date of delivery of each vessel, with a maximum aggregate payment of $54 million for all six vessels during such period. During the period of the ODS Contract, as amended pursuant to this application, the proposed OBO's will be used exclusively for the carriage of commercial dry bulk cargoes not subject to the cargo preference laws of the United States including, but not limited to 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616a, unless the agencies administering such statutes determine that the cargoes involved would be otherwise waived to, or allocated for, foreign-flag carriage, and that the cargoes would be lifted at rates comparable to the rates offered by foreign-flag vessels and the tonnage lifted by the Applicants would not be computed by the agencies involved in a manner which would adversely affect the availability of cargo-preference cargoes which are usually carried by U.S.-flag vessels at premium rates. By letter dated December 8, 1982, Maritime has agreed to further limit its operations by refraining from engaging in the carriage of Strategic Petroleum Reserve cargoes during the period of the ODS Agreement, except under conditions similar to those in the caveat concerning the carriage of dry bulk preference cargoes contained in the applications discussed above.

The vessels operated by Carriers will be withdrawn in favor of the proposed OBO's as of the date of approval of this application by the Maritime Administration, and completion of all financing and contractual arrangements necessary to commence construction of the OBO vessels.

This application amends and restates the applications for Operating-Differential Subsidy filed by the Maritime companies on September 14, 1982, as amended September 23, 1982. Interested parties were invited to inspect this amended and restated application in the Office of the Secretary, Maritime Subsidy Board.

The notice stated that, "Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, * * * by December 2, 1982." Timely petitions and comments were received from, or on behalf of Waterman Steamship Corporation (Waterman), Aries Marine Company (Aries) and American Maritime Association (AMA). Late filings were also received from Marine Transport Lines, Inc. (MTL), and American Trading Transportation Company, Inc. (ATT).

Each of the intervenors operate all water services as follows:

Waterman: Trade Route (TR) 17, TR 18, TR 12, TR 21 and TR 22, breakbulk and LASH services with privilege calls on TR 13 in Mediterranean Egypt. Waterman operates 10 vessels in these services, eight LASH and two breakbulk.

Aries: Worldwide bulk service with two OB8 OBO type vessels. Aries' ODSA is currently suspended pursuant to section 614 of the Merchant Marine Act, 1936, as amended.

AMA: AMA is an association of 36 companies operating 111 vessels of various types in the domestic and preference trades.

MTL: MTL has only been identified as an operator of U.S.-flag bulk vessels in domestic and preference trades. The extent and nature of that service was not defined.

ATT: ATT did not identify its operations or interest in the application. Maritime Administration information indicates that ATT is engaged primarily in coastwise and preference trades with four T2 tankers and one modern vessel of 50,000 DWT. ATT also has three more modern vessels under construction.

All of these operators except ATT have expressed the opinion that examination and a hearing pursuant to section 605(c) of the 1936 Act are required.

Under section 605(c) of the Act two aspects have to be considered, (1) whether or not the U.S.-flag service already provided is adequate and (2) if service is inadequate, whether or not in the accomplishment of the purposes and policy of the Act additional vessels should be operated on such service.

Data indicates that only 1.9 to 2.3 percent of all dry bulk cargoes in U.S. foreign commerce moved in U.S. bottoms between 1979 and the first half of 1982. The figures for liquid bulk cargoes for the same period are 3.7 to 4.0 percent.

As stated in section 101 of the 1936 Act, the purposes and policy of the Act are "to foster the development and encourage the maintenance" of a modern and effective merchant marine capable of meeting the nation's commercial and military needs. This was the policy established in 1936 and reaffirmed and extended to the bulk shipping sector by the 1970 amendments to the 1936 Act. The granting of the Maritime application would increase the bulk sector of the U.S. flag fleet by adding six modern, fuel efficient vessels, competitively manned by U.S. citizens, and which are required to meet foreign-flag competition. The new vessels would compete with foreign-flag carriers, would carry a substantial portion of the waterborne bulk export and import commerce of the United States and be capable of serving as naval auxiliaries. They would also certainly make a contribution towards relieving the current gross inadequacy of U.S. flag bulk service. Therefore, the Board is prepared to find that the award of the application would further the purposes and policy of the Act.

Interested parties are hereby given an opportunity to show cause why the Board should not find, under section 605(c) of the Act, that U.S.-flag worldwide bulk carriage is inadequate and that the effect of permitting the substitution of six proposed OBO vessel, for six and one half years each, for two existing dry bulk carriers, for 19 and 20 years each, would be in the accomplishment of the purposes and policy of the Act. Any person, firm or corporation having an interest in the application and who desires to submit such showing of cause, is invited to file a written statement in triplicate, by 5:00 P.M. on January 12, 1983.

Any party desiring an evidentiary hearing on the application should set forth his interest in the application and should, with particularity, articulate any or all of the facts upon which he desires to adduce evidence.

Allegations of factual issues which the party wishes the Board to consider in a hearing on the application shall include: (1) A clear and concise statement of the issues upon which a hearing is desired; and (2) the grounds upon which such

allegations rest, in such detail as to permit the Board to determine their exact nature.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board

Dated: December 27, 1982.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-35459 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Denial of Petition to Commence Defect Proceeding

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On June 3, 1982, John Jupin, Consumer Protection Investigator of the city of Virginia Beach, Virginia, on behalf of Lewis S. Tefft, petitioned for an investigation of a possibly safety-related defect in 1981 and 1982 Plymouth Reliant K vehicles, specifically that premature failure of air conditioning hoses could cause a "blinding white cloud" and possible loss of vehicle control by the operator.

NHTSA believes that the leak that apparently occurred in Mr. Tefft's hoses deposited some air conditioning system refrigerant oil on hot engine components, which entered the passenger compartment while the car was in motion. The agency learned that in May 1981 Chrysler had instituted a service campaign on early 1981 model "K" vehicles because of excessive wear of the air conditioning discharge and suction hoses, and that Mr. Tefft's car was eligible for correction. The manufacturer stated that it was not aware of any accidents, injuries, and instances of loss of vehicle control due to the condition. NHTSA itself found no similar complaints in its files. There being no reasonable possibility that an order of the nature requested would be issued at the conclusion of an investigation, the petition was denied on December 6, 1982.

(Secs. 124, 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority of 49 CFR 1.50 and 501.8)

Issued on December 22, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82-35171 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Hazardous Substance Liability Insurance

AGENCY: Department of the Treasury.

ACTION: Determination on feasibility of private insurance as an alternative to the Post-Closure Liability Trust Fund (PCLF)

SUMMARY: Under Section 107(k)(4)(B) of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980" (Pub. L. 96-510, December 11, 1980) and pursuant to the delegation of authoirity in Executive Order 12316 (August 14, 1981) the Secretary of the Treasury has determined that it is not feasible to establish or qualify an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities at this time.

DATE: Effective on the date the Secretary of the Treasury makes the determination.

FOR FURTHER INFORMATION CONTACT: Mark G. Bender, Room 3025, Department of the Treasury, 15th & Pennsylvania Avenue, NW., Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION: Section 107(k)(4)(A) of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980", or CERCLA, directed the Secretary of the Treasury to undertake a study and make a report on the "feasibility of establishing or qualifying an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities." That report was completed and submitted to Congress in March 1982 (see Part Three, Chapter 6, "Hazardous Substance Liability Insurance," Department of the Treasury, March 1982). It was concluded that at this time private insurance is not a feasible alternative to the Federally-administered Post-Closure Liability Trust Fund established by Subtitle C of Title II of CERCLA.

As required by Section 107(k)(4)(B), the reasons for the determination are reviewed below in a recapitulation of the Secretary's report.

I. The Post-Closure Liability Fund

The Post-Closure Liability Fund provided for by CERCLA was the end-product of major uncertainties faced by Congress in its efforts to provide for new and safe hazardous waste disposal facility capacity. Primary among these uncertainties were: (1) The ability and willingness of private industry to establish new hazardous waste facility capacity under RCRA; (2) the acceptability of new hazardous waste sites by local communities; (3) the distribution of responsibilities for the "perpetual" care and liability attendant to permitted sites; and (4) the availability and affordability of private insurance as a source of financial assurance for such sites.

The Post-Closure Liability Fund addresses many of these concerns by providing funds for the monitoring and maintenance and the assumption of liabilities of properly closed and permitted hazardous waste facilities in perpetuity. Specifically, the PCLF is designed to assume (1) all of the liability attendant to a "qualifying" hazardous waste facility at the end of the 5-year closure period (liability remaining with owners/operators during closure), and (2) the costs of monitoring and maintenance at the end of a 30-year period spanning both closure and post-closure.

II. Private Insurance for the Post-Closure Period

The question at hand is whether or not private insurance as an alternative to the PCLF will be available and affordable for the owners or operators of hazardous waste facilities in the post-closure period. Technically speaking, private insurance would have to extend a range of coverage comparable to the PCLF if it were to be considered as a feasible option or substitute for the PCLF. Given the current structure of the PCLF this means that private insurance would have to meet at least three major criteria.

First, private insurance would have to be available to the owners or operators of all hazardous waste facilities that met the eligibility standards of Section 107(k)—i.e., having been operated under RCRA permit, having been closed in accordance to "plan," and having been maintained for five years after closing without incident. Second, private insurance would have to accept all of the liability of facility owners or operators as imposed by CERCLA and "any other law" in perpetuity and without possibility of termination, this liability becoming effective the fifth year after facility closure. Finally, private insurance would have to provide the financial wherewithal for the monitoring and maintenance of facilities starting

thirty years after closing and continuing in perpetuity.

Impediments to Private Insurance

Some of the more significant impediments to the use of private insurance as a substitute for the PCLF are (1) the scope and nature of liability, (2) the difficulties of risk assessment, (3) the need for "perpetual" coverage, and (3) the potential for adverse risk selection.

Liability Considerations. For private insurance to substitute for the PCLF it would have to provide coverage for all claims actionable under "superfund" as well as all claims actionable under any other (common or statutory) law. Insurance coverage therefore would have to extend to all costs of removal or remedial action incurred by Federal or State authorities consistent with the National Contingency Plan, other necessary costs of response incurred by any other person consistent with the National Contingency Plan, damages for injury to, destruction of, or loss of natural resources, and, in addition, liabilities arising from all personal injury and property damage claims of third persons.

Accordingly, the problem of uncertain and potentially unlimited liability may be even greater under the PCLF standard than is the case under "superfund" *per se.* For one thing, a broader range of liabilities would be specifically open to action under Federal statute. For another, if private insurance were to substitute for the PCLF as now constituted, the owners or operators of "qualified" facilities could ultimately "walk away" from all liabilities. This means that the private insurance company must be prepared to "stand in the shoes" of the owner/operator, and in so doing render meaningless the normal limits, exclusions and defenses contained in standard insurance policies. If such a risk is assumed at all it would probably require significantly higher, perhaps prohibitive, premiums.

Risk Assessment. The problem of risk assessment as a barrier to the insurability of closed hazardous waste facilities can be expected to vary over time, being of minimal consequence at the time of closing but growing in importance throughout the post-closure period. The fact that owners or operators must monitor and maintain closed sites for a period of thirty years is an assuring factor in this respect. But once beyond this period there are no requirements that owners/operators undertake the expense of loss prevention measures, and the risks of facility deterioration will be increasing with time. Insurers have argued that the difficulties of such long-term risk assessment would be a significant barrier to private insurance as a substitute for the PCLF.

Perpetual Coverage. Pollution insurance coverage is currently extended on a "claims-made" basis only. But, significantly, the claims-made policy will honor only those claims presented during the effective term of the policy itself (unlike the occurrence-based policy, which will honor claims traceable to an incident which occurred while the policy was in effect whenever such claims are presented). Since this term is generally set for one year at a time, and since the policy may not be reissued for any number of reasons at the end of its term, the claims-made policy is uniquely unsuited to provide the type of perpetual coverage which is to be made available by the PCLF.

For one thing, the claims-made policy requires both an insurer willing and able to underwrite the risk of the closed facility year-after-year in perpetuity and an insured willing and able to pay premiums on a closed facility year-after-year in perpetuity. Practically speaking, these conditions may be difficult if not impossible to meet. Insurers as well as insureds may cease to exist over time, leading to temporary or even permanent interruptions of facility insurance coverage. Another likelihood is that as closed facilities deteriorate over time the underwriting risk will increase commensurately, forcing insurers to protect themselves in terms of ever-higher premiums. Such a cycle of events could lead rapidly to an affordability problem for insureds which effectively interrupts insurance coverage. Finally, the increasing burden over time of providing for the insurance coverage of a closed facility may lead some owners or operators to "abandon" that facility. In all of these cases the financial responsibility for the closed facility is likely to revert to the public sector.

Adverse Risk Selection. Another frequently-cited problem which may arise if a private insurance option to the PCLF is qualified is that of "adverse risk selection." The most common argument is that the higher-risk facilities will use the PCLF while lower-risk facilities will rely on private insurance. If this type of situation were to develop, it is argued that the financial integrity of the PCLF would be undermined, since fees collected from low-risk facilities would not be available to compensate for the disproportionate exposure of the high-risk facilities.

Variations on Private Insurance

The purchase of commercially-provided private insurance is not the only insurance option open to potential insureds. Other private-sector insurance arrangements may include self-insurance, captive insurance companies, pooling of risks, assigned risk pools, and so on. But attempting to use any of these options as an alternative to the PCLF encounters many of the same shortcomings apparent in the analysis of the commercial insurance market.

For example, self-insurance as an option to the PCLF may be attractive to certain larger and financially-strong companies. It can be argued that many such companies are as financially "secure" as well-known insurers and that the precedent of self-insurance for pollution risks already exists under Federal regulations. However, even the strongest of firms is unlikely to be able to guarantee coverage of potentially unlimited liability in perpetuity: potential liabilities may well exceed available assets and in changing economic circumstances any firm may cease to exist, effectively terminating insurance coverage.

Captive insurance companies are attractive to some corporations as a means of insuring the risk exposures of the parent on a more cost-effective basis. But for all intents and purposes the captive insurer must operate as would other insurers in the same jurisdiction. Therefore, while some advantages might be realized in terms of affordability and the capability of the insurer to ultimately accept all responsibility for the closed hazardous waste site, the captive is really no better positioned with respect to the major problems of unlimited liability or existence in perpetuity than are commercial insurers.

The pooling of risks as is done currently with the P & I Associations and the recently-formed Pollution Liability Insurance Association would undoubtedly ease the burden of a pollution incident for any given underwriter, but, here too, comparability with the PCLF would be difficult if not impossible to achieve. Again, post-closure liability is uncertain and potentially unlimited, an underwriting problem no more acceptable to mutual associations than to individual insurance companies. And an insurance pool is not much more likely to commit itself to the perpetual, noncancellable coverage of a closed facility than is an individual insurer. Nor can it be guaranteed that all qualified facilities would be accepted as an insurable risk by the pool.

The same insurability problems which pertain to commercially-purchased insurance, self-insurance, captive

insurance companies, and the pooling of risks would extend to one degree or another to most, if not all, purely private sector post-closure financial assurance options.

III. Measures to Foster Private Post-Closure Insurance

The analysis suggests that private insurance as a substitute in the entirety for the PCLF may not be feasible in the foreseeable future. The scope and nature of the coverage provided by the PCLF is simply too distinct from that of the traditional property-casualty insurers to be readily assumed by the latter. Therefore, the development of a significant role for private insurance means that either (1) the social goals in support of which the PCLF is designed be scaled back so as to allow substitution in the entirety by private insurance, or (2) the role of the PCLF be redefined so as to allow achievement of the same goals in concert with as much private insurance participation as is feasible at any given point in time.

Scaling Back Social Goals

Under CERCLA the owners or operators of permitted hazardous waste disposal facilities can be exempted from the payment of the PCLF tax if they enroll in any private insurance plan that is deemed to qualify as a substitute for the PCLF. But for all of the reasons discussed in detail previously, private insurance plans are unlikely to be able to substitute for the PCLF at this time. Thus the mutually exclusive insurance arrangements currently called for—i.e., either pay the tax and insure with the PCLF or arrange to purchase equivalent private insurance in lieu of the tax—most probably will leave potential insureds with no choice but the PCLF.

It would seem that as long as the "either/or" insurance arrangement implied by CERCLA remains extant, private insurance as an option may be feasible only if compromises are made, or expectations lowered, with respect to the scope and nature of the coverage required. In short, the insurance coverage requirements would have to correspond much more closely to what the private market reasonably can be expected to provide. As a minimum, therefore, the public policy compromises probably would involve the acceptance of the following: (1) limits on liability for private parties; (2) provisions for cancellable and nonperpetual insurance contracts such as the claims-made policy or the limited-term annuity; and (3) the retention by facility owners and operators of all responsibility for insuring, monitoring, and maintaining their facilities in perpetuity.

However, if measures such as these were to be taken in order to qualify private insurance for post-closure purposes a major complicating factor might be introduced. This complication would be in the form of an extraordinary asymmetry between the coverage available from private insurers and that of the Federally-administered PCLF. Presumably, potential insureds would still have to choose between either the PCLF or private insurance. But the asymmetrical coverages would undoubtedly add to problems of adverse risk selection, cyclical market capacity, uncertain PCLF funding, non-uniform coverage of insured facilities, and overall market instability as insurers and insureds sought out optimum responses to ever-changing tax/premium/coverage relationships.

The cost of bringing a reasonable amount of stability, predictability, and uniformity of coverage to the post-closure insurance situation depicted above would be the diminution of the coverage of the PCLF to something more consistent with private market capabilities, such that the alternative insurance programs would be truer substitutes one for the other. But while doing this may provide for a viable alternative to the financing system of the PCLF, it would also involve a scaling back of the social goals implicit in the PCLF and this would be a matter for serious Congressional consideration.

Redefining the Post-Closure Liability Fund

Private insurance participation in post-closure may well be encouraged and fostered without undue sacrifice of social goals if the functions of the PCLF were to be redefined in ways which served to supplement—rather than supplant—private coverage. For example, the tax-financed PCLF could be altered so as to serve as a "last resort" for claimants. In this case the owners or operators of facilities would continue to demonstrate financial responsibility for closed facilities by means of deductibles, private insurance, and so on. In the event that claims exceeded the limits of the financial responsibility requirements established (by statute or regulation) for owners/operators the additional compensation would be provided by the "fund". The Federally-administered fund might also assume all responsibility for closed facilities at that point in time when private insurance were no longer available (e.g., the termination of the 30-year monitoring and maintenance period).

Alternatively, the PCLF might be restructured to assume the role of a "reinsurer". In this case private insurers might be much more willing to underwrite insurance for closed facilities if they in turn can spread the risk to another party through reinsurance. As noted in earlier analysis, private reinsurance arrangements, such as the Pollution Liability Insurance Association, would encounter many of the same problems with post-closure as any individual insurer. But this would not be the case for a government-sponsored reinsurance program. Thus the PCLF might be designed to pick up any "excess of loss" of private insurers over and above stipulated limits; another variation might have the PCLF provide "stop loss" coverage in which event the primary insurer is protected against losses exceeding an agreed upon percentage.

Finally, the PCLF could be given the role of serving in perpetuity as the "trustee" or "administrator" of all post-closure sites, leveraging its own funds by purchasing private insurance coverage in the commercial market. In this case liability limits would be established and private insurers would be invited to bid on an annual basis for the coverage of closed sites. Loss exposures beyond the established limits, catastrophic losses, and "uninsurable" sites would remain the total responsibility of the government fund, in additon to the payment of premiums for private coverage purchased and the monitoring and maintenance of sites.

Unfortunately, as it turns out none of the combined public/private insurance programs which seem reasonable at this point in time provide a clear and separate alternative to the need to finance via taxes a PCLF-type fund. In the cases of the PCLF as a "last resort" or as a "reinsurer" there would be a need for industry to purchase private insurance as well as finance the government fund (presumably at a new rate of taxation). Whether or not such a combination of payments would be more cost effective than the current PCLF tax alone is not now determinable. And in the case of the PCLF acting as "administrator" industry still would be obliged at least to make a tax payment to finance the fund.

Standards for Private Insurance.

All of the foregoing measures to foster private insurance participation in post-closure could necessitate the establishment of "qualifying" standards or criteria. Until further experience is gained with respect to the nature of the risks and the losses incurred it seems reasonable to expect insurers to be able to respond at least within the limits of

the current requirements for operating facilities. At least initially, therefore, any standards which might be developed for private post-closure insurance could probably parallel closely existing RCRA requirements.

IV. Findings and Conclusions

For commercially-purchased private insurance to substitute for the coverage extended by the PCLF, at a minimum it would have to meet the following standards: First, private insurance would have to be available for each and every qualifying hazardous waste site (at the affordable premium). Second, the private insurers would have to be willing to accept an uncertain and potentially unlimited exposure to liability as defined under CERCLA and "any other law". Third, private insurance would have to provide financial assurance for liability and, after thirty years, monitoring and maintenance in perpetuity. Finally, in order to allow the owners or operators of qualified facilities to "walk away" from all future responsibilities for such sites, private insurers would have to "step into the shoes" of owners or operators and effectively assume all managerial responsibilities for insured sites.

Nothing in the materials submitted for this study suggested that this type of comprehensive private insurance option for the PCLF is feasible now or in the foreseeable future. This observation applies equally to commercially-purchased insurance and insurance variations such as self-insurance, captive insurance, and others.

Determination: Under Section 107(k)(4)(B) of CERCLA the determination of whether or not it is feasible to qualify a private insurance option for post-closure financial responsibility is to be made "after a public hearing." On May 5, 1982, a public notice was published (See 47 FR 19504) stating that a public hearing on this issue would be held on June 2, 1982 in the Main Treasury Building, Washington, D.C., if interested persons wished to make an oral presentation. The notice also stated that any written data that interested persons wished to submit in lieu of making a presentation at a hearing would be considererd, provided that such comments were received by June 9, 1982.

Since no person requested to make an oral presentation, a public notice of cancellation of the scheduled public hearing was published (See 47 FR 23842). Since no materials or additional information which have been presented since the publication of the Secretary's report would cause any significant alteration in the findings of that report, the Secretary of the Treasury determined that it is not feasible to establish or qualify an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities at this time.

Mark G. Bender,

Acting Deputy Assistant Secretary, Office of Financial Institutions Policy.

December 27, 1982.

[FR Doc. 82-35471 Filed 12-29-82; 8:45 am]

BILLING CODE 4810-25-M

Comptroller of the Currency

[Docket No. 82-27]

Termination of Closed Receivership Fund; Second Notice

Note.—This document originally appeared in the **Federal Register** of December 23, 1982. It is reprinted in this issue at the request of the agency.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of termination.

SUMMARY: Notice is hereby given that all rights of depositors and other creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation to collect liquidating dividends from the "closed receivership fund" shall be barred after twelve months following the date of the fourth publication of this notice.

FOR FURTHER INFORMATION CONTACT: Howard J. Finkelstein, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: Pursuant to Section 409 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320 (October 15, 1982), notice is hereby given that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the "closed receivership fund" will be barred after twelve months following the date of the fourth publication of this notice.

Sections 721-723 of the Depository Institutions Deregulation and Monetary Control Act of 1980 clarified the status of the "closed receivership fund" by establishing a procedure for the satisfaction or cancellation of all outstanding claims for liquidating dividends and the termination of the fund. However, the 1980 law applied only to national banks closed on or before January 22, 1934. After the law was passed it came to the Office's attention that there had been at least one bank closed after the above date for which the Comptroller appointed a receiver other than the Federal Deposit Insurance Company. The office therefore sought clarification of the 1980 law from Congress. Congress provided such clarification in Section 409 of Pub. L. 97-320 by striking the date of January 22, 1934 from the statute and substituting therefor the phrase "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

Under the provisions of the amended law, the Office will publish notices in the **Federal Register** once each week for four consecutive weeks that all rights of depositors and creditors of the fund will be barred after twelve months following the last date of publication of such notice. This is the second such notice. During this twelve month period, the Office will accept claims for liquidating dividends from the fund. A claim should consist of a Proof of Claim form received from the receiver at the time of the bank's closing or other acceptable evidence of an unsatisfied claim. Claims should be sent to the attention of Mr. Robert L Teets, Manager, Accounting Programs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219.

Following the close of the twelve month period, all unclaimed dividends, together with income earned on liquidating dividends and other moneys remaining in the fund, will be covered into the general funds of the Office.

Dated: December 2, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-34793 Filed 12-22-82; 8:45 am]

BILLING CODE 4810-33-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that meetings of the Veterans Administration Wage Committee will be held on: Thursday, January 6, 1983; Thursday, January 20, 1983; Thursday, February 3, 1983; Thursday, February 17, 1983; Thursday, March 3, 1983; Thursday, March 17, 1983; and Thursday, March 31, 1983.

The meetings will begin at 2:30 p.m. and will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c) (2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: December 15, 1982.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82–35346 Filed 12–29–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 4, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 6, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Enforcement of 26 U.S.C. 9012(f) in light of *FEC v. AFC* 82–170 (continued from 12–16 meeting)
Classfication action: Administrative Clerk, Press Office, Information Division
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission

[S–1869–82 Filed 12–28–82; 3:44 pm]

BILLING CODE 6715–01–M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, January 5, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed renovation and expansion of the Federal Reserve Bank of Chicago.
2. Personnel actions (appointments, promotions, assignments reassignments, and salary actions) involving individual Federal Reserve System employees.

Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: December 28, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1868–82 Filed 12–28–82; 2:51 pm]

BILLING CODE 6210–01–M

federal register

Thursday
December 30, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Service identifies vertebrate animal taxa, native to the U.S., being considered for addition to the List of Endangered and Threatened Wildlife. The presence of such taxa should be taken into account in enivironmental planning. Also identified are those vertebrate taxa that were previously under consideration for listing, but that are currently presumed either to be extinct, to not be valid species or subspecies, or to be more abundant and widespread than previously thought and/or not subject to identifiable threats.

DATE: Comments may be submitted until further notice.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

Information relating to particular taxa may be obtained from appropriate Service Regional Offices listed below:

Region 1.—California, Hawaii, Idaho, Nevada, Oregon, Washington, and Pacific Trust Territories

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232, Telephone: 503/231-6131 (FTS:8/429-6131)

Region 2.—Arizona, New Mexico, Oklahoma, and Texas

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, Telephone: 505/766-3972 (FTS: 8/474-3972)

Region 3.—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Telephone: 612/725-3596 (FTS: 8/725-3596)

Region 4.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303, Telephone: 404/221-3583 (FTS:8/242-3583)

Region 5.—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 700, One Gateway Center, Newton Corner, Massachusetts 02158, Telephone: 617/965-5100 ext. 316 (FTS:8/829-9316, 7, 8)

Region 6.—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (Iowa and Missouri under Region 3 after October 1, 1980)

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, Telephone: 303/234-2496 (FTS: 8/234-2496)

Region 7.—Alaska

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, 1101 East Tudor Road, Anchorage, Alaska 99503, Telephone: 907/263-3539 (FTS: 8/907/263-3539)

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771), or the appropriate Regional Office.

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires determination of whether species of wildlife and plants are Endangered or Threatened, based on the best available scientific and commercial data. For many years, the U.S. Fish and Wildlife Service has been gathering data on taxa of vertebrates (fishes, amphibians, reptiles, birds, and mammals), native to the United States, which have appeared, at least at times, to warrant consideration for addition to the List of Endangered and Threatened Wildlife. The accompanying table identified many of these taxa (including, by definition, biological subspecies) and assigns each to one of the following three categories.

Category 1 comprises taxa for which the Service currently has substantial information on hand to support the biological appropriateness of proposing to list the species as Endangered or Threatened. Currently, data is being gathered concerning the environmental impacts of listings and the economic effects of Critical Habitat designations. Development and publication of proposed rules on such species is anticipated.

Category 2 comprises taxa for which information now in possession of the Service indicates that proposing to list the species as Endangered or Threatened is possibly appropriate, but for which substantial data are not currently available to biologically support a proposed rule. Further biological research and field study will usually be necessary to ascertain the status of the taxa in this category, and it is likely that some of the taxa will not warrant listing.

Category 3 comprises taxa that are no longer being considered for listing as Endangered or Threatened. Such taxa are included in one of three categories, depending on the reasons for removal form consideration.

3A. Taxa for which the Service has persuasive evidence of extinction. If rediscovered, however, such species might acquire high priority for listing. At this time, the best available information indicates that the taxa included in this category, or the habitats from which they were known, are in fact extinct or destroyed, respectively.

3B. Names that on the basis of current taxonomic understanding, usually as represented in published revisions and monographs, do not represent taxa meeting the Act's definition of "species." Such supposed taxa could be reevaluated in the future on the basis of subsequent research.

3C. Taxa that have proven to be more abundant or widespread than was previously believed and/or those that are not subject to any identifiable threat. Should further research or changes in land use indicate significant decline in any of these taxa, they may be reevaluated for possible inclusion in Categories 1 or 2.

The Service hereby solicits data concerning the taxa in the accompanying table. Especially sought is information:

(1) Indicating that a taxon would more properly be assigned to a category other than the one in which it appears;

(2) Nominating a taxon not included in the table;

(3) Recommending an area as Critical Habitat for a candidate taxon, or indicating why it would not be prudent to propose Critical Habitat for a taxon,

or why Critical Habitat may not be determinable for a taxon.

(4) Documenting threats to any of the listed taxa;

(5) Pointing out taxonomic changes for any of the taxa;

(6) Suggesting new or more appropriate names; or

(7) Noting errors, such as in the indicated distributions.

The Service intends to consider all data received in response to this notice, to make appropriate amendments to the accompanying table, and to indicate intentions with regard to future listing actions. Substantive changes in status may be announced by periodic notices in the **Federal Register.**

The following table is arranged in a general systematic order, beginning with fishes and ending with mammals. For each taxon, the assigned category appears on the left. Then comes the common name, the scientific name, the family name, and the known distribution, usually indicated by abbreviations of State names. The species may no longer occur in some of the areas shown. Some taxa have been included that have not yet been formally described in the scientific literature. Such taxa are indicated by the abbreviation "sp." after the generic name, or "ssp." after the generic and specific names. In the section on birds, the abbreviation "N" indicates the nesting range of the species, and the abbreviation "V" indicates additional areas in which the species is a regular visitor.

The notice was prepared by the vertebrate zoologists in the Service's Office of Endangered Species in Washington, and the Endangered Species Program staff of the Service's Regional Offices and Field Stations.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture), Wildlife.

Dated: December 17, 1982.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

Category and common name	Scientific name	Family	Distribution
Fishes			
2—Lake sturgeon	*Acipenser fulvescens*	Acipenseridae	AL, AR, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, NY, OH, PA, SD, TN, VT, WI, WV, Canada.
2—Gulf sturgeon	*Acipenser oxyrhyncus desotoi*	Acipenseridae	AL, FL, GA, LA, MS.
2—Pallid sturgeon	*Scaphirhynchus albus*	Acipenseridae	AR, IA, IL, KS, KY, LA, MO, MS, MT, ND, NE, SD, TN.
2—Alabama shovelnose sturgeon	*Scaphirhynchus platorynchus ssp*	Acipenseridae	AL, MS.
3C—Paddlefish	*Polyodon spathula*	Polyodontidae	AL, AR, IA, IL, IN, KS, KY, LA, MN, MO, MS, MT, ND, NE, OH, OK, PA, SD, TN, TX, WI.
3A—Deepwater cisco	*Coregonus johannae*	Salmonidae	IL, IN, MI, WI, Canada (Lakes Huron and Michigan).
3A—Blackfin Cisco	*Coregonus nigripinnis nigripinnis*	Salmonidae	IL, IN, MI, WI, Canada (Lakes Huron and Michigan).
1—Shortnose Cisco	*Coregonus reighardi*	Salmonidae	IL, IN, MI, NY, WI, Canada (Lakes Huron, Michigan, and Ontario).
2—Shortjaw cisco	*Coregonus zenithicus*	Salmonidae	IL, IN, MI, MN, WI, Canada (Lakes Huron, Michigan, and Superior).
2—Colorado cutthroat trout	*Salmo clarki pleuriticus*	Salmonidae	CO, UT, WY.
2—Utah cutthroat trout	*Salmo clarki utah*	Slamonidae	UT, WY, NV.
3C—Rio Grande cutthroat trout	*Salmo clarki virginialis*	Salmonidae	CO, NM.
2—Redband trout	*Salmo sp*	Salmonidae	CA, OR, ID, NV.
2—Montana Arctic grayling	*Thymallus arcticus montanus*	Salmonidae	MT.
2—Olympic mudminnow	*Novumbra hubbsi*	Umbridae	WA.
2—Mexican stoneroller	*Campostoma ornatum*	Cyprinidae	AZ, TX, Mexico.
2—Devil's River minnow	*Dionda diaboli*	Cyprinidae	TX.
1—Desert dace	*Eremichtys acros*	Cyprinidae	NV.
1—Fish Creek springs tui chub	*Gila bicolor euchila*	Cyprinidae	NV.
2—Sheldon tui chub	*Gila bicolor eurysoma*	Cyprinidae	NV, OR.
2—Independence Valley tui chub	*Gila bicolor isolata*	Cyprinidae	NV.
2—Newark Valley tui chub	*Gila bicolor newarkensis*	Cyprinidae	NV.
2—Oregon Lakes tui chub	*Gila bicolor oregonensis*	Cyprinidae	OR.
1—Owens tui chub	*Gila bicolor snyderi*	Cyprinidae	CA.
2—Cowhead Lake tui chub	*Gila bicolor vaccaceps*	Cyprinidae	CA.
2—Big Smoky Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV.
2—Catlow tui chub	*Gila bicolor ssp*	Cyprinidae	OR.
2—Dixie Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV.
2—Fish Lake Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV.
1—Hutton Spring tui chub	*Gila bicolor ssp*	Cyprinidae	OR.
2—Railroad Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV.
2—Summer Basin tui chub	*Gila bicolor ssp*	Cyprinidae	OR.
3A—Thicktail chub	*Gila crassicauda*	Cyprinidae	CA.
1—Gila chub	*Gila intermedia*	Cyprinidae	AZ, NM.
2—Sonora chub	*Gila ditaenia*	Cyprinidae	AZ, Mexico.
1—Yaqui chub	*Gila purpurea*	Cyprinidae	AZ, Mexico.
2—Gila roundtail chub	*Gila robusta grahami*	Cyprinidae	AZ, NM.
1—Virgin River roundtail chub	*Gila robusta seminuda*	Cyprinidae	AZ, NV, UT.
2—Moapa roundtail chub	*Gila robusta ssp*	Cyprinidae	NV.
2—Oregon chub	*Hybopsis crameri*	Cyprinidae	OR.
2—Least chub	*Iotichthys phlegethontis*	Cyprinidae	UT.
1—White River spinedace	*Lepidomeda albivallis*	Cyprinidae	NV.
2—Virgin spinedace	*Lepidomeda mollispinis mollispinis*	Cyprinidae	AZ, NV, UT.
1—Big Spring spinedace	*Lepidomeda mollispinis praetensis*	Cyprinidae	NV.
1—Little Colorado spinedace	*Lepidomeda vittata*	Cyprinidae	AZ.
1—Spikedace	*Meda fulgida*	Cyprinidae	AZ, NM.
2—Bluestripe shiner	*Notropis callitaenia*	Cyprinidae	AL, FL, GA.
2—Chihuahua shiner	*Notropis chihuahua*	Cyprinidae	TX.
1—Beautiful shiner	*Notropis formosus*	Cyprinidae	AZ, NM, Mexico.
2—Rio Grande shiner	*Notropis jemezanus*	Cyprinidae	NM.
2—Cape Fear shiner	*Notropis mekistocholas*	Cyprinidae	NC.
1—Phantom shiner	*Notropis orca*	Cyprinidae	TX, Mexico.
2—Sharpnose shiner	*Notropis oxyrhynchus*	Cyprinidae	TX.
1—Peppered shiner	*Notropis perpallidus*	Cyprinidae	AR, OK.
2—Proserpine shiner	*Notropis proserpinus*	Cyprinidae	TX.
1—Bluntnose shiner	*Notropis simus*	Cyprinidae	NM, TX.
2—Cahaba shiner	*Notropis sp*	Cyprinidae	AL.
2—Palezone shiner	*Notropis sp*	Cyprinidae	AL, KY, TN.

Category and common name	Scientific name	Family	Distribution
2—Kanawha minnow	*Phenacobius teretulus*	Cyprinidae	NC, VA, WV.
1—Mountain blackside dace	*Phoxinus cumberlandensis*	Cyprinidae	KY, TN.
2—Relicit dace	*Relictus solitarius*	Cyprinidae	NV.
2—Cheat minnow	*Rhinichthys bowersi*	Cyprinidae	WV.
2—Independence Valley speckled dace	*Rhinichthys osculus lethoporus*	Cyprinidae	NV.
2—Moapa speckled dace	*Rhinichthys osculus moapae*	Cyprinidae	NV.
1—Ash Meadows speckled dace	*Rhinichthys osculus nevadensis*	Cyprinidae	NV.
2—Clover Valley speckled dace	*Rhinichthys osculus oligaporus*	Cyprinidae	NV.
2—White River speckled dace	*Rhinichthys osculus velifer*	Cyprinidae	NV.
2—Amargosa Canyon speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	CA.
2—Diamond Valley speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	NV.
1—Foskett Spring speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	OR.
2—Meadow Valley Wash speckled dace	*Rhinichthys osculus ssp*	Cyprinidae	NV.
2—Monitor Valley speckled dace	*Rhinichthys osculus ssp*	Cyprinidae	NV.
1—Loach minnow	*Tiaroga cobitis*	Cyprinidae	AZ, NM.
2—White River desert sucker	*Catostomus clarki intermedius*	Catostomidae	NV.
3B—Webug sucker	*Catostomus fecundus*	Catostomidae	UT.
2—Lost River sucker	*Catostomus luxatus*	Catostomidae	CA, OR.
1—Modoc sucker	*Catostomus microps*	Catostomidae	CA.
2—Goose Lake sucker	*Catostomus occidentalis ssp*	Catostomidae	CA, OR.
2—Jenny Creek sucker	*Catostomus rimiculus ssp*	Catostomidae	CA, OR.
2—Klamath largescale sucker	*Catostomus snyderi*	Catostomidae	CA, OR.
1—Warner sucker	*Catostomus warnernesis*	Catostomidae	OR.
2—Wall Canyon sucker	*Catostomus* sp	Catostomidae	NV.
2—Shortnose sucker	*Chasmistes brevirostris*	Catostomidae	CA, OR.
1—June sucker	*Chasmistes liorus*	Catostomidae	UT.
3C—Rustyside sucker	*Moxostma hamiltoni*	Catostomidae	VA.
2—Razorback sucker	*Xyrauchen texanus*	Catostomidae	AZ, CA, CO, NV, UT, WY.
2—Headwater catfish	*Ictalurus lupus*	Ictaluridae	NM, TX.
1—Yaqui catfish	*Ictalurus pricei*	Ictaluridae	AZ, Mexico.
2—Smoky madtom	*Norturus baileyi*	Ictaluridae	TN.
2—Caroline madtom	*Noturus furiosus*	Ictaluridae	NC.
2—Orangefin madtom	*Noturus gilberti*	Ictaluridae	NC, VA.
1—Ouachita madtom	*Noturus lachneri*	Ictaluridae	AR.
2—Frecklebelly madtom	*Noturus munitus*	Ictaluridae	AL, GA, LA, MS, TN.
2—Neosho madtom	*Noturus placidus*	Ictaluridae	KS, MO, OK.
2—Pygmy madtom	*Noturus stanauli*	Ictaluridae	TN.
3C—Caddo madtom	*Noturus taylori*	Ictaluridae	AR.
2—Widemouth blindcat	*Satan eurystomus*	Ictaluridae	TX.
2—Toothless blindcat	*Trogloglanis pattersoni*	Ictaluridae	TX.
2—Ozark cavefish	*Amblyopsis rosae*	Amblyopsidae	AR, MO, OK.
2—Northern cavefish	*Amblyopsis spelaea*	Amblyopsidae	IN, KY.
2—Preston White River springfish	*Crenichthys bailei albivallis*	Cyprinodontidae	NV.
1—White River springfish	*Crenichthys baileyi baileyi*	Cyprinodontidae	NV.
1—Hiko White River springfish	*Crenichthys baileyi grandis*	Cyprinodontidae	NV.
2—Moapa White River springfish	*Crenichthys baileyi moapa*	Cyprinodontidae	NV.
1—Railroad Valley springfish	*Crenichthys nevadae*	Cyprinodontidae	NV.
2—Conchos pupfish	*Cyrpinondon eximius*	Cyprinodontidae	TX, Mexico.
1—Desert pupfish	*Cyprinodon macularius*	Cyprinodontidae	AZ, CA, Mexico.
1—Ash Meadows pupfish	*Cyprinondon nevadensis mionectes*	Cyprinodontidae	NV.
2—Pexos pupfish	*Cyprinodon pecosensis*	Cyprinodontidae	NM, TX.
2—White Sands pupfish	*Cyprinodon tularosa*	Cyprinodontidae	NM.
3A—Monkey Springs pupfish	*Cyprinodon* sp	Cyprinodontidae	AZ.
2—Palomas pupfish	*Cyprinodon* sp	Cyprinodontidae	NM, Mexico.
3A—Whiteline topminnow	*Fundulus albolineatus*	Cyprinodontidae	AL.
2—Barrens topminnow	*Fundulus julisia*	Cyprinodontidae	TN.
2—Waccamaw killifish	*Fundulus waccamensis*	Cyprinodontidae	NC.
2—Blotched gambusia	*Gambusia senilis*	Poeciliidae	TX, Mexico.
2—Waccamaw silverside	*Mendidia extensa*	Atherinidae	NC.
2—Barred pygmy sunfish	*Elassoma* sp	Centrarchidae	NC, SC.
2—Spring pygmy sunfish	*Elassoma* sp	Centrarchidae	AL.
2—Guadalupe bass	*Micripterus treculi*	Centrarchidae	TX.
2—Crystal darter	*Ammocrypta asprella*	Percidae	AL, AR, FL, IA, IL, IN, KY, LA, MO, MS, OH, OK, TN, WI.
2—Eastern sand darter	*Ammocrypta pellucida*	Percidae	IL, IN, KY, MI, NY, OH, PA, WV.
2—Sharphead darter	*Etheostoma acuticeps*	Percidae	NC, TN, VA.
2—Coldwater darter	*Etheostoma ditrema*	Percidae	AL, GA, TN.
2—Rio Grande darter	*Etheostoma grahami*	Percidae	TX, Mexico.
2—Greenthroat darter	*Etheostoma lepidum*	Percidae	NM, TX.
3C—Yellowcheek darter	*Etheostoma moorei*	Percidae	AR.
2—Niangua darter	*Etheostoma nianguae*	Percidae	MO.
2—Finescale saddled darter	*Etheostoma osburni*	Percidae	VA, WV.
1—Paleback darter	*Etheostoma pallididorsum*	Percidae	AR.
2—Waccamaw darter	*Etheostoma perlongum*	Percidae	NC.
2—Trispot darter	*Etheostoma trisella*	Percidae	AL, GA, TN.
2—Tuscumbia darter	*Etheostoma tuscumbia*	Percidae	AL, TN.
2—Jewel darter	*Etheostoma* (*Doration*) sp	Percidae	TN.
2—Yazoo darter	*Etheostoma* (*Ulocentra*) sp	Percidae	MS.
2—Amber darter	*Percina antesella*	Percidae	GA, TN.
2—Goldline darter	*Percina aurolineata*	Percidae	AL, GA.
2—Bluestripe darter	*Percina cymatotaenia*	Percidae	MO.
2—Freckled darter	*Percina lenticula*	Percidae	AL, GA, LA, MS.
2—Longhead darter	*Percina macrocephala*	Percidae	KY, NC, NY, OH, PA, TN, VA, WV.
2—Longnose darter	*Percina nasuta*	Percidae	AR, MO, OK.
2—Roanoke logperch	*Percina rex*	Percidae	VA.
2—Tidewater goby	*Eucyclogobius newberryi*	Gobiidae	CA.
2—O'opu alamo'o	*Lentipes concolor*	Gobiidae	HI.
2—Rough sculpin	*Cottus asperrimus*	Cottidae	CA.
2—Malheur mottled sculpin	*Cottus bairdi* ssp	Cottidae	OR.
2—Shoshone sculpin	*Cottus greenei*	Cottidae	ID.
3c—Pygmy sculpin	*Cottus pygmaeus*	Cottidae	AL.
AMPHIBIANS			
2—Flatwoods salamander	*Ambystoma cingulatum*	Ambystomatidae	AL, FL, GA, MS, SC.

Category and common name	Scientific name	Family	Distribution
2—Sonoran tiger salamander	*Ambystoma tigrinum stebbinsi*	Ambystomatidae	AZ, Mexico.
2—Hellbender	*Cryptobranchus alleganiensis*	Cryptobranchidae	Eastern United States.
2—Green salamander	*Aneides aeneus*	Plethodontidae	Eastern United States.
2—Inyo Mountains salamander	*Batrachoseps campi*	Plethodontidae	CA.
2—Kern Canyon slender salamander	*Batrachoseps simatus*	Plethodontidae	CA.
2—Techachapi slender salamander	*Batrachoseps stebbinsi*	Plethodontidae	CA.
2—Barton Springs salamander	*Eurycea* sp	Plethodontidae	TX.
2—Junaluska salamander	*Eurycea junaluska*	Plethodontidae	NC.
3B—Cascade Caverns salamander	*Eurycea latitans*	Plethodontidae	TX.
2—Texas salamander	*Eurycea neotenes*	Plethodontidae	TX.
2—Comal blind salamander	*Eurycea tridentifera*	Plethodontidae	TX.
3B—Valdina Farms salamander	*Eurycea troglodytes*	Plethodontidae	TX.
2—Oklahoma salamander	*Eurycea tynerensis*	Plethodontidae	AR, OK, MO.
2—Tennessee cave salamander	*Gyrinophilus palleucus*	Plethodontidae	AL, GA, TN.
2—West Virginia spring salamander	*Gyrinophilus subterraneus*	Plethodontidae	WV.
2—Georgia blind salamander	*Haideotriton wallacei*	Plethodontidae	GA, FL.
2—Limestone salamander	*Hydromantes brunus*	Plethodontidae	CA.
2—Shasta salamander	*Hydromantes shastae*	Plethodontidae	CA.
2—Fourche Mountain salamander	*Plethodon fourchensis*	Plethodontidae	AR.
2—Peaks of Otter salamander	*Plethodon hubrichti*	Plethodontidae	VA.
2—Larch Mountain salamander	*Plethodon larselli*	Plethodontidae	OR, WA.
2—Jemez Mountain salamander	*Plethodon neomexicanus*	Plethodontidae	NM.
2—Cheat Mountain salamander	*Plethodon nettingi*	Plethodontidae	WV.
2—Ouachita salamander	*Plethodon ouachitae*	Plethodontidae	AR, OK.
2—Shenandoah salamander	*Plethodon shenandoah*	Plethodontidae	VA.
2—Siskiyou Mountain salamander	*Plethodon stormi*	Plethodontidae	CA, OR.
2—Blanco blind salamander	*Typhlomolge robusta*	Plethodontidae	TX.
3C—Carolina waterdog	*Necturus lewisi*	Proteidae	NC.
2—Sipsey Fork waterdog	*Necturus maculosus* ssp	Proteidae	AL.
2—Black-spotted newt	*Notophthalmus meridionalis*	Salamandridae	TX, Mexico.
2—Gulf Hammock dwarf siren	*Pseudobranchus striatus lustricolus*	Sirenidae	FL.
2—Rio Grande lesser siren	*Siren intermedia texana*	Sirenidae	TX, Mexico.
2—Black toad	*Bufo exsul*	Bufonidae	CA.
1—Wyoming toad	*Bufo hemniophrys baxteri*	Bufonidae	WY.
2—Puerto Rican toad	*Bufo lemur*	Bufonidae	PR.
1—Amargosa toad	*Bufo nelsoni*	Bufonidae	NV.
2—Sonora green toad	*Bufo retiformis*	Bufonidae	AZ, Mexico.
2—Pine Barrens treefrog (excluding AL and FL populations).	*Hyla andersonii*	Hylidae	NC, NJ, SC.
2—Illinois chorus frog	*Pseudacris streckeri illinoensis*	Hylidae	AR, IL, MO.
2—Guajon	*Eleutherodactylus cooki*	Leptodactylidae	PR.
2—Web-footed coqui	*Eleutherodactylus karlschmidti*	Leptodactylidae	PR.
3B—Ramos bromeliad frog	*Eleutherodactylus ramosi*	Leptodactylidae	PR.
2—Duckwater frog	*Rana* sp	Ranidae	NV.
3A—San Felipe leopard frog	*Rana* sp	Ranidae	CA.
2—Florida gopher frog	*Rana areolata aesopus*	Ranidae	FL, GA.
2—Carolina gopher frog	*Rana areolata capito*	Ranidae	GA, NC, SC.
2—Dusky gopher frog	*Rana areolata sevosa*	Ranidae	AL, FL, LA, MS.
3A—Vegas Valley leopard frog	*Rana (pipiens) fisheri*	Ranidae	NV.
2—Relict leopard frog	*Rana onca*	Ranidae	AZ, NV, UT.
2—Tarahumara frog	*Rana tarahumare*	Ranidae	AZ, Mexico.
REPTILES			
2—Alligator snapping turtle	*Macroclemys temmincki*	Chelydridae	South-Central United States.
2—Bog turtle	*Clemmys muhlenbergi*	Emydidae	Eastern United States.
2—Barbour's map turtle	*Graptemys barbouri*	Emydidae	AL, FL, GA.
2—Cagle's map turtle	*Graptemys caglei*	Emydidae	TX.
1—Yellow-blotched sawback	*Graptemys flavimaculata*	Emydidae	MS.
3C—Black-knobbed sawback	*Graptemys nigrinoda*	Emydidae	AL, MS.
3C—Ringed sawback	*Graptemys oculifera*	Emydidae	LA, MS.
3C—Sabine map turtle	*Graptemys ouachitensis sabinensis*	Emydidae	LA, TX.
2—Texas map turtle	*Graptemys versa*	Emydidae	TX.
2—Alabama red-bellied turtle	*Pseudemys alabamensis*	Emydidae	AL.
3C—Suwanee cooter	*Pseudemys concinna suwaniensis*	Emydidae	FL, GA.
2—Jicotea	*Pseudemys (decussata) stejnegeri*	Emydidae	PR.
2—Key mud turtle	*Kinosternon bauri bauri*	Kinosternidae	FL.
2—Arizona mud turtle	*Kinosternon flavescens arizonense*	Kinosternidae	AZ, Mexico.
1—Illinois mud turtle	*Kinosternon flavescens spooneri*	Kinosternidae	IL, IA, MO.
1—Flattened musk turtle	*Sternotherus depressus*	Kinosternidae	AL.
2—Desert tortoise	*Gopherus agassizii*	Testudinidae	AZ, CA, NV, UT, Mexico.
2—Gopher tortoise	*Gopherus polyphemus*	Testudinidae	AL, FL, GA, LA, MS, SC.
3C—Baker's legless lizard	*Amphisbaena bakeri*	Amphisbaenidae	PR.
2—Black legless lizard	*Anniella pulchra nigra*	Anniellidae	CA.
2—Magic gecko	*Anarbylus switaki*	Gekkonidae	CA, Mexico.
2—Big bend gecko	*Coleonyx reticulatus*	Gekkonidae	TX, Mexico.
2—Gila monster	*Heloderma suspectum*	Helodermatidae	AZ, CA, NM, NV, UT, Mexico.
2—Puerto Rican pygmy anole	*Anolis occultis*	Iguanidae	PR.
2—Reticulate collared lizard	*Crotaphytus reticulatus*	Iguanidae	TX, Mexico.
3A—Navassa Island iguana	*Cyclura cornuta nigerrima*	Igfuanidae	Navassa Island.
3A—No common name	*Leiocephalus eremitus*	Iguanidae	Navassa Island.
2—San Diego horned lizard	*Phrynosoma coronatum blainvillei*	Iguanidae	CA, Mexico.
2—Flat-tailed horned lizard	*Phrynosoma mcalli*	Iguanidae	AZ, CA, Mexico.
2—Sand dune lizard	*Sceloporus graciosus arenicolous*	Iguanidae	TX, Mexico.
2—Cowles fringe-toed lizard	*Uma notata rufopunctata*	Iguanidae	AZ, Mexico.
3C—Pandanus skink	*Aulacoplax leptosoma*	Scincidae	TT.
2—Florida Keys mole skink	*Eumeces egregius egregius*	Scincidae	FL.
2—Blue-tailed mole skink	*Eumeces egregius lividus*	Scincidae	FL.
2—Arizona skink	*Eumeces gilberti arizonensis*	Scincidae	AZ.
2—Sand skink	*Neoseps reynoldsi*	Scincidae	FL.
2—Blue-tailed ground lizard	*Ameiva wetmorei*	Teiidae	PR.
2—Gray-checkered whiptail	*Cnemidophorus dixoni*	Teiidae	NM, TX.
2—Orange-throated whiptail	*Cnemidophorus hyperythrus*	Teiidae	CA, Mexico.
2—Southern rubber boa	*Charina bottae umbratica*	Boidae	CA.
3A—St. Croix ground snake	*Alsophis sanctcrucis*	Colubridae	VI.

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2—Culebra garden snake	*Arrhyton exiguum exiguum*	Colubridae	PR.
2—Kirtland's snake	*Clonophis kirtlandi*	Colubridae	IL, IN, KY, MI, OH, PA, WI.
2—Key ringneck snake	*Diadophis punctatus acricus*	Colubridae	FL.
3C—Desert kingsnake	*Lampropeltis getulus splendida*	Colubridae	AZ, NM, OK, TX.
3C—Gray-banded kingsnake	*Lampropeltis mexicana alterna*	Colubridae	TX.
2—Alameda striped racer	*Masticophis lateralis euryxanthus*	Colubridae	CA.
2—Copperbelly water snake	*Nerodia erythrogaster neglecta*	Colubridae	IL, IN, MI, OH, KY.
1—Harter's water snake	*Nerodia harteri*	Colubridae	TX.
2—Black pine snake	*Pituophis melanoleucus lodingi*	Colubridae	AL, LA, MS.
2—Florida pine snake	*Pituophis melanoleucus mugitus*	Colubridae	AL, FL, GA, SC.
2—Louisiana pine snake	*Pituophis melanoleucus ruthveni*	Colubriade	LA, TX.
2—Short-tailed snake	*Stilosoma extenuatum*	Colubridae	FL.
2—Rimrock crowned snake	*Tantilla oolitica*	Colubridae	FL.
2—Short-headed garter snake	*Thamnophis brachystoma*	Colubridae	NY, PA.
2—No common name	*Tropidophis melanurus bucculentus*	Colubridae	Navassa Island.
2—Arizona ridge-nosed rattlesnake	*Crotalus willardi willardi*	Viperidae	AZ, Mexico.
2—Eastern massasauga	*Sistrurus catenatus catenatus*	Viperidae	North-Central United States.
BIRDS			
2—Reddish egret	*Egretta rufescens*	Ardeidae	N=FL, TX, Mexico, West Indies; V=AL, CA, LA, MS.
2—White-faced ibis (Great Basin population)	*Plegadis chihi*	Threskiornithidae	N=AZ, CA, CO, NM, NV, OR, UT; V=ID, WY, Mexico.
1—Wood stork (southeastern United States population).	*Mycteria americana*	Ciconidiidae	N=FL, GA, SC; V=AL, LA, MS, NC, TX.
2—Fulvous whistling duck, (southwestern United States population).	*Dendrocygna bicolor*	Anatidae	N=AZ, CA; V=Mexico.
2—West Indian whistling duck	*Dendrocygna arborea*	Anatidae	PR, VCI, West Indies.
3C—Tule white-fronted goose	*Anser albifrons elgasi*	Anatidae	N=AK; V=CA, OR.
2—Lesser white-cheeked pintail	*Anas bahamensis bahamensis*	Anatidae	PR, VI, West Indies, South America.
2—American swallow-tailed kite	*Elanoides forficatus forficatus*	Accipitridae	N=AL, AR, FL, GA, IA, IL, KS, LA, MN, MO, MS, NC, OK, SC, TN, TX, WI; V=Central America.
2—Puerto Rican sharp-shinned hawk	*Accipiter striatus venator*	Accipitridae	PR.
2—Puerto Rican broad-winged hawk	*Buteao platypterus brunnescens*	Accipitridae	PR.
2—Swainson's hawk	*Buteo swainsoni*	Accipitridae	N=AK, AZ, CA, CO, IA, ID, KS, MN, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WY, Canada; V=FL, Mexico, Central and South America.
2—Ferruginous hawk	*Buteo regalis*	Accipitridae	N=CO, ID, MT, ND, NF, NM, NV, OK, OR, SD, TX, UT, WA, WY, Canada: V=AZ, CA, Mexico.
2—Crested caracara (Florida population)	*Polyborus plancus audubonii*	Falconidae	FL.
2—Southeastern American kestrel	*Falco sparverius paulus*	Falconidae	AL, FL, GA, LA, MS.
2—Northern aplomado falcon	*Falco femoralis septentrionalis*	Falconidae	AZ, NM, TX, Mexico.
2—Mangrove clapper rail	*Rallus longirostris insularum*	Rallidae	FL.
1—Guam rail	*Rallus owstoni*	Rallidae	GU.
2—California black rail	*Laterallus jamaicensis coturniculus*	Rallidae	AZ, CA, Mexico.
1—Marianas gallinule	*Gallinula chloropus guami*	Rallidae	GU, TT, (Mariana Islands).
2—Western snowy plover	*Charadrius alexandrinus nivosus*	Charadriidae	N=CA, CO, KS, NM, NV, OK, OR, TX, UT, WA; V=AZ, Mexico.
2—Southeastern snowy plover	*Charadrius alexandrinus tenuirostris*	Charadriidae	AL, FL, LA, MS, PR, Greater Antilles.
2—Piping plover	*Charadrius melodus*	Charadriidae	N=CT, DE, IA, IL, IN, MA, MD, ME, MI, MN, NC, ND, NE, NH, NJ, NY, OH, PA, RI, SD, VA, WI, Canada; V=AL, AR, CA, FL, KY, LA, MO, MS, PR, SC, TN, TX, Greater Antilles.
2—Mountain plover	*Charadrius montanus*	Charadriidae	N=CO, KS, MT, ND, NE, NM, OK, SD, TX, WY; V=AZ, CA, NV, UT, Mexico.
2—Long-billed curlew	*Numenius americanus*	Scolopacidae	N=CA, CO, IA, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, WY, Canada; V=AZ, LA, MN, Mexico.
2—Roseate tern (North America population)	*Sterna dougallii dougallii*	Laridae	N=CT, FL, MA, ME, NJ, NY, PR, VA, VI, Canada, West Indies; V=Central and South America.
2—Interior least tern	*Sterna antillarum athalassos*	Laridae	N=AR, IA, IL, IN, KS, KY, LA, MO, NE, OK, SD, TN, TX; V=CO, WI, WY, Central and South America.
2—White-crowned pigeon	*Columba leucocephala*	Columbidae	FL, West Indies, Central America.
2—Radak Micronesian pigeon	*Ducula oceanica ratakensis*	Columbidae	TT (Marshall Islands).
2—Truk Micronesian pigeon	*Ducula oceanica teraoki*	Columbidae	TT (Caroline Islands).
1—Marianas fruit dove	*Ptilinopus roseicapillus*	Columbidae	GU, TT (Mariana Islands).
1—Guam white-throated ground dove	*Gallicolumba xanthonura xanthonura*	Columbidae	GU.
2—Palau Nicobar pigeon	*Caloenas nichobarensis pelewensis*	Columbidae	TT (Caroline Islands).
2—Western yellow-billed cuckoo	*Coccyzus americanus occidentalis*	Cuculidae	N=AZ, CA, CO, ID, NM, NV, OR, TX, UT, WA, Canada, Mexico; V=Central and South America.
1—Virgin Islands screech owl	*Otus nudipes newtoni*	Strigidae	PR, VI.
2—Southern spotted owl	*Strix occidentalis lucida*	Strigidae	AZ, CO, NM, TX, UT, Mexico.
2—Ponape short-eared owl	*Asio flammeus ponapensis*	Strigidae	TT (Caroline Islands).
1—Guam swiftlet	*Aerodramus vanikorensis bartschi*	Apodidae	GU.
1—Guam Micronesian kingfisher	*Halcyon cinnamomina cinnamomina*	Alcedinidae	GU.
2—Florida scrub jay	*Aphelocoma coerulescens coerulescens*	Corvidae	FL.
1—Marianas crow	*Corvus kubaryi*	Corvidae	TT (Mariana Islands).
2—Appalachian Bewick's wren	*Thryomanes bewickii altus*	Troglodytidae	AL, GA, KY, MD, NC, OH, PA, SC, TN, VA, WV, Canada.
3A—San Clemente Bewick's wren	*Thryomanes bewickii leucophrys*	Troglodytidae	CA.
2—Coastal black-tailed gnatcatcher	*Polioptial melanura californica*	Muscicapidae	CA, Mexico.
2—Truk monarch	*Metabolus rugensis*	Muscicapidae	TT (Caroline Islands).
1—Guam Micronesian flycatcher	*Myiagra oceanica freycineti*	Muscicapidae	GU.
2—Guam Rufous-fronted fantail	*Phipidura rufirons uraniae*	Muscicapidae	GU.
2—Palau white-breasted wood-swallow	*Artamus leucorhynchus pelewensis*	Artamidae	TT (Caroline Islands).
2—Migrant loggerhead shrike	*Lanius ludovicianus migrans*	Laniidae	N=AR, CT, DE, DC, IA, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NC, NE, NH, NJ, NY, OH, OK, PA, RI, TN, TX, VA, VT, WI, WV, Canada; V=AL, FL, GA, LA, SC.
1—Cardinal honey-eater	*Myzomela cardinalis saffordi*	Melephagidae	GU.
2—Bishop's oo	*Moho bishopi*	Melephagidae	HI.
1—Guam bridled white-eye	*Zosterops conspicillata conspicillata*	Zosteropidae	GU.

Category and common name	Scientific name	Family	Distribution
2—Rota bridled white-eye	*Zosterops conspicillata rotensis*	Zosteropidae	TT (Mariana Islands.)
1—Truk greater white-eye	*Rukia ruki*	Zosteropidae	TT (Caroline Islands).
1—Least Bell's vireo	*Vireo bellii pusillus*	Vireonidae	N=CA, Mexico.
3C—Arizona Bell's vireo	*Vireo bellii arizonae*	Vireonidae	N=AZ, CA, NV, UT; V=Mexico.
2—Black-capped vireo	*Vireo atricapillus*	Vireonidae	N=KS, OK, TX; V=Mexico.
2—Colima warbler	*Vermivora crissalis*	Emberizidae	N=TX, Mexico.
2—Golden-cheeked warbler	*Dendroica chrysoparia*	Emberizidae	N=TX; V=Mexico, Central America.
2—Stoddard's yellow-throated warbler	*Dendroica dominica stoddardi*	Emberizidae	AL, FL.
2—Elfin woods warbler	*Dendroica angela*	Emberizidae	PR.
2—Saltmarsh yellowthroat	*Geothlypis trichas sinuosa*	Emberizidae	CA.
1—Inyo brown towhee	*Pipilo fuscus eremophilus*	Emberizidae	CA.
1—Yuma brown towhee	*Pipilo fuscus relictus*	Emberizidae	AZ.
2—Bachman's sparrow	*Aimophila aestivalis*	Emberizidae	AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, WV.
2—Texas Botteri's sparrow	*Aimophila botterii texana*	Emberizidae	TX, Mexico.
2—Yuma rufous-crowned sparrow	*Aimophila ruficeps rupicola*	Emberizidae	AZ.
2—Large-billed savannah sparrow	*Passerculus sandwichensis rostratus*	Emberizidae	N=Mexico; V=AZ, CA.
2—Florida grasshopper sparrow	*Ammodramus savannarum floridanus*	Emberizidae	FL.
2—Texas Henslow's sparrow	*Passerherbulus henslowii* ssp.	Emberizidae	TX.
2—Wakulla seaside sparrow	*Ammospiza maritima juncicola*	Emberizidae	FL.
2—Smyrna seaside sparrow	*Ammospiza maritima pelonota*	Emberizidae	FL.
2—Amak song sparrow	*Melospiza melodia amaka*	Emberizidae	AK.
2—Tricolored blackbird	*Agelaius tricolor*	Emberizidae	CA, OR, Mexico.
2—Palau blue-faced parrotfinch	*Erythrura trichroa pelewensis*	Estrildidae	TT (Caroline Islands).
MAMMALS			
2—Homossassa shrew	*Sorex longirostris eionis*	Soricidae	FL.
2—Dismal Swamp southeastern shrew	*Sorex longirostris fisheri*	Soricidae	NC, VA.
2—San Bernardino dusky shrew	*Sorex monticolus parvidens*	Soricidae	CA.
2—Catalina shrew	*Sorex ornatus willetti*	Soricidae	CA.
2—Suisun shrew	*Sorex sinuosus*	Soricidae	CA.
2—Arizona shrew	*Sorex arizonae*	Soricidae	AZ, NM.
2—Water shrew	*Sorex palustris punctulatus*	Soricidae	MD, NC, PA, TN, VA, WV.
2—Pygmy shrew	*Microsorex hoyi winnemana*	Soricidae	GA, MD, NC, VA.
2—Sherman's short-tailed shrew	*Blarina brevicauda shermani*	Soricidae	FL.
3C—Dismal Swamp short-tailed shrew	*Blarina brevicauda shermani*	Soricidae	NC, VA.
1—Marianas fruit bat	*Pteropus mariannus mariannus*	Pteropodidae	GU.
2—Little Marianas fruit bat	*Pteropus tokudae*	Pteropodidae	GU.
2—Sheath-tailed bat	*Emballonura semicaudata*	Emballonuridae	GU.
2—Big long-nosed bat	*Leptonycteris nivalis*	Phyllostomidae	TX, Mexico, Guatemala.
2—Desmarest's fig-eating bat	*Stenoderma rufum*	Phyllostomidae	PR, VI.
2—Spotted bat	*Euderma maculatum*	Vespertilionidae	AZ, CA, CO, ID, MT, NM, NV, OR, UT, WY, TX, CANADA, Mexico.
2—Underwood's mastiff bat	*Eumops underwoodi sonoriensis*	Molossidae	AZ, Mexico, Central America.
2—Davis Mountain cottontail	*Sylvilagus floridanus robustus*	Leporidae	TX, Mexico.
2—New England cottontail	*Sylvilagus transitionalis*	Leporidae	AL, GA, KY, MA, MD, ME, NC, NH, NJ, NY, PA, TN, VA, VT, WV.
2—White-sided jack rabbit	*Lepus callotis gaillardi*	Leporidae	MN, Mexico.
2—Mono Basin mountain beaver	*Aplodontia rufa californica*	Aplodontidae	CA.
2—Penasco chipmunk	*Eutamias minimus atristriatus*	Sciuridae	NM.
2—Nelson's antelope squirrel	*Ammospermophilus nelsoni*	Sciuridae	CA.
2—Idaho ground squirrel	*Spermophilus brunneus*	Sciuridae	ID.
2—Mangrove fox squirrel	*Sciurus niger avicennia*	Sciuridae	FL.
2—Sherman's fox squirrel	*Sciurus niger shermani*	Sciuridae	FL, GA.
2—Mount Graham spruce squirrel	*Tamiasciurus hudsonicus grahamensis*	Sciuridae	AZ.
2—Northern flying squirrel	*Glaucomys sabrinus coloratus*	Sciuridae	NC, TN.
2—Northern flying squirrel	*Glaucomys sabrinus fuscus*	Sciuridae	WV
2—Sherman's pocket gopher	*Geomys pinetis fontanelus*	Geomyidae	GA
2—Goff's pocket gopher	*Geomys pinetis goffi*	Geomyidae	FL.
2—Colonial pocket gopher	*Geomys colonus*	Geomyidae	GA.
2—Cumberland pocket gopher	*Geomys cumberlandius*	Geomyidae	GA.
2—White-eared pocket mouse	*Perognathus alticola*	Heteromyidae	CA.
2—Silky pocket mouse	*Perognathus flavus goodpasteri*	Heteromyidae	AZ.
2—Arizona pocket mouse	*Perognathus amplus ammodytes*	Heteromyidae	AZ.
2—Arizona pocket mouse	*Perognathus amplus amplus*	Heteromyidae	AZ.
2—Stephens' kangaroo rat	*Dipodomys stephensi*	Heteromyidae	CA.
2—Big-eared kangaroo rat	*Dipodomys elephantinus*	Heteromyidae	CA.
1—Giant Kangaroo rat	*Dipodomys ingens*	Heteromyidae	CA.
2—Texas kangaroo rat	*Dipodomys elator*	Heteromyidae	OK, TX.
2—Merriam's kangaroo rat	*Dipodomys merriami frenatus*	Heteromyidae	UT.
1—Fresno kangaroo rat	*Dipodomys nitratoides exilis*	Heteromyidae	CA.
2—Tipton kangaroo rat	*Dipodomys nitratoides nitratoides*	Heteromyidae	CA.
2—Sanibel Island rice rat	*Oryzomys palustris sanibeli*	Muridae	FL.
2—Silver rice rat	*Oryzomys argentatus*	Muridae	FL.
1—Choctawhatchee beach mouse	*Peromyscus polionotus allophrys*	Muridae	FL.
2—Alabama beach mouse	*Peromyscus polionotus ammobates*	Muridae	AL.
3A—Pallid beach mouse	*Peromyscus polionotus decoloratus*	Muridae	FL.
1—Perdido Bay beach mouse	*Peromyscus polionotus trissyllepsis*	Muridae	AL, FL.
1—Key Largo cotton mouse	*Peromyscus gossypinus allapaticola*	Muridae	FL.
2—Florida mouse	*Peromyscus floridanus*	Muridae	FL.
1—Key Largo wood rat	*Neotoma floridana smalli*	Muridae	FL.
2—Ash Meadows vole	*Microtus montanus nevadensis*	Muridae	NV.
1—Amargosa vole	*Microtus californicus scirpensis*	Muridae	CA.
2—Owens Valley vole	*Microtus californicus vallicola*	Muridae	CA.
2—Mount Graham long-tailed vole	*Microtus longicaudus leucophaeus*	Muridae	AZ.
2—Mexican vole	*Microtus mexicanus hualpaiensis*	Muridae	AZ.
2—Mexican vole	*Microtus mexicanus navaho*	Muridae	AZ, UT.
2—Louisiana vole	*Microtus ochrogaster ludovicianus*	Muridae	LA, TX.
2—Southern bog lemming	*Synaptomys cooperi helaletes*	Muridae	NC, VA.
2—Swift fox	*Vulpes velox*	Canidae	CO, KS, MT, ND, NE, NM, OK, SD, TX, WY.
2—Island fox	*Urocyon littoralis*	Canidae	CA.
2—Florida black bear	*Ursus americanus floridanus*	Ursidae	AL, FL, GA.
2—Louisiana black bear	*Ursus americanus luteolus*	Ursidae	LA, MS, TX.
2—Key Vaca raccoon	*Procyon lotor auspicatus*	Procyonidae	FL.
2—Everglades mink	*Mustela vison evergladensis*	Mustelidae	FL.

Category and common name	Scientific name	Family	Distribution
2—Lynx	*Lynx lynx*	Felidae	Eurasia, Canada, Northern United States.
2—Yuma puma	*Felis concolor browni*	Felidae	AZ, CA, Mexico.
1—Woodland caribou (Selkirk herd)	*Rangifer tarandus caribou*	Cervidae	ID, WA, Canada.

[FR Doc. 82-34992 Filed 12-29-82; 8:45 am]
BILLING CODE 4310-55-M

federal register

Thursday
December 30, 1982

Part III

Environmental Protection Agency

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS-FRL-2198-7]

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule amends the existing regulations for exhaust emissions from new and in-use commercial aircraft gas turbine engines under the authority of Section 231 of the Clean Air Act. Limits of 26.7 kilonewtons (kN) thrust are established below which aircraft engines will not be subject to gaseous emission standards. An exemption for low-production models is adopted and other exemption provisions have been altered to deal more effectively with special problems in compliance. Most of the existing hydrocarbon (HC) standards are being amended, and all of the existing carbon monoxide (CO) and oxides of nitrogen (NOx) standards are being withdrawn. The compliance dates for all the HC standards have been delayed until January 1, 1984.

Recent analyses of CO emissions have indicated that earlier estimates of the impact of aircraft CO emissions were seriously overestimated. Aircraft emissions contribute a relatively small portion of the urban emission problem. Also, control techniques used for HC control will produce CO reductions as a byproduct. Since few regions are experiencing violations of the ambient air quality standard for NO_x and given that NO_x control technology is unproven and very expensive, a NO_x standard is not being promulgated. The HC standard adopted here is the same as that developed by the International Civil Aviation Organization.

EFFECTIVE DATE: January 31, 1983. Note: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the District of Columbia circuit within 60 days of December 30, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not by challenged later in judicial proceedings brought by EPA to enforce these requirements.

The incorporation by reference of ICAO Annex 16, Volume II, Aircraft Engine Emissions, June 1981 is approved by the Director of the Federal Register as of September 3, 1982.

ADDRESSES: The information base on which this rulemaking is established is collected in Public Docket No. OMSAPC-78-1 at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket includes background materials, hearing transcripts, written comments, environmental, economic, and technical analyses performed during the rulemaking, and the Summary and Analysis of Comments to the NPRM. The docket is open to the public and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying services. In addition, single copies of the Summary and Analysis of Comments are available from the address below.

FOR FURTHER INFORMATION CONTACT: George D. Kittredge, U.S. Environmental Protection Agency, Office of Mobile Sources (ANR-455), 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 382-4981.

SUPPLEMENTARY INFORMATION:

I. Background:

Section 231 of the Clean Air Act as amended directs the Administrator of the Environmental Protection Agency to "issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare." In 1973, EPA promulgated emission regulations for several classes of aircraft and aircraft engines (38 FR 19090). The affected pollutants were fuel venting, smoke, and exhaust (hydrocarbon, carbon monoxide, and oxides of nitrogen) emissions. For the purpose of emission regulations, all aircraft engines were divided into eight classes, which are listed in Table 1 (these class designations have since been modified as shown in the same table). Three tiers of standards were promulgated: *retrofit* standards for in-use engines, standards for newly *manufactured* engines (those engines *built* after the effective date of the regulations) and for newly *certified* engines (those engines designed and certified after the effective date of the regulations). At the same time that these final rules were published in 1973, EPA also proposed additional *retrofit* standards (applying to engines already in-use). The relevant gaseous emission standards are shown in Tables 2A through 2C. Smoke and fuel venting standards which are unchanged for the most part are listed in Table 3.

TABLE 1—SUMMARY OF AIRCRAFT CLASSES

1973 EPA class designation	Engine type	Principal aircraft application	1982 EPA class designation
P2	Turboprop engines.	General aviation and commercial aircraft.	TP.
T1	Small subsonic turbojet/ turbofan engines (0 to 36 KN thrust).	General aviation and commercial aircraft.	
T2	Large subsonic turbojet/ turbofan engines (greater than 36 KN thrust) excluding JT3D and JT8D engines.	Subsonic commercial aircraft.	TF.
T3	Large subsonic turbojet/ turbofan engines of the JT3D model family.	Subsonic commercial aircraft.	T3.
T4	Large subsonic turbojet/ turbofan engines of the JT8D model family.	Subsonic commercial aircraft.	T8.
T5	Supersonic turbojet/ turbofan engines.	Supersonic commercial aircraft.	TSS.
P1	Piston engines (excluding radial).	General aviation and commercial aircraft.	P1 (no standards).
APU	Auxiliary propulsion units.	General aviation and commercial aircraft.	APU (no standards).

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Table 2A

Comparison of Old and New Gaseous Standards

Newly Manufactured Engine Standards

Class	Pollutant	1973 Standard (All Engines) Compliance Date	Level*	Size	1978 Proposed Standard (Commercial Only) Compliance Date	Level*	Size	Final Standard (Commercial Only) Compliance Date	Level*	Size
TF	HC	1979	13.4	below 36 kN	1981	No Standard	below 27 kN	1984	No Standard	below 26.7 kN
TF			6.7	over 36 kN		17.6-6.7	27-90 kN		19.6	over 26.7 kN
T3, T8			6.7	All		6.7	over 90 kN		19.6	over 26.7 kN
TF	CO	1979	78.9	below 36 kN	1981	No Standard	below 27 kN		DELETED	
TF			36.1	over 36 kN		106.6-36.1	27-90 kN			
T3, T8			36.1	All		36.1	over 90 kN			
TF	NOx	1979	30.5	below 36 kN	1984	No Standard	below 27 kN		DELETED	
TF			25.0	over 36 KN		33.9 w/ additional allowance for PR(1)				
T3, T8			25.0	All			over 27 kN			
TSS	HC	1980	30.7	All	1980	30.7	All	1984	30.7	All
	CO	1980	237.0	All	1980	237.0	All		DELETED	
	NOx	1980	70.8	All	1980	70.8	All		DELETED	
P1						DELETED		DELETED	(45 FR 1419, Jan. 7, 1980)	
TP						DELETED			DELETED	
APU						DELETED		DELETED	(45 FR 1419, Jan. 7, 1980)	

* Grams per kilonewton per cycle.

(1) Applies to current Concorde propulsion system only, general expression for limit is $140(0.92)^{PR}$ where PR is engine pressure ratio at rated thrust.

Table 2B

Comparison of Old and New Gaseous Standards

Newly Certified Engine Standards

Class	Pollutant	Old Standard (All Engines) Date	Level*	Size	Proposed Standard (Commercial Only) Date	Level*	Size	Final Standard (Commercial Only) Date	Level*	Size
TF, T3, T8,	HC	1981	3.3	All	1984	No Standard 3.3	below 27 KN over 27 KN		DELETED	
	CO	1981	25.0	All	1984	No Standard 25.0	below 27 KN over 27 KN		DELETED	
	NOx	1981	25.0	All	1984	No Standard 33.0	below 27 KN over 27 KN		DELETED	
TSS	HC	1984	7.8	All	1984	7.8	All		DELETED	
	CO	1984	61.0	All	1984	61.0	All		DELETED	
	NOx	1984	39.0	All	1984	39.0	All		DELETED	
TP	HC		NONE		1984	0.045**	over 2000 KW		DELETED	
	CO		NONE		1984	0.34**	over 2000 KW		DELETED	
	NOx		NONE		1984	0.45**	over 2000 KW		DELETED	

* Grams per kilonewton per cycle.

** Grams per kilowatt per cycle.

Table 2C

Comparison of Old and New Gaseous Standards

Retrofit Engine Standards

Class	Pollutant	Old Standard (All Engines) Date	Level	Size	Proposed Standard (Commercial Only) Date	Level*	Size	Final Standard (Commercial Only) Date	Level	Size
TF, T8,	HC		NONE		1985	No Standard 11.8-6.7 6.7	below 53 KN 53-90 KN over 90 KN		DELETED	
	CO		NONE		1985	No Standard 68.2-36.1 36.1	below 53 KN 53-90 KN over 90 KN		DELETED	

* Grams per kilonewton per cycle.

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TABLE 3.—SMOKE AND FUEL VENTING EMISSION STANDARDS

Class	
T8	Max. smoke number of 30 [1] after Feb. 1, 1974.
TF, T3, TSS	Prohibition of fuel venting [1] after Jan. 1, 1974.
TF, TP	Prohibition of fuel venting [1] after Jan. 1, 1975.
TF (above 29,000 LB thrust).	Max. smoke number based on thrust [2] rating after Jan. 1, 1976.
T3	Max. smoke number of 25 [2] after Jan. 1, 1978.
TF, TP [4]	Max. smoke number based on thrust (Power) rating [2] after Jan. 1, 1983.
T3	Max. smoke number of 25 [3] after Jan. 1, 1985.

[1] New and in-use.
[2] New only.
[3] In-use only, based on progressive compliance schedule beginning in 1981.
[4] Mathematical relationship changed slightly to match Air Force smoke standards.

On March 24, 1978 EPA published a Notice of Proposed Rulemaking (NPRM) which proposed major changes to the existing aircraft rules (43 FR 12615). That proposal is the basis for this final action. It proposed withdrawing emission standards for piston engines, small turboprop engines and small turbojet/turbofan engines, and auxiliary power units. Thus, that proposal would have deleted the emission standards for all general aviation engines (as opposed to commercial or military engines) and would require emission compliance only from those engines used for commercial transport of 27 kN thrust or greater used or intended for use in commercial transport. Within these general changes, there were some modifications proposed for levels of control and implementation dates, which are also summarized in Tables 2A–2C.

For newly *manufactured* engines, it was proposed that the HC and CO standards be retained for engines of 90 kN and greater thrust, but for engines between 27 and 90 kN a continuous transition of the standards with thrust was proposed. The implementation dates for the HC and CO standards were proposed to be delayed until 1981. The NO_x standard was proposed to be raised somewhat for engines greater than 27 kN thrust. A rated compressor pressure ratio adjustment was proposed for engines with pressure ratios in excess of 25. The NO_x implementation date was proposed to be delayed until 1984 and EPA promised to reexamine the issue of aircraft NO_x control in the future. Finally, the proposal did not affect the smoke and fuel venting emission standards except for a proposed delay in the T3 compliance schedule for smoke emission involving a phased program with full compliance by 1985.

For newly *certified* engines, the proposal retained the same HC and CO standards for engines with 27 kN or greater thrust. The NO_x standard was proposed to be relaxed to the same level as for newly manufactured engines. All the standards for newly certified engines were proposed to be delayed until 1984.

With respect to engine *retrofit* standards for gaseous emissions, it was proposed to extend the applicability of retrofit standards to all turbojet/turbofan aircraft engines of 53 kN or greater thrust and to all JT8D engines, but to withdraw any requirement for NO_x retrofit. The proposed implementation date for the retrofit standards was delayed until 1985.

In addition, the NPRM proposed that the idle power set point for compliance testing be defined as the minimum idle set point for each particular engine with simulation permitted of minimum accessory influences experienced by the engine when operated in the idle mode. Finally, the proposal slightly modified the EPA parameter by recommending the use of the rated thrust, rather than the total impulse, as the normalizing useful work factor for the emission standards.

A public hearing was held on November 1 and 2, 1978 to consider comments on the NPRM. During EPA's initial review of these comments, it became clear that some of the issues were more complex than others and would require a longer period of time to analyze and to complete the Agency review process. To prevent any unnecessary delay in regulatory relief for the industry, and to make the review effort more efficient, two facets of the NPRM have already been finalized in earlier rulemaking actions as follows:

1. Modification of Compliance Schedule for Smoke Standard

On November 6, 1979 (44 FR 64266), EPA finalized the modification of the compliance schedule for smoke emission standards applicable to JT3D (T3) engines. Specifically, the T3 smoke standard compliance schedule was made the same as the Federal Aviation Administration (FAA) phased schedule for noise compliance by U.S. operators of JT3D-powered airplanes operated domestically under 14 CFR Parts 121 and 135. On December 31, 1980 (46 FR 2044), EPA issued an amendment which delayed the first interim date for compliance with the T3 smoke standard from January 1, 1981 to February 1, 1981.

2. Withdrawal of Gaseous Emissions Standards

On January 7, 1980 (45 FR 1419), EPA finalized the amendments which withdrew all gaseous emission requirements for piston engines (P1) and auxiliary power units (APU).

In addition, on December 31, 1980 (45 FR 86946), EPA delayed until January 1, 1983, the effective date for all gaseous emission standards which would otherwise have been effective on January 1, 1981. This delay was necessary because it was not possible to replace the original standards before they became effective.

Since publication of the 1973 standards, EPA has worked with the International Civil Aviation Organization (ICAO) on the development of international aircraft engine emission standards. On June 30, 1981, the ICAO issued engine emission standards which apply to many (but not all) of the same types of engines to which the U.S. standards apply. With the establishment of the international standards, the U.S. now has an obligation [1] to frame national standards to be as compatible as possible with the ICAO standards, consistent with U.S. environmental goals and with EPA's responsibilities under Section 231 of the Clean Air Act. This rulemaking action responds to that obligation. While the amended U.S. standards are not identical in every respect to the ICAO standards, they are in no case incompatible in their requirements.

II. Description of this Action: This final rulemaking action

1. Withdraws hydrocarbon, carbon monoxide and nitrogen oxide emission standards for all aircraft gas turbine engines used only for general aviation applications.

2. Withdraws hydrocarbon, carbon monoxide and nitrogen oxide emission standards for aircraft gas turbine engines of rated thrust less than 26.7 kilonewtons (kN). This figure is revised slightly from the figure of 27 which was proposed, to correspond with the ICAO standards.

3. Withdraws hydrocarbon, carbon monoxide and nitrogen oxides emission standards for newly certified aircraft gas turbine engines in all rated thrust categories.

4. Withdraws carbon monoxide and nitrogen oxide emission standards for newly manufactured aircraft gas turbine

[1] Based on the Chicago Convention on International Aviation December 7, 1944, to which the United States is one of the signatory nations.

engines of rated thrust equal to or greater than 26.7 kN.

5. Revises hydrocarbon emission standards for newly manufactured aircraft gas turbine engines of rated thrust equal to or greater than 26.7 kN.

6. Revises the smoke standards for turboprop engines to agree with existing Air Force smoke standards.

7. Revises the compliance date for all gaseous emission standards from January 1, 1983 to January 1, 1984.

8. Exempts engine models produced in quantities of 20 units per year or less or not more than 200 units total future production.

9. Redefines the idle power set point for engine compliance testing.

10. Revises the test fuel specification for engine compliance testing.

11. Transfers the responsibility and authority for evaluation of requests for exemption from emission standards to the Secretary of Transportation (DOT).

The revised standards apply to classes TF, T3, T8 and TSS as listed in Table 1. For newly *manufactured* engines, the HC standards are 19.6 grams per kN per cycle for TF, T3, and T8 engines over 26.7 kN thrust, while for TSS engines the limit is pressure ratio dependent. For the current Concorde propulsion system this comes out to 30.7 grams per kN per cycle, the same as the current standard. Both of these standards will take effect on January 1, 1984.

The remaining smoke standards and the fuel venting standards for newly manufactured and in-use engines are unchanged. The proposed retrofit standards for gaseous emissions have not been finalized. The amended gaseous compared with the previous standards and the 1978 proposed changes in Tables 2A through 2C. The intent is to limit the application of HC emission standards to engines rated at 26.7 kN or greater thrust which are used or intended for use in commercial transport by "air carriers" or "commercial operators."

This final action modifies the definition of the idle power set point proposed in the NPRM for compliance testing. Among related compliance issue, this action affirms EPA's position that the FAA has the final authority to determine the appropriate method of verifying compliance with these emissions standards and transfers authority for evaluation of requests for exemptions to the FAA.

III. Statutory Authority for this Action

As mentioned above, the basic authority for EPA regulation of aircraft engines is Section 231 of the Clean Air Act as amended, as well as Section 301 of that Act.

IV. Impacts and Issues

This has been a very lengthy and complicated rulemaking. Throughout its development various commenters have raised concerns about many different aspects of the regulations. For a comprehensive compilation of these comments and EPA's responses, see the Summary and Analysis of Comments, a supporting document to the regulations (Public Docket OMSAPC–78–1). The following sections highlight those issues identified by both EPA and the commenters as most critical.

A. *Air Quality:* The relationship of emissions from aircraft engines to airport air quality was the subject of a detailed joint investigation by EPA and FAA technical staff during the period following publication of the NPRM. This study responded to a commitment made by both agencies in the preamble to the NPRM, to reevaluate the impact of aircraft operations on air quality around large metropolitan airports, using the most up-to-date emissions factors and airport traffic data available. The results of this joint study were described in a report released by FAA in September, 1980 and announced by EPA in the **Federal Register** on December 31, 1980 (45 FR 86946).

Based on both air quality monitoring and mathematical modeling projections, the joint investigation found that short-term CO concentrations attributable to aircraft operations in areas in and around major airports to which the public has access do not exceed 5 ppm. This may be compared to the present short-term National Ambient Air Quality Standard (NAAQS) for CO of 35 ppm for one hour.

As for nitrogen oxides, the study projected that annual average NO_2 concentrations in areas of expected public exposure would likely not exceed 10–20% of the present NAAQS for NO_2 of 0.05 ppm averaged over one year. It was noted that short-term public exposures to NO_2 concentrations of roughly 0.2 ppm for periods up to one hour were possible, but in the absence of a short-term NAAQS for NO_2, the significance of this finding cannot be assessed.

For HC, the study conclusions were not based on air quality monitoring or modelling, because local exposures of the general public to HC concentrations in and around airports have no air quality significance. Rather, it was simply pointed out that HC emissions from aircraft contribute to violations of the NAAQS for ozone in many urban areas along with many other sources of HC emissions which are individually small. It was also observed that HC emissions probably contribute to odors in the terminal areas of large metropolitan airports. Therefore, the study concluded that control of HC emissions from aircraft engines can be justified.

Comments received on the FAA report will be discussed in the sections which follow, along with comments on the NPRM itself, organized by pollutant species.

1. Should Hydrocarbon Emissions from Aircraft Engines be Controlled?

The primary impetus for the control of hydrocarbon (HC) emissions into the atmosphere is their fundamental role as precursors in photochemical oxidant (smog) formation. The National Ambient Air Quality Standard (NAAQS) for ozone, one product of the photochemical process and the one measured to typify total photochemical oxidant levels, continues to be exceeded in many parts of the country.

Comment: Aircraft account for a relatively small fraction of total hydrocarbon emissions in large metropolitan areas.

Response: Once EPA has identified a pollutant whose levels must be reduced and the sources which emit that pollutant, the primary issues are usually: (1) Is a given source a "significant" contribution to atmospheric pollutant levels? and (2) is the control of that source cost-effective when compared to control of other sources? The nature of HC emissions is that there are few dominant, single HC sources nationwide. Rather, there is a multitude of smaller sources which, if considered individually, would not appear to pose serious air quality problems. However since the Nation continues to have severe ozone non-attainment difficulties, reductions must continue to be made in HC emissions, which is the basic control strategy for achievement of the ozone NAAQS. Thus, reductions from relatively small sources must be required wherever it is cost-effective to do so.

EPA has found that aircraft emit up to 6000 tons of HC per year at each of some of the busiest commercial airports in the country.[2] For purpose of comparison, this is well above the 100 ton per year level defined as "major" under Section 302(j) of the Clean Air Act for large stationary point sources of emissions.

[2] "Aircraft Emissions at Selected Airports 1972–1985," EPA, January, 1977.

A recent publication by investigators at the University of North Carolina [3] pointed out that aircraft emissions of hydrocarbons would rank as eleventh highest on a list of 27 stationary sources of hydrocarbon emissions being considered for regulation by EPA under the New Sources Performance Standards provisions of the Clean Air Act.

Comment: The Aerospace Industries Association (AIA) stated in a letter submitted to EPA on January 20, 1982 that there will be a continuing decrease in aircraft turbine engine HC emissions without control, because older design aircraft which have very high HC emissions are being replaced rapidly by new equipment which incorporates reduced emissions technology. Therefore, they believe that HC emission standards are unnecessary and will accomplish little more reduction than would occur anyway due to the expected equipment turnover.

Response: EPA believes that to eliminate HC standards based only on an industry opinion of market trends would be unfair to the many other even smaller sources of HC and volatile organic compound emissions which will be required to comply with State emission standards as a part of State implementation programs to achieve the NAAQS for ozone. The AIA comments did not commit the industry to actually achieve the standard (which has already been adopted by ICAO and is known to the commenters) and there is no actual assurance that emission rates as low as specified by the standard would in fact be achieved if there were no standard. Market conditions could change and shift the demand to lower-cost, higher-emitting, older-design engines.

Therefore, EPA has determined that the HC standard should be retained at the relaxed level specified by ICAO, so as to maintain the momentum towards adoption of the best emission control technology currently available to all members of the industry. Since the technology has been developed and the industry will be required to meet the ICAO standard in any case, it appears that the added costs to comply with domestic standards will be minimal.

Comment: Not all hydrocarbons emitted by aircraft are photochemically reactive.

Response: Although some of the hydrocarbon emissions from aircraft engines are certainly less reactive than others, as pointed out by some of the comments, it is not at this time possible to specify a method of measurement which is both suitable for use in routine emissions certification testing of aircraft engines and which also isolates and subtracts only those hydrocarbons which EPA has determined to be non-photochemically reactive (methane and ethane).

Such a change could be considered in future rulemaking action after more data are available describing the detailed composition of the hydrocarbon fraction emitted by modern aircraft gas turbine engines. In the meantime, it is appropriate to continue with the control of total hydrocarbon emissions.

2. *Should Carbon Monoxide Emissions from Aircraft Engines be Controlled?*

The joint EPA/FAA air quality reevaluation discussed earlier concluded that the impact of aircraft CO emissions on local air quality levels had been seriously overestimated in the past. Both the monitoring and modelling studies indicated that CO concentrations at major metropolitan airports are expected to comprise only a small fraction of the limiting levels specified in the one-hour and eight-hour NAAQS for CO. Since the health effects of CO are due to its direct toxicity, it is primarily of concern in terms of localized short-term exposure. Most commenters on the report agreed with the conclusions concerning lack of justification for control of CO emissions from aircraft engines. Therefore, EPA has concluded that aircraft CO emissions standards are not justified by airport air quality impact and should be withdrawn. The control technologies expected to be utilized for aircraft HC are expected to result in substantial parallel reductions of CO as well, even in the absence of standards.

3. *Should Nitrogen Oxide Emissions from Aircraft Engines be Controlled?*

Oxides of nitrogen (NO_x) [4] emissions from aircraft make up less than 1.0 percent of total urban NO_x emissions. In addition, the ambient air concentrations produced by aircraft operations are estimated to represent only a small fraction of the NAAQS for NO_2. Also, there are fewer areas which are in nonattainment status for NO_2. Thus, the need for aircraft NO_x control is much less strong from an air quality standpoint. Succeeding sections will also show that there are serious questions about the technical feasibility of controlling aircraft NO_x and that, in any case, the costs of doing so are much higher than for HC control. All of these factors have contributed to the decisions to forego aircraft NO_x regulations at this time. It may be appropriate to reconsider NO_x emissions standards at some future date, following final decisions as to a short-term ambient standard for NO_2.

There were numerous detailed comments on the FAA report concerning the assumptions made and the applicability of the specific models employed to predict NO_2 concentrations around airports. In the FAA report these models were run only for the short averaging times (1 hour) for an anticipated short-term NO_2 standard which was felt to be imminent at the time that the March 24, 1978 NPRM was released. Because the short-term standard has not materialized, all short-term data were removed from consideration and air quality was evaluated in accordance with the longer averaging times of the NO_2 NAAQS. This evaluation included no modeling analysis. Therefore, while responses to questions on modeling are included in the *Summary and Analysis of Comments*, the decision to withdraw NO_x standards was made independently of any modeling information.

B. *Technology:* For a complete discussion of the technological assessment of aircraft engine emission control see the Summary and Analysis of Comments for this rulemaking and the report referenced therein. In summary, the study of the control technology concluded that the technology for the reduction of HC and CO emissions (which are the products of poor combustion that occurs principally when an engine is idling during taxiing and queuing at the airport) will be readily available for production by 1984. This technology is relatively simple and does not require major alterations to the engine. Also, it is compatible with the techniques to control smoke emissions that are already established and in use.

However, one effective control method for HC must be avoided as the FAA has already judged that it could potentially compromise airworthiness. That method is "sector burning" in which the entire fuel flow during idle power on the ground is directed into a contiguous fraction of the available fuel nozzles. The HC standard is thus being set at a level such that this method of control can be avoided. While the existing and proposed CO emission standards have been withdrawn because of the minimal air quality impacts of aircraft CO emissions, it must be emphasized that the control technologies utilized to reduce HX

[3] Naugle, D. F. and Fox, D. L., "Aircraft and Air Pollution," Environmental Science and Technology, April, 1981 (page 391).

[4] Oxides of nitrogen include both nitric oxide (NO) and nitrogen dioxide (NO_2). The NAAQS for NO_2 is expressed as an annual average.

emissions will also tend to reduce CO emissions.

Two of the major engine manufacturers had counted on using sector burning to comply with the emissions standards with certain existing engine designs. This problem was discussed extensively during meetings of Working Groups of the International Civil Aviation Organization (ICAO) Committee on Aircraft Engine Emissions during 1979. EPA staff participated in these discussions along with representatives of the Federal Aviation Administration and the National Aeronautics and Space Administration. Summaries of these documents have been placed in Public Docket OMSAPC–78–1. For the purposes of the ICAO aircraft engine emissions standards, it was decided by the committee to select limiting emission levels for newly manufactured engines based on the best technology available, short of sector burning, for application to the highest emitting existing engine design. The same level has been selected for the revised U.S. standards, to provide a consistent world-wide target for the reduction of emissions from all currently certificated commercial aircraft engines.

For the ICAO standards, an implementation date of January 1, 1986, was selected, again based on the developmental time to introduce technology for compliance on the highest emitting current commercial engine. However, for the U.S. standards as amended, an implementation date of January 1, 1984 was selected. A new provision is being added to the "Exemptions" section of the U.S. standards to provide a means through which any affected organization can apply to the Secretary of Transportation for a change in the implementation date or any other requirements of the standards, based on specific problems in compliance for any given category of engine. At a meeting with EPA and FAA officials on June 9, 1982, representatives of the Aerospace Industries Association estimated that virtually all affected engines will achieve compliance well before January 1, 1984.

Control of NO_x emissions, which was proposed for 1984, requires the use of control methods which are still in their infancy and thus will not be available in the near future. In addition, their inherent complexity raises the question of their reliability in service and justifies an even more rigorous verification of their performance prior to use. These considerations were involved in EPA's decision to withdraw all NO_x emission standards. Technical investigations through various NASA programs are continuing, however, and may form the basis for improvements in this technology, if it is needed in the future.

C. *Economics:* The economic issues involved with aircraft emission regulation have been broken down into two general areas: (1) The overall economic impact on the industry and on the Nation in terms of total cost of compliance and price increases, and (2) the cost-effectiveness of these regulations, in terms of cost per ton of pollutant reduced, in comparison with other EPA control strategies. Analyses have been performed in each of these two subject areas and are available from the docket. Their conclusions will be summarized below.

1. *Overall Economic Impact of HC Emissions Control*

The principal economic impact of these final regulations results from the HC standards for newly manufactured TF, T3, and T8 engines.

EPA's analysis of the overall economic impact has two aspects which differ somewhat from most mobile source analyses. First, due to the long service life of aircraft engines, EPA has examined aggregate costs over a 20-year period rather than a more typical 5 years for motor vehicle regulations. Some analysis is included on a 5-year aggregate base to assist in comparison with other regulations. Second, manufacturers have already invested roughly half of the capital cost needed to meet these standards, so that while these sunk costs are attributable to the regulations, they could not be saved even if the regulations were totally eliminated. In the latter case, the improvements might not be implemented at all and the investment might be wasted.

EPA estimates the total manufacturing cost of NME standard for TF, T3, and T8 engines to be $224 million, over the 20-year period ending in the year 2000 (those sunk costs spent prior to that period are included in these and following figures). All costs presented here are 1981 dollars, discounted to January 1, 1984 (10 percent discount rate). Aggregate cost to the Nation is lower than the manufacturing cost, because of the substantial saving in fuel costs due to improved engine efficiency. EPA calculates the net cost to the Nation as $84.5 million. On a 5-year aggregate basis (still including all sunk costs), the total manufacturing cost is $131 million and the aggregate net cost to the Nation is $49.5 million.

The manufacturing costs, when amortized over an estimated 20-year life cycle for an engine design, represent an engine first price increase of 1.1–2.8 percent. In turn, this would add 0.2–0.5 percent to the total cost of the aircraft.

Since, as mentioned above, much of the investment required to meet these regulations has already been expended, it is useful to identify the amount of the total cost still to be spent. Our analysis indicates that of the $224 million aggregate manufacturing costs $104.6 million represent already sunk cost and $119.4 million represent cost yet to be incurred (over 20 years).

2. *Cost-Effectiveness of HC Emissions Control.* Turning to cost-effectiveness, EPA notes that, as has been discussed earlier, the CO and NO_x standards have been withdrawn, the former because of air quality reasons and the latter primarily because of control technology concerns (as well as a small air quality impact and high cost of compliance). Thus, the cost-effectiveness discussion need only consider HC emissions. EPA's updated analysis indicates that the cost-effectiveness of the HC NME standard of 19.6 grams per kN per cycle for TF, T3, and T8 engines is $125/ton. The cost-effectiveness of an HC retrofit standard to the same level of 19.6 grams per kN per cycle would be $1540/ton.

An examination of the HC cost-effectiveness of other recent EPA mobile source control strategies shows a range from $164 (for the 1984 light-duty truck standard) to $581 (for the light-duty vehicle inspection/maintenance program in non-attainment areas). Another basis for cost-effectiveness comparisons is available from an EPA report [5] summarizing control technique guidelines applicable to a variety of stationary sources of hydrocarbons and other volatile organic compounds, some of them comparable to aircraft in national emissions impact. These guidelines were prepared to assist states in the development of control strategies towards attainment of the NAAQS for ozone. Appropriate examples include $120–180/ton for control of tank truck gasoline loading terminals, $135–706 for surface coating of cans during manufacturing operations and $440-657/ton for surface coating of metal furniture. In comparison with these data, the HC NME standard for TF, T3, and T8 engines appears very cost-effective while the HC retrofit standard should not be considered until such time as other, less costly, strategies are exhausted.

D. *Withdrawal of Standards:*

[5] Peterson, P.R. and Sakaida, R.R., "Summary of Group 1 Control Technique Guideline Documents for Control of Volatile Organic Emissions From Existing Stationary Sources," EPA Report 450/3–78–120, December, 1978.

1. *New Manufactured Engines.* As discussed above, the revised emissions regulations will only apply to HC from newly manufactured aircraft engines rated at 26.7 kN or greater thrust and which are used for commercial transport by "air carriers" or "commercial operators." The affected engines include classes TF, T3, T8, TSS, and TP. The decision to withdraw requirements for smaller aircraft engines was based primarily on the minimal air quality impacts of such engines. Deletion of the CO standards for larger engines is due to the fact that the air quality justification is weak and control will still accomplish some CO control while reducing the direct regulatory burden of the industry. The withdrawing of the NO_x standards is primarily due to the costs and technical problems of aircraft engine NO_x control, plus the relatively small environmental impact of NO_x emissions from aircraft.

2. *Newly Certified Engines.* With respect to newly certified engines, strong consideration was given to continuing with more stringent HC standards for new engine types which could be designed from their inception to meet them. However, the ICAO Committee on Aircraft Engine Emissions considered this option and rejected it at the same meeting at which they did agree on standards for newly manufactured engines of current design. The Committee decided to include design goals for new engine designs in their report but not to establish formal standards or guidance material based on these design goals. Therefore EPA plans to delete standards applicable to newly certified engines for the present and to continue to work with ICAO towards the establishment of international standards based on the ICAO design goals. For turboprop engines, which have not yet been considered by ICAO, EPA also plans to work with the ICAO Committee towards the establishment of the most cost-effective international emissions standards possible.

Following ICAO action on both newly certified TF or TP engines, EPA can consider amending the U.S. standards again to incorporate the ICAO findings. In the event that agreement cannot be reached on international emissions standards for engines in the newly certified TF and TP categories, EPA can again consider whether to proceed independently with rulemaking.

3. *Retrofit of In-Use Engines.* Analysis has shown that, while retrofit standards would not reduce HC emissions in the long-term (after approximately 20 years when all aircraft now in-use would be replaced), they would provide short-term air quality benefits. EPA's technology assessment showed that HC retrofit was feasible but our cost-effectiveness review indicated that HC retrofit was one of the least effective controls for mobile source HC. In light of its low cost-effectiveness and the generally poor economic health of the aircraft industry, EPA has decided not to promulgate the proposed gaseous emissions retrofit standards. Existing retrofit provisions covering smoke and fuel venting will remain in effect.

E. *Implementation Dates:*

The December 31, 1980 final rule delayed these standards until January 1, 1983. The leadtime requirements of the aircraft industry and the delay experienced in the promulgation of the final rule have necessitated a further extension of the effective dates to January 1, 1984.

F. *Exemptions:*

The issue of exemptions for low production or older design engines was addressed in the Notice of Proposed Rulemaking and it was EPA's position at the time that the exclusion of general aviation aircraft would obviate the need for special provisions. However, commenters have suggested that there might still be isolated instances wherein an engine cannot comply with a certain standard because of economic constraints. In general, special consideration should not be given to individual models or classes of engines simply because they cannot comply; such an approach is inequitable and undermines the goal of regulatory compliance. However, there may be extraordinary situations wherein injury to a manufacturer, an operator, or to the industry at large may be out of all proportion to the benefit accrued by the removal of an engine model from the market because of its failure to comply. Such extraordinary situations are difficult to deal with in advance by special exclusion in the regulation itself, for without public review of the circumstances surrounding each case, the opportuniities for misuse or such exceptions would be plentiful. In particular, a blanket exclusion for any given group of engines, however defined, could lead to an exclusion for some engines for which the need does not truly exist.

A blanket exemption can be acceptable if proper precautions are taken. EPA believes an exemption based upon the germane criterion of low production, *not* upon age or alleged inability to comply, is reasonably equitable, satisfactory to the intent behind exclusion and easy to administer, and will not seriously affect air quality. It is principally low production that may make it uneconomical to comply with these regulations. Thus, although certain engines may be exempted that need not be, their production numbers are so small that there will likely be only negligible effects on overall fleet emissions. Therefore, this final rulemaking includes a blanket exemption from the standards for all models of engines which satisfy a criterion for low production which is defined as 20 units or fewer per year, not to exceed a total of 200, from the effective date of these regulations. This type of exemption is equitable, since low production models do not compete significantly with higher production models.

Other changes have been made to the exemption provisions of the standards to place all responsibility for the evaluation of petitions for exemptions of any sort with the Federal Aviation Administration. This will clarify the responsibility and simplify the process for acting on such petitions, with the ultimate decision following FAA evaluation of each petition made only after consultation with EPA.

G. *Definition of the Idle Power Setting:*

In the proposal EPA defined the idle test mode as the minimum idle set point defined by the manufacturer for each particular engine. The proposal allowed the manufacturer to simulate the minimum influences of accessories such as cabin ventilation and air conditioning which are experienced by engines operated in the idle mode. Issues have been raised concerning the appropriateness of an engine-specific minimum idle and whether the idle mode should include a given amount of airbleed (power offtakes).

The intent behind the engine-specific minimum idle is to simulate the highest emissions produced by an aircraft operating at a busy metropolitan airport. Total HC emissions from aircraft throughout all ground operations are strongly dependent on the idle power setting use. Our analysis has concluded that no single general idle value would truly simulate the in-use idle operation of all aircraft. For example, the idle value of a fixed 7 percent of rated thrust selected for the ICAO standards could produce up to a 10 percent error in HC emissions for some engines. Moreover, one major manufacturer has submitted a letter to EPA asking that the ICAO 7 percent idle setting *not* be adopted for the U.S. standard, because this setting is about twice as high as the power setting at which their engines normally idle.

The effect of this would cause their engines to appear to emit much higher HC emissions than they actually do at the true idle setting, because of certain features peculiar to the fuel nozzles in their low emissions combustor.

Further, EPA's intent would best be met by continuing to require that the idle test point be set at the minimum idle set point permitted by the manufacturer, which could be specified in the regulations as a minimum fuel flow rate rather than a minimum percent of rated power, to respond to the comments concerning whether bleed air or other accessory power extraction should or should not be simulated.

However, compliance with the ICAO standard by one particular engine type is strongly influenced, if not dependent, on use of the 7 percent idle condition for compliance testing. That engine formed the basis for the HC limit selected for the ICAO standards, and adopted herein for the U.S. standards as well. To adopt an idle specification which would increase the stringency of the U.S. versus the ICAO standards two years after the latter were agreed to, would depart from one intent of this rulemaking—to achieve as much commonality with international standards as is feasible without compromising with U.S. environmental goals—and would stimulate needless international controversy.

Because of the above considerations as well as the possibility that future engine designs might introduce new complications, it has been determined that the Federal Aviation Administration (FAA) should assume the responsibility for selecting an idle power setting which is consistent with the ICAO standards while maintaining the flexibility to specify alternative test conditions when the unique characteristics of the engine undergoing certification testing justifies a more appropriate test condition.

H. *Compliance Verification:*

The NPRM would have required "total compliance" by each and every aircraft engine of the affected classes throughout its service life. It did not specify how "total compliance" would be defined and left that issue open for the FAA to decide. Many commenters fear that every single newly produced engine would have to be tested for emissions, which would involve very high testing costs. They preferred a certification process which relied upon limited testing of a very small number of engines. They were concerned that, while the FAA might well adopt a certification process that was acceptable to the manufacturers, EPA might later challenge and attempt to reject the FAA procedure. While EPA believes that the concept of "total compliance" for aircraft engine emissions should be maintained as a regulatory goal, it must be emphasized that FAA has the responsibility for defining the appropriate means of enforcement, including considerations of cost. EPA does not intend to supersede FAA authority in this regard. EPA recognizes that testing every engine would be excessively costly and accepts the need to substitute a preproduction certification program in place of extensive testing of all newly produced and in service engines. In the latter case, tests by the FAA and others have found very little deterioration in emissions of engines which were maintained in accordance with applicable FAA maintenance requirements of 14 CFR Chapter 1.

I. *Fuel Specification:*

Both the original 1973 rules and the NPRM preceding this final rulemaking specified the test fuel as ASTM D–1655–Latest Version–Jet A. Because of the increasing cost and scarcity of aviation fuel, airline procurement standards for jet fuel quality are being eased to increase availability. Concerns expressed by industry commenters were that because of the continuing compliance clause (herein deleted), hardware which was initially acceptable at the time of certification will later not be, as the quality of available fuel degrades. EPA does not perceive this as a problem. Hardware, once certified as discussed above, will be acceptable throughout the production of any given engine model. Any reevaluation of that hardware would be expected to use a test fuel equivalent to that used in the original certification, if still available. Nevertheless, to offset such concerns, EPA will specify that the fuel used be fixed in composition according to specifications developed for and included in the recently adopted ICAO standards. These specifications are basically similar to fuels presently available within the United States and other nations where past engine emissions testing has been done. The views of all parties involved in such testing world-wide were considered in their formulation. There are no serious inconsistencies between the specifications and the current ASTM D–1655 Jet A specification.

J. *Testing and Measurement Procedures:*

In order to eliminate unnecessary confusion over minor differences between testing and measurement procedures specified for the purpose of demonstrating compliance with the U.S. and ICAO standards respectively, those specified by ICAO have been adopted herein by reference. While the U.S. standard for gaseous emissions will now apply to HC only, it is recommended that CO and NOx measurements be made and reported to the certificating authority as well, for information only, on each engine undergoing certification testing.

V. Regulatory Impact Analysis

The President's recent Executive Order 12291, "Federal Regulation," requires the preparation of a Regulatory Impact Analysis for any major rule, as defined by that order. This current action does not fall within that definition because its economic impact is well below the $100 million per year threshold of the Order, nor does it involve any significant increased costs or adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with those of other countries compared to the present regulations. Therefore, no formal Regulatory Impact Analysis has been prepared. However, several environmental, economic, and technical analyses have been performed during the decision process and are available from EPA (see "Addresses" above).

VI. Impact on Small Entities

This regulation, as being promulgated today, will not have a significant impact on a substantial number of small entities. Because of the limited classes of engines to which these regulations apply, no small entities (as defined by the Small Business Act) are affected. Therefore, no Regulatory Flexibility Analysis has been prepared.

VII. Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no later than five years after initial implementation of the final regulation. Since the aircraft emission standards take effect on January 1, 1984, this review will be completed by January 1989. In particular, EPA will solicit comments from affected parties concerning the cost and other burdens associated with compliance and will evaluate the environmental benefits of the regulation.

VIII. Reporting and Record Keeping Requirement

Any reporting and record keeping requirements associated with these standards will be defined by the Secretary of Transportation in enforcement regulations issued later

under the provisions of section 232 of the Clean Air Act. Since the ICAO standards will be in effect in any case, additional reporting and record keeping requirements associated with FAA enforcement of these regulations are likely to be very small.

IX. OMB Review

This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

X. List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft engines.

Dated: December 21, 1982.

Anne M. Gorsuch,

Administrator.

Title 40 Part 87 of the Code of Federal Regulations is revised to read as follows:

PART 87—CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Subpart A—General Provisions

Sec.

Subpart B—Engine Fuel Venting Emissions (New and In-Use Aircraft Gas Turbine Engines)

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

Subpart D—Exhaust Emissions (In-Use Aircraft Gas Turbine Engines)

Subpart E [Reserved]

Subpart F [Reserved]

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

Subpart H—Test Procedures for Engine Smoke Emission (Aircraft Gas Turbine Engines)

Sec.

Subpart I [Reserved]

Appendix B [Reserved]

Authority: Secs. 231, 301, Clean Air Act, as amended (42 U.S.C. 7571, 7601, formerly 42 U.S.C. 1857f–9, 1857g).

Subpart A—General Provisions

§ 87.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them in the Act:

"Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

"Administrator" means the Administrator of the Environmental Protection Agency and any other officer or employee of the Environmental Protection Agency to whom authority involved may be delegated.

"Aircraft" means any airplane for which a U.S. standard airworthiness certificate or equivalent foreign airworthiness certificate is issued.

"Aircraft engine" means a propulsion engine which is installed in or which is manufactured for installation in an aircraft.

"Aircraft gas turbine engine" means a turboprop, turbofan, or turbojet aircraft engine.

"Class TP" means all aircraft turboprop engines.

"Class TF" means all turbofan or turbojet aircraft engines except engines of Class T3, T8, and TSS.

"Class T3" means all aircraft gas turbine engines of the JT3D model family.

"Class T8" means all aircraft gas turbine engines of the JT8D model family.

"Class TSS" means all aircraft gas turbine engines employed for propulsion of aircraft designed to operate at supersonic flight speeds.

"Commercial aircraft engine" means any aircraft engine used or intended for use by an "air carrier," (including those engaged in "intrastate air transportation") or a "commercial operator" (including those engaged in "intrastate air transportation") as these terms are defined in the Federal Aviation Act and the Federal Aviation Regulations.

"Commercial aircraft gas turbine engine" means a turboprop, turbofan, or turbojet commercial aircraft engine.

"Emission measurement system" means all of the equipment necessary to transport and measure the level of emissions. This includes the sample system and the instrumentation system.

"Engine Model" means all commercial aircraft turbine engines which are of the same general series, displacement, and design characteristics and are usually approved under the same type certificate.

"Exhaust emissions" means substances emitted to the atmosphere from the exhaust discharge nozzle of an aircraft or aircraft engine.

"Fuel venting emissions" means raw fuel, exclusive of hydrocarbons in the exhaust emissions, discharged from aircraft gas turbine engines during all normal ground and flight operations.

"Instrumentation system" means the system which consists of the analytical instruments necessary to measure the level of emissions plus any required support equipment.

"In-use aircraft gas turbine engine" means an aircraft gas turbine engine which is in service.

"New aircraft turbine engine" means an aircraft gas turbine engine which has never been in service.

"Power setting" means the power or thrust output of an engine in terms of kilonewtons thrust for turbojet and turbofan engines and shaft power in terms of kilowatts for turboprop engines.

"Rated compressor discharge temperature (rT_3)" means the combustor inlet total temperature achieved by an engine operating at rated output.

"Rated output (rO)" means the maximum power/thrust available for takeoff at standard day conditions as approved for the engine by the Federal Aviation Administration, including reheat contribution where applicable, but excluding any contribution due to water injection.

"Rated pressure ratio (rPR)" means the ratio between the combustor inlet pressure and the engine inlet pressure achieved by an engine operating at rated output.

"Reference day conditions" means the reference ambient conditions to which the gaseous emissions (HC, CO, CO_2 and smoke) are to be corrected. The reference day conditions are as follows: Temperature = 15°C, specific humidity = 0.00629 kg H_2O/kg of dry air, and pressure = 101325 Pa.

"Sample system" means the system which provides for the transportation of the gaseous emission sample from the sample probe to the inlet of the instrumentation system.

"Secretary" means the Secretary of Transportation and any other officer or

employee of the Department of Transportation to whom the authority involved may be delegated.

"Shaft power" means only the measured shaft power output of a turboprop engine.

"Smoke" means the matter in exhaust emissions which obscures the transmission of light.

"Smoke number (SN)" means the dimensionless term quantifying smoke emissions.

"Standard day conditions" means standard ambient conditions as described in the United States Standard Atmosphere, 1976, (i.e., Temperature =15°C, specific humidity =0.00 kg/H_2O/kg dry air, and pressure =101325 Pa.)

"Taxi/idle (in)" means those aircraft operations involving taxi and idle between the time of landing roll-out and final shutdown of all propulsion engines.

"Taxi/idle (out)" means those aircraft operations involving taxi and idle between the time of initial starting of the propulsion engine(s) used for the taxi and turn on to duty runway.

§ 87.2 Abbreviations.

The abbreviations used in this part have the following meanings in both upper and lower case:

CO_2, Carbon dioxide.
CO Carbon monoxide.
FAA Federal Aviation Administration, Department of Transportation.
HC Hydrocarbon(s).
hr. Hour(s).
LTO Landing takeoff
min. Minute(s).
rO Rated output.
rPR Rated pressure ratio.
sec. Seconds.
SP Shaft power.
SN Smoke number.
T Temperature, degrees Kelvin.
TIM Time in mode.
W Watt(s).
° Degree.
% Percent.

§ 87.3 General requirements.

(a) This part provides for the approval or acceptance by the Administrator or the Secretary of testing and sampling methods, analytical, techniques, and related equipment not identical to those specified in this part. Before either approves or accepts any such alternate, equivalent, or otherwise nonidentical procedures or equipment, the Administrator or the Secretary shall consult with the other in determining whether or not the action requires rulemaking under sections 231 and 232 of the Clean Air Act, as amended, consistent with the Administrator's and the Secretary's responsibilities under sections 231 and 232 of the Act. (42 U.S.C. 7571, 7572).

(b) Under section 232 of the Act, the Secretary issues regulations to insure compliance with this part.

(c) With respect to aircraft of foreign registry, these regulations shall apply in a manner consistent with any obligation assumed by the United States in any treaty, convention or agreement between the United States and any foreign country or foreign countries.

§ 87.4 [Reserved]

§ 87.5 Special test procedures.

The Administrator or the Secretary may, upon written application by a manufacturer or operator of aircraft or aircraft engines, approve test procedures for any aircraft or aircraft engine that is not susceptible to satisfactory testing by the procedures set forth herein. Prior to taking action on any such application, the Administrator or the Secretary shall consult with the other.

§ 87.6 Aircraft safety.

The provisions of this part will be revised if at any time the Secretary determines that an emission standard cannot be met within the specified time without creating a safety hazard.

§ 87.7 Exemptions

(a) *Exemptions based on flights for short durations at infrequent intervals.* The emission standards of this part do not apply to engines which power aircraft operated in the United States for short durations at infrequent intervals. Such operations are limited to:

(1) Flights of an aircraft for the purpose of export to a foreign country, including any flights essential to demonstrate the integrity of an aircraft prior to its flight to a point outside the United States.

(2) Flights to a base where repairs, alterations or maintenance are to be performed, or to a point of storage, and flights for the purpose of returning an aircraft to service.

(3) Official visits by representatives of foreign governments.

(4) Other flights the Secretary determines, after consultation with the Administrator, to be for short durations at infrequent intervals. A request for such a determination shall be made before the flight takes place.

(b) *Exemptions for very low production engine models.* The emissions standards of this part do not apply to engines of very low production rate and total production. For the purpose of this part, "very low production" is limited to:

(1) A maximum annual production rate after January 1, 1984 of 20 units covered by the same type certificate; and

(2) A maximum total production after January 1, 1984 of 200 units covered by the same type certificate.

(c) *Exemptions for New Engines in Other Categories.* The emissions standards of this part do not apply to engines for which the Secretary determines, with the concurrence of the Administrator, that application of any standard under § 87.21 is not justified, based upon consideration of:

(1) Adverse economic impact on the manufacturer.

(2) Adverse economic impact on the aircraft and airline industries at large.

(3) Equity in administering the standards among all economically competing parties.

(4) Public health and welfare effects.

(5) Other factors which the Secretary, after consultation with the Administrator, may deem relevant to the case in question.

(d) *Time Limited Exemptions for In Use Engines.* The emissions standards of this part do not apply to aircraft or aircraft engines for time periods which the Secretary determines, with the concurrence of the Administrator, that any applicable standard under § 87.11(a), § 87.31(a), or § 87.31(c), should not be applied based upon consideration of the following:

(1) Documentation demonstrating that all good faith efforts to achieve compliance with such standard have been made.

(2) Documentation demonstrating that the inability to comply with such standard is due to circumstances beyond the control of the owner or operator of the aircraft.

(3) A plan in which the owner or operator of the aircraft shows that he will achieve compliance in the shortest time which is feasible.

(4) Applications for a determination that any requirements of § 87.11(a), § 87.31(a) or § 87.31(c) shall be submitted in duplicate to the Secretary in accordance with procedures established by the Secretary.

(e) The Secretary shall publish in the **Federal Register** the name of the organization to whom exemptions are granted and the period of such exemptions.

(f) No state or political subdivision thereof may attempt to enforce a standard respecting emissions from an aircraft or engine if such aircraft or engine has been exempted from such standard under this part.

Subpart B—Engine Fuel Venting Emissions (New and In-Use Aircraft Gas Turbine Engines)

§ 87.10 Applicability.

The provisions of this subpart are applicable to aircraft gas turbine engines of classes TF, T3, T8, TSS, and TP manufactured after February 1, 1974.

§ 87.11 Standard for fuel venting emissions.

(a) No fuel venting emissions shall be discharged into the atmosphere from any new or in-use aircraft gas turbine engine subject to the subpart. This paragraph is directed at the elimination of intentional discharge to the atmosphere of fuel drained from fuel nozzle manifolds after engines are shut down and does not apply to normal fuel seepage from shaft seals, joints, and fittings.

(b) Conformity with the standard set forth in paragraph (a) of this section shall be determined by inspection of the method designed to eliminate these emissions.

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

§ 87.20 Applicability.

The provisions of this subpart are applicable to all aircraft gas turbine engines of the classes specified beginning on the dates specified.

§ 87.21 Standards for exhaust emissions.

(a) Exhaust emissions of smoke from each new aircraft gas turbine engine of class T8 manufactured on or after February 1, 1974, shall not exceed: Smoke number of 30.

(b) Exhaust emissions of smoke from each new aircraft gas turbine engine of class TF and of rated output of 129 kilonewtons thrust or greater, manufactured on or after January 1, 1976, shall not exceed:

$SN = 83.6(r0)^{-0.274}$ (r0 is in kilonewtons).

(c) Exhaust emission of smoke from each new aircraft gas turbine engine of class T3 manufactured on or after January 1, 1978, shall not exceed: Smoke number of 25.

(d) Gaseous exhaust emissions from each new commercial aircraft gas turbine engine that is manufactured on or after January 1, 1984, shall not exceed:

(1) Classes TF, T3, T8 engines equal to or greater than 26.7 kilonewtons rated output:

Hydrocarbons: 19.6 grams/kilonewton r0.

(2) Class TSS:

$Hydrocarbons = 140(0.92)^{rPR}$ grams/kilonewton r0.

(e) Smoke exhaust emissions from each aircraft gas turbine engine of the classes specified below manufactured on or after January 1, 1984, shall not exceed:

(1) Classes TF, T3, T8 and TSS:

$SN = 83.6(r0)^{-0.274}$ (r0 is in kilonewtons), but not to exceed a maximum of SN=50.

(2) Class TP:

$SN = 187\ (r0)^{-0.168}$ for r0>1000 Kilowatts.

(f) The standards set forth in paragraphs (a), (b), (c), (d), and (e) of this section refer to a composite gaseous emission sample representing the operating cycles set forth in the applicable sections of Subpart G of this part, and exhaust smoke emissions emitted during operations of the engine as specified in the applicable sections of Subpart H of this part, measured and calculated in accordance with the procedures set forth in those subparts.

Subpart D—Exhaust Emissions (In-use Aircraft Gas Turbine Engines)

§ 87.30 Applicability.

The provisions of this subpart are applicable to all in-use aircraft gas turbine engines certified for operation within the United States of the classes specified beginning on the dates specified.

§ 87.31 Standards for exhaust emissions.

(a) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of Class T8, beginning February 1, 1974, shall not exceed: Smoke number of 30.

(b) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of class TF and of rated output of 129 kilonewtons thrust or greater, beginning January 1, 1976, shall not exceed:

$SN = 83.6(r0)^{-0.274}$ (r0 is in kilonewtons).

(c) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of Class T3 shall not exceed a smoke number of 25. Each operator shall achieve compliance in accordance with the following schedule:

(1) One quarter of its operational Class T3 engines by February 1, 1981.

(2) One half of its operational Class T3 engines by January 1, 1983.

(3) All of its operational Class T3 engines by January 1, 1985.

This compliance schedule notwithstanding, Class T3 engines which do not meet a smoke number of 25 may continue to be operated if, under an FAA approved plan, replacement engines or replacement airplanes have been ordered and are scheduled for delivery prior to January 1, 1985, but not after the dates specified in the plan. For the purpose of this paragraph, replacement engines are engines of a class different from Class T3 and have been shown to meet the smoke emission standards in this part appropriate to their class.

(d) The smoke standards set forth in paragraphs (a), (b), (c) and (d) of this section refer to exhaust smoke emissions emitted during operation of the engine as specified in the applicable sections of Subpart H of this part, and measured and calculated in accordance with the procedure set forth in those subparts.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

§ 87.60 Introduction.

(a) Except as provided under § 87.5, the procedures described in this subpart shall be the test program to determine the conformity of new aircraft gas turbine engines with the applicable standards set forth in this part.

(b) The test consists of operating the engine at prescribed power settings on an engine dynamometer (for engines producing primarily shaft power) or thrust measuring test stand (for engines producing primarily thrust). The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train.

(c) The exhaust emission test is designed to measure hydrocarbons, carbon monoxide and carbon dioxide concentrations, and to determine mass emissions through calculations during a simulated aircraft landing-takeoff cycle (LTO). The LTO cycle is based on time in mode data during high activity periods at major airports. The test for propulsion engines consists of a least the following four modes of engine operation: taxi/idle, takeoff, climbout, and approach. The mass emission for the modes are combined to yield the reported values.

(d) When an engine is tested for exhaust emissions on an engine dynamometer or test stand, the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning, if not otherwise prohibited by § 87.62(a)(2). Use of service air bleed and shaft power extraction to power auxiliary gearbox-

mounted components required to drive aircraft systems is not permitted.

(e) Other gaseous emissions measurement systems may be used if shown to yield equivalent result and if approved in advance by the Administrator of the Secretary.

§ 87.61 Turbine fuel specifications.

For exhaust emission testing, fuel meeting the specifications listed in Appendix 4 of Volume 2 to ICAO Annex 16, shall be used. These specifications are listed below for convenience. Additives used for the purpose of smoke suppression (such as organometallic compounds) shall not be present.

Specification for Fuel To Be Used in Aircraft Turbine Engine Emission Testing

Property and Allowable Range of Values

Specific Gravity at 15°C: 0.78–0.82.
Distillation Temperature, °C: 10% Boiling Point—165–201; Final Boiling Point—272–283.
Net Heat of Combustion, kJ/kg: 42 860–43 500.
Aromatics, volume %: 15–20.
Naphthalenes, volume %: 1.0–2.0.
Smoke point, mm: 20–28.
Hydrogen, mass %: 13.6–14.0.
Sulphur, mass %: 0.3%.
Kinematic viscosity at −20°C, mm ^{2}/s: 6.0–6.5.

§ 87.62 Test procedure (propulsion engines).

(a)(1) The engine shall be tested in each of the following engine operating modes which simulate aircraft operation to determine its mass emission rates. The actual power setting, when corrected to standard day conditions, should correspond to the following percentages of rated output. Analytical correction for variations from reference day conditions and minor variations in actual power setting should be specified and/or approved by the Secretary:

Mode	Class		
	TP	TF, T3, T8	TSS
Taxi/idle	(1)	(1)	(1)
Takeoff	100	100	100
Climbout	90	85	65
Descent	NA	NA	15
Approach	30	30	34

[1] See paragraph (a)(2) of this section.

(2) The taxi/idle operating modes shall be carried out at a power setting of 7% rated thrust unless the Secretary determines that the unique characteristics of an engine model undergoing certification testing at 7% would result in substantially different HC emissions than if the engine model were tested at the manufacturers recommended idle power setting. In such cases the Secretary shall specify an alternative test condition.

(3) The times in mode (TIM) shall be as specified below:

Mode	Class		
	TP	TF, T3 or T8	TSS
Taxi/idle (minutes)	26.0	26.0	26.0
Takeoff	0.5	0.7	1.2
Climbout	2.5	2.2	2.0
Descent	N/A	N/A	1.2
Approach	4.5	4.0	2.3

(b) Emissions testing shall be conducted on warmed-up engines which have achieved a steady operating temperature.

§ 87.63 [Reserved]

§ 87.64 Sampling and analytical procedures for measuring gaseous exhaust emissions.

The system and procedures for sampling and measurement of gaseous emissions shall be as specified by Appendices 3 and 5 to ICAO Annex 16, Volume II, Aircraft Engine Emissions, First Edition, June 1981, which are incorporated herein by reference. This document can be obtained from the International Civil Aviation Organization, P.O. Box 400, Succursale: Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2 at $3.00 per copy. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on September 3, 1982. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.** Frequent changes are not anticipated.

§ 87.65–87.70 [Reserved]

§ 87.71 Compliance with gaseous emission standards.

Compliance with each gaseous emission standard by an aircraft engine shall be determined by comparing the pollutant level in grams/kilonewton/thrust/cycle or grams/kilowatt/cycle as calculated in § 87.64 with the applicable emission standard under this part.

Subpart H—Test Procedures for Engine Smoke Emissions (Aircraft Gas Turbine Engines)

§ 87.80 Introduction.

Except as provided under §87.5, the procedures described in this subpart shall be the test program to determine the conformity of new and in-use gas turbine engines with the applicable standards set forth in this part. The test is essentially the same as that described in §§ 87.60–87.62, except that the test is designed to determine the smoke emission level at various operating points representative of engine usage in aircraft. Other smoke measurement systems may be used if shown to yield equivalent results and if approved in advance by the Administrator or the Secretary.

§ 87.81 Fuel specifications.

Fuel having specifications as provided in § 87.61 shall be used in smoke emission testing.

§ 87.82 Sampling and analytical procedures for measuring smoke exhaust emissions.

The system and procedures for sampling and measurement of smoke emissions shall be as specified by Appendix 2, Volume II, Aircraft Engine Emissions to ICAO Annex 16, Aircraft Engine Emissions, First Edition, June, 1981. This document can be obtained from the International Civil Aviation Organization, P.O. Box 400, Succursale: Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2 at $3.00 per copy. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on September 3, 1982. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.** Frequent changes are not anticipated.

§ 87.83–87.88 [Reserved]

§ 87.89 Compliance with smoke emission standards.

Compliance with each smoke emission standard shall be determined by comparing the plot of SN as a function of power setting with the

applicable emission standard under this part. The SN at every power setting must be such that there is a high degree of confidence that the standard will not be exceeded by any engine of the model being tested. The level of confidence required, a practical interpretation of the requirement for total compliance, and a testing program to assure compliance will be established by the Secretary prior to January 1, 1984, and shall be approved by the Administrator.

Subpart I [Reserved]

Appendix B [Reserved]

[FR Doc. 82-35254 Filed 12-29-82; 8:45 am]
BILLING CODE 6560-50-M

federal register

Thursday
December 30, 1982

Part IV

Environmental Protection Agency

National Oil and Hazardous Substance Contingency Plan; The National Priorities List; Amendment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH–FRL 2274–3]

Amendment to National Oil and Hazardous Substance Contingency Plan; The National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing to amend the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, (47 FR 31180), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. The proposed amendment supplements the NCP with the National Priorities List ("NPL"), which will become Appendix B of the NCP. CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and the list be revised at least annually. The NPL identifies priority releases, based on the assessments of State governments and EPA, for Fund-financed remedial action and enforcement under CERCLA.

DATES: Comments must be submitted on or before February 28, 1983.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548–E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket for the NCP will contain Hazard Ranking System score sheets for all sites on the NPL, as well as a "Documentation Record" for each site, listing the sources of information used to compute the scores. The docket is located in Room S–398, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for copies of these documents should be directed to Headquarters, although the same documents will be available for viewing in the EPA Regional Offices. In addition, the sources of data used to compute the scores are retained in the Regional Offices and may be obtained upon request. Addresses for the Regional Office dockets are:

John Hackler, Region I (No library facility available), Waste Response and Compliance Branch, Superfund Program Office, Room 1903, Boston, MA 02205, 617/223–5709

John Frisco, Region II (No library facility available), Hazardous Waste Site Branch, Superfund Program Office, 26 Federal Plaza, Room 402, New York, NY 11278, 212/264–1573

Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597–0580

Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Countland Street, NE, Atlanta, GA 30365, 404/257–4716

Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 512/253–2022

Martha Thompson, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/729–7341

Connie McKenzie, Region VII, U.S. EPA Library, 324 East 11th Street, Kansas City, MO 64106, 816/374–3497

Delores Eddy, Region VIII, U.S. EPA Library, 1860 Lincoln Street, Denver, CO 80295, 303/327–2560

Jean Circiello, Region IX, U.S. EPA Library, 215 Fremont Street, San Francisco, CA 94105

Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101

FOR FURTHER INFORMATION CONTACT Stephen M. Caldwell, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548–E), Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, Phone (800) 424–9346 (or 382–3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Introduction

Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, Aug. 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the new responsibilities and powers created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorites are included in the Hazard Ranking System ("HRS"), which comprises Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable at least 400 sites be designated individually. EPA may include a release on the NPL if CERCLA authorizes Federal response to the release. Under Section 104(a) of CERCLA, this response authority is quite broad, extending to releases or threatened releases not only of designated hazardous substances, but of any "pollutant or contaminant." CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing to amend the NCP by adding the NPL as Appendix B. The discussion below may refer to "releases or threatened releases" simply as "releases" or "sites" in referring to the NPL.

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so,

and these actions will be attended by all appropriate procedural safeguards.

The entries on the proposed NPL are candidates for response action by the Agency under CERCLA, which can include remedial response, removal action, and enforcement. EPA also encourages voluntary cleanup by responsible parties. The information collected to develop HRS scores to choose sites for the NPL is not sufficient in itself to determine the appropriate remedy for a particular site. After a site is included on the NPL, more detailed studies will generally be necessary. Decisions on the type and extent of action to be taken at these sites will be made in accordance with the criteria contained in Subpart F of the NCP. EPA may conclude that no action is feasible for some sites on the NPL because of the need to efficiently use the limited resources of the Fund. EPA may also conclude that no action is needed because further investigation reveals that the site does not actually present a problem.

II. Contents of the NPL

As noted above, CERCLA requires that the NPL include, if practicable, at least 400 sites. EPA has determined that sites with a HRS score of 28.50 or higher will be included on the proposed NPL, resulting in a proposed NPL containing 418 individual entries. Each entry on the NPL contains the name of the facility, the State in which it is located, and the corresponding EPA Region. For purposes of information, each entry on the NPL is accompanied by a notation on the current status of response and enforcement activities at the site.

The entries on the proposed NPL are in groups of 50 sites. Within each group, the releases are presented in order of their HRS scores, except where EPA modified the order to reflect top priorities established by States. Section 105 (8) (B) of CERCLA requires that, to the extent practicable, the NPL include within the one hundred highest priorities at least one facility designated by each State as representing the greatest danger to public health, welfare, or the environment among known facilities in the State. Any site designated by a State as its top priority is therefore included within the one hundred highest priority sites. The States are not required to rely exclusively on the HRS in designating their top priority sites, and certain of the sites designated by States as their top priority were not among the one hundred highest sites according to HRS score. These lower scoring State priority sites are listed at the bottom of the group of one hundred highest priority sites. All top priority sites designated by States are indicated by asterisks.

III. Development Process

CERCLA requires each State to establish priorities for remedial action among known releases and potential releases in that State, based on the criteria developed pursuant to section 105 (8) (A), and to submit these priorities for consideration by EPA. EPA has worked with the States over the past year to identify candidate sites; investigate the sites through monitoring and sampling of groundwater, surface water, air, and soil; and apply the HRS criteria to the candidate sites.

After the sites were scored, the EPA Regional Offices conducted a quality control program to ensure that the sites were scored consistently and that scores were based upon adequate information. In some cases, the EPA Regional Offices added to the lists submitted by the States, taking into account State comments when available. The EPA Regional Offices then submitted the lists to EPA Headquarters.

After this Regional review, EPA conducted further quality assurance audits on a sample of the sites submitted for the NPL. Each site included in the sample was scored under the supervision of EPA Headquarters by a consultant trained in application of the HRS. The object of these audits was to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. Based upon these results, several of the Regions reviewed their initial results and adjusted scores where necessary.

Sites were scored for inclusion in the NPL on the basis of the hazards that existed before any response actions were initiated. Public agencies might have been discouraged from taking early response if such actions could lower the HRS score and prevent a site from being included on the NPL. In addition, where response actions have already been initiated by private parties or another agency, listing such sites will enable EPA to evaluate the need for a more complete response. Inclusion on the NPL therefore does not reflect a judgment on any response action completed or underway. Some releases on the proposed NPL are currently being cleaned up by responsible parties or by the States and EPA.

Response actions already taken were considered in scoring the categories in the HRS involving direct human contact and fire and explosion. These categories are used only to evaluate the need for removal action in response to emergency conditions, and are not used to determine whether a site should be included on the NPL.

Section 104 (d) (4) of CERCLA authorizes the Federal government to treat two or more non-contiguous facilities as one for purposes of response, if such facilities are reasonably related on the basis of geography or on the basis of their potential threat to public health, welfare, or the environment. For purposes of the NPL, however, EPA has decided that where possible such sites should be scored and listed individually because the HRS scores more accurately reflect the hazards associated with a site if the site is scored individually. Listing facilities individually does not preclude EPA from consolidating response efforts at these sites or others where it is cost-effective to do so.

IV. Exclusions

CERCLA restricts EPA's authority to respond to certain categories of releases, and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases because other Federal agencies have adequate authority to respond. This section discusses the inclusion of such releases on the NPL.

Releases of Radioactive Materials: Section 101(22) of CERCLA excludes several types of releases of radioactive materials from the statutory definition of "release." These releases are therefore not eligible for CERCLA response actions or inclusion on the NPL. The exclusions apply to: (1) Releases of source, by-product or special nuclear material from a nuclear incident, if these releases are subject to financial protection requirements under Section 170 of the Atomic Energy Act, and (2) any release of source, by-product or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978. In addition, other Federal or State authority may be adequate to remedy the threat to public health or the environment from other releases of radioactive materials. EPA therefore solicits comments on whether these releases should should be included on the NPL.

Releases from Federal Facilities: CERCLA section 111(e)(3) prohibits use of the Fund for remedial actions at Federally owned facilities. EPA will not list and does not intend to respond to any sites where the release come solely from the Federal facility, regardless of whether contamination remains on-site or has migrated off-site. The

responsibility for clelanup of these sites rests with the responsible Federal agency, pursuant to Executive Order 12316 (46 FR 42237, Aug. 20, 1981).

EPA may be authorized to respond where the source of off-site contamination is unclear or not verified, or where it is not exclusively the responsibility of the Federal Government. In these situations, the off-site contaminated area associated with this type or release is eligible for inclusion on the NPL. Sites that are not currently owned by the Federal Government are also eligible for the NPL, even if they were previously owned by the Federal Government. Finally, non-Federally owned sites where the Federal Government may have contributed to a release are also eligible for inclusion.

RCRA-Related Sites: Both CERCLA and RCRA (the Resource Conservation and Recovery Act) contain authorities applicable to hazardous waste facilities. These authorities overelap for certain sites. Accordingly, where a site is an active RCRA facility authorized by permit or interim status, it will not be included on the NPL, but will instead be addressed under RCRA. The NPL may include sites that are inactive units within the boundaries of a RCRA facility if the units themselves are not authorized by permit or interim status.

Releases of Mining Wastes: CERCLA clearly authorizes Federal response to releases of mining wastes. Accordingly, mining waste releases were included on the Interim Priority List and the Expanded Eligibility List, and are now proposed for inclusion on the NPL. However, a number of persons have expressed the view that such releases are more appropriately addressed under other statutory authority. EPA therefore solicits comments on its policy of including mining waste sites on the NPL.

V. Current Status of Sites

For informational purposess, the proposed sites are accompanied by notations concerning the status of response and enforcement actions based on the most current facts available. It should be noted, however, that a site's status will in most cases change periodically, and the notations given here may become outdated. The releases willl be included in the following categories: Voluntary or Negotiated Response; Federal and State Response; Federal or State Enforcement; and Actions to be Determined. Each category is explained below.

Voluntary or Negotiated Response. Release are included in this category if response actions are currently being taken by potentially responsible parties or private parties. This category includes response actions that are sanctioned under consent agreements, consent orders, or consent decrees to which the Federal Government is a party. Voluntary or negotiated cleanup may include actions taken pursuant to agreements reached after enforcement action had commenced. Currently, this category does not include sites undergoing response actions if the actions are not governed by such an arrangement with the Federal Government. The information currently available to EPA does not adequately reflect all private party cleanups. The Agency intends to identify ongoing corrective actions not defined by an agreement with the Federal Government in the final NPL, and solicits information from the public concerning these corrective actions.

This category does not include actions mandated under Federal and State regulatory programs to update operational pollution control systems or waste disposal operations (e.g., upgrading surface impoundments operated pursuant to an NPDES permit). This category of response may include remedial investigations, feasibility studies, and other preliminary work, as well as actual cleanup.

Federal and State Response. The Federal and State response category includes sites where EPA or State agencies have commenced or completed removal or remedial actions under CERCLA. If the State is primarily responsible for managing the response action, the site is included in this category when EPA has obligated funds for response. If EPA is managing the response action, the release is included when the State has signed a contract to meet its responsibilities and EPA has obligated funds for response. For removal actions, response has begun when EPA has obligated funds.

Federal or State Enforcement. This category includes sites where the United States Government or the State has filed a civil or criminal complaint or issued an administrative order. It also includes sites where a Federal or State court has mandated some form of non-consensual remedial action following a judicial proceeding. A number of sites on the NPL are the subject of enforcement investigation or have been formally referred to the Department of Justice for enforcement action. EPA policy precludes premature release of information concerning possible enforcement actions, and accordingly these sites have not been included in this category, even though preliminary enforcement activities may in fact be underway.

Actions To Be Determined. The category of actions to be determined includes all sites not otherwise listed. A wide range of activities may be in progress for sites in this category. Remedial projects may be under consideration, although funds have not been formally obligated. Enforcement investigations may be underway. Referrals may have been made to the Department of Justice, prior to formal commencement of enforcement action. Investigations may be underway or needed to determine the source of a release in areas adjacent to or near a Federal facility. Responsible parties may be undertaking cleanup operations that are unknown to the Federal or State government, or corrective action may not be occurring yet.

VI. Implementation

Sites on the proposed NPL are high priority candidates for Fund-financed remedial action, enforcement action, and private-party cleanup. The NPL itself does not determine priorities for removal action, although EPA may take removal actions against any site, whether listed or not, that meets the criteria of sections 300.65–.67 of the NCP. EPA will begin considering various response and enforcement actions for the sites on the proposed NPL published today, prior to final promulgation of the NPL. This approach is necessary to address potentially dangerous sites during the period before the final NPL is promulgated. Use of the proposed NPL will enable EPA to consider response action on the basis of the most current information available. This continues the policy articulated in the preamble to the proposed NCP (47 FR 10977, March 12, 1982).

Absence from the NPL does not preclude enforcement actions under CERCLA or other authorities, because enforcement action may be appropriate in some situations for sites not included on the NPL. The HRS was designed to meet specific statutory requirements for the propose of identifying priorities for response action, and was not designed to account for every type of public health or environmental effect that might merit enforcement action.

It remains Agency policy to pursue enforcement actions as an alternative or complement to Fund-financed response activities. This will help assure that the limited resources of the Fund are used as efficiently as possible. (See "Guidelines for Using the Imminent Hazard, Enforcement, and Emergency Response Authorities of Superfund and Other Statutes," 47 FR 20664, (May 13, 1982). Consistent with this policy,

wherever possible EPA has provided potentially responsible parties with notice and an opportunity to confer with the Agency before the Agency commences Fund-financed response action, including remedial investigations and feasibility studies to help determine the appropriate remedy. CERCLA does not, however, mandate such notice to potentially responsible parties, nor require notice as a condition precedent to full cost recovery.

In many situations, it has been difficult to conduct productive discussions with potentially responsible parties in the absence of preliminary studies indicating what type of response action is appropriate. The Agency therefore believes that negotiations may be more fruitful where such studies have been completed, or at least commenced. Accordingly, potentially responsible parties may be notified after the remedial investigations and feasibility studies have begun or are completed. (See the NCP, 40 CFR 300.68, and the accompanying preamble, 47 FR 31180, July 16, 1982, for a fuller discussion of remedial investigations and feasibility studies.)

Funding of response actions for sites on the NPL will not necessarily take place in order of the sites' ranking on the NPL. Sites will receive the highest priority for response funding if the State has provided cost-sharing and the other assurances necessary under CERCLA section 104(c)(3), and it appears that enforcement actions will not quickly lead to private party cleanup. Priorities among these sites will be based on impacts on public health and the environment, as measured by the HRS scores and other available information, and on a case-by-case evaluation of economic, engineering, and environmental considerations.

VII. Deletion of Sites

Sites may be deleted from the NPL where one of the following criteria has been met:

(1) EPA in consultation with the State has determined that responsible parties have completed cleanup so that no Fund-financed response actions will be required.

(2) All appropriate Fund-financed cleanup action under CERCLA has been completed, and EPA has determined that no further cleanup by responsible parties is appropriate.

(3) EPA, in considering the nature and severity of the problems, the potential costs of cleanup, and available funds, has determined that no remedial actions should be undertaken at the site.

EPA will delete sites from the NPL by publishing notice in the **Federal Register** at the time of the next periodic update, naming the site and providing the reasons for its deletion. The process of updating the NPL is discussed more fully in Part X of this notice.

VIII. Changes from the Interim Lists

On October 23, 1981, EPA announced the selection of 115 sites for the Interim Priorities List (IPL) as candidates for response action under CERCLA. The sites were selected by applying the version of the HRS referenced in § 300.65 of the proposed NCP (47 FR 10991, March 12, 1982) and incorporating the States' designations of their top priorities. On July 23, 1982, EPA announced the selection of 45 additional sites (the "Expanded Eligibility List" or EEL), under the same criteria used to establish the IPL. EPA treated all sites on these lists as candidates for response or enforcement actions under CERCLA. The IPL and the EEL were informal lists used for internal administrative purposes in choosing initial response efforts, and are not part of the NCP.

In compiling the NPL, EPA rescored each site on the IPL and EEL to determine whether it should be included on the NPL. Scores for the IPL and EEL sites have changed because additional data are available and the HRS has been modified. However, most sites on the IPL and EEL are included on the proposed NPL, and are indicated by the symbol #. The exceptions are discussed below.

Additional Information Received. EPA has determined that incorrect information was used to calculate the HRS score for Allen Transformer of Arkansas, which was included on the IPL. More accurate information became available and EPA recalculated the score using the promulgated version of the HRS. The resulting scores do not warrant placing Allen Transformer on the proposed NPL.

Ineligible for Inclusion. The Fort Lincoln site was designated by the District of Columbia as its top priority. EPA determined that the source of the release is a Federal facility. Therefore, EPA will not include Fort Lincoln on the NPL.

Criteria for Deletion. The criteria for deletion discussed in Part VII have already been met at some sites on the IPL. These sites and the reasons for deletion are:

Responsible parties have completed cleanup: Walcotte Chemical (Mississippi);

All appropriate Fund-financed cleanup has been completed: Butler Tunnel (Pennsylvania); Chemical Metals, Inc. (Maryland); Chemical Minerals Industries, Inc. (Ohio); Luminous Processors (Georgia).

Noncontiguous Facilities. When EPA developed the IPL, several States requested that certain noncontiguous facilities be grouped together to be considered as single facilities. As discussed in Part III, these sites are now being listed singly wherever possible. Therefore, certain areas described as single sites on the IPL will be listed as two or more sites on the proposed National Priorities List, as set forth below:

IPL	NPL
Florida—Biscayne Aquifer	NW 58th Street Landfill. Varsol Spill. Miami Drum.
Washington—Commencement Bay.	Commencement Bay-South Tacoma Channel. Commencement Bay-Nearshore Tideflats.
Delaware Sand and Gravel	Delaware Sand and Gravel.
Llangollen Army Creek Landfills.	Army Creek.

IX. Request for Comments

EPA requests comments providing information on the sites listed on the proposed NPL. Information on the factors used to score the sites would be particularly useful in determining whether site scores are accurate. Documents explaining how the sites on the NPL were scored are available for inspection in the public docket at EPA. (See ADDRESSES, in this notice.) EPA will also continue collecting data independently to support development of the NPL.

EPA will review and consider comments received on the proposed NPL. EPA also invites comments and solicits information concerning sites that are not currently included on the proposed NPL that may be appropriate for inclusion in a later update of the NPL. EPA is not soliciting comments on the HRS, which was promulgated as part of the final NCP.

Commenters are requested to bear in mind the purposes of the NPL described in the Introduction to this preamble. The NPL indicates the releases that are likely to pose the greatest danger to the public, based on preliminary investigation. Inclusion on the NPL is a point of departure for further investigation. It does not establish that a particular response is appropriate, nor does it constitute a judgment concerning the responsibilities of owners or operators. The HRS used to score sites is designed to consider only the minimum quantity of data commonly available that will yield a meaningful estimate of the level of hazard posed by each site. (See the preamble explaining

the HRS, 47 FR 31187–88, July 16, 1982). In developing the NPL, EPA cannot consider additional data not encompassed by the factors in the HRS. EPA will consider such information in determining the response action, if any, that is appropriate for a particular site.

X. Promulgation and Revision

Once the comments and the results of additional investigations have been considered, the NPL will be promulgated. Scores used to support promulgation of the NPL will be based on the best information available at the time, including public comment and State and EPA investigatory data.

Following promulgation, the NPL will be revised on a quarterly basis. New sites may be added on the basis of HRS scores, or deleted on the basis of the criteria outlined in Part VII of this notice. EPA will inform the States of the closing dates for each revision of the NPL.

Congressional statements made during consideration of CERCLA indicate that, once the NPL is established, revisions can be made in a routine manner without the necessity of full notice and comment rulemaking. In discussing the process for revising the NPL, Senator Randolph stated:

"Accordingly, although this list must be published as part of the National Contingency Plan, it is not intended that the entire plan be republished each time the priority list is revised. Public notice of the revised list is sufficient. [126 Cong. Rec. S 14695 (daily ed. Nov. 24, 1980)]"

EPA intends to revise the NPL by publication in the **Federal Register**. The notice will name the sites and provide reasons for their inclusion or deletion. The Agency will consider any public comments concerning revision of the NPL, and make appropriate changes in a future revision if warranted.

XI. Regulatory Impact and Regulatory Flexibility Analyses

EPA prepared a Regulatory Impact Analysis pursuant to Executive Order 12291 (46 FR 13193, Feb. 19, 1981) and a Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601–612) for the revised NCP at the time that it was promulgated. Those analyses considered the impacts of a National Priorities List; consequently, no further analyses are needed for this amendment to the NCP. The analyses of the NCP are available for inspection at Room S–398, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

This action was reviewed and approved by the Office of Management and Budget under the requirements of Executive Order 12291.

Signed: December 20, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend 40 CFR Part 300 by adding a new Appendix B to the end to read as follows:

Appendix B—National Priorities List As Provided for in Section 105(8)(B) of CERCLA

BILLING CODE 6560-50-M

Group 1

EPA Region	State	City/County	Site Name	Response	Status †		
05	MN	FRIDLEY	FMC#				D
03	DE	NEW CASTLE COUNTY	TYBOUTS CORNER# *		R	E	
03	PA	BRUIN BORO	BRUIN LAGOON#		R		
01	MA	WOBURN	INDUSTRI-PLEX#	V	R	E	
02	NJ	PITTMAN	LIPARI LANDFILL#	V	R	E	
02	NY	WELLSVILLE	SINCLAIR REFINERY#				D
02	NJ	PLEASANTVILLE	PRICE LANDFILL# *		R	E	
02	NY	OSWEGO	POLLUTION ABATEMENT SERVICES# *		R	E	
07	IA	CHARLES CITY	LABOUNTY SITE	V			
02	NJ	MANTUA	HELEN KRAMER LANDFILL#				D
03	DE	NEW CASTLE	ARMY CREEK#				D
02	NJ	OLD BRIDGE TOWNSHIP	CPS/MADISON INDUSTRIES			E	
01	MA	ASHLAND	NYANZA CHEMICAL#			E	
02	NJ	GLOUCESTER TOWNSHIP	GEMS LANDFILL#			E	
01	RI	COVENTRY	PICILLO COVENTRY# *		R	E	
05	MI	SWARTZ CREEK	BERLIN & FARRO#		R	E	
07	KS	CHEROKEE COUNTY	TAR CREEK, CHER. CO.				D
01	MA	HOLBROOK	BAIRD & MCGUIRE			E	
02	NJ	FREEHOLD	LONE PINE LANDFILL#		R	E	
01	NH	SOMERSWORTH	SOMERSWORTH LANDFILL				D
03	PA	MCADOO	MCADOO# *				D
01	NH	EPPING	KES - EPPING#		R	E	
06	AR	JACKSONVILLE	VERTAC, INC.#	V		E	
08	MT	SILVER BOW/DEER LODGE	SILVER BOW CREEK				D
06	TX	CROSBY	FRENCH, LTD.#		R		
05	MI	UTICA	LIQUID DISPOSAL INC.#		R		
01	NH	NASHUA	SYLVESTER,NASHUA# *		R	E	
06	TX	LA MARQUE	MOTCO# *		R		
05	OH	ARCANUM	ARCANUM IRON & METAL			E	
06	TX	CROSBY	SIKES DISPOSAL PITS#		R		
04	AL	LIMESTONE & MORGAN	TRIANA, TENNESSEE RIVER#			E	
09	CA	GLEN AVON HEIGHTS	STRINGFELLOW# *		R		
01	ME	GRAY	MCKIN COMPANY		R	E	
06	TX	HOUSTON	CRYSTAL CHEMICAL#		R	E	
02	NJ	BRIDGEPORT	BRIDGEPORT RENT.& OIL#	V	R	E	
05	IN	GARY	MIDCO I		R	E	
08	SD	WHITEWOOD	WHITEWOOD CREEK# *	V			
01	MA	ACTON	W R GRACE			E	
01	MA	EAST WOBURN	WELLS G&H				D
02	NJ	MARLBORO TOWNSHIP	BURNT FLY BOG#		R	E	
04	FL	PLANT CITY	SCHUYLKILL METALS				D
05	MN	NEW BRIGHTON/ARDEN	NEW BRIGHTON#				D
05	MN	ST. LOUIS	REILLY TAR# *		R	E	
02	NY	OYSTER BAY	OLD BETHPAGE LANDFILL#			E	
04	FL	JACKSONVILLE	PICKETTVILLE RD LANDFILL#				D
08	MT	ANACONDA	ANACONDA - ANACONDA	V			
03	PA	GROVE CITY	OSBORNE#				D
05	MN	BRAINERD/BAXTER	BURLINGTON NORTHERN#				D
02	NJ	FAIRFIELD	CALDWELL TRUCKING				D
06	OK	OTTAWA COUNTY	TAR CREEK#		R		

†: V = Voluntary or Negotiated Response, R = Federal and State Response,
E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/EEL. * = States' Designated Top Priority Sites.

Group 2

EPA Region	State	City/County	Site Name	Response	Status †		
05	IN	SEYMOUR	SEYMOUR# *	V	R	E	
02	NJ	BRICK TOWNSHIP	BRICK TOWNSHIP LANDFILL			E	
05	MI	CADILLAC	NORTHERNAIRE PLATING#				D
10	WA	VANCOUVER	FRONTIER HARD CHROME			E	
04	FL	DAVIE	DAVIE LANDFILL#				D
04	FL	MIAMI	GOLD COAST OIL#				D
09	AZ	TUSCON	TUSCON INT'L AIRPORT#				D
02	NY	BRANT	WIDE BEACH DEVELOPMENT				D
09	CA	REDDING	IRON MOUNTAIN MINE#				D
02	NJ	CARLSTADT	SCIENTIFIC CHEMICAL PROCESSING				D
02	NJ	HAMILTON TOWNSHIP	D'IMPERIO PROPERTY#		R		
05	MN	OAKDALE	OAKDALE#				D
04	FL	GALLOWAY	ALPHA CHEMICAL#				D
05	IL	GREENUP	A & F MATERIALS#		R	E	
03	PA	DOUGLASVILLE	DOUGLASVILLE DISPOSAL				D
02	NJ	HILLSBOROUGH	KRYSOWATY FARM#				D
05	MN	ST. PAUL	KOPPER'S COKE#				D
01	MA	PLYMOUTH	PLYMOUTH HARBOR/CORDAGE			E	
10	ID	SMELTERVILLE	BUNKER HILL				D
10	WA	TACOMA	COM. BAY, S. TACOMA CHANNEL#		R	E	
02	NJ	EAST RUTHERFORD	UNIVERSAL OIL PRODUCTS			E	
09	CA	RANCHO CORDOVA	AEROJET#			E	
09	AZ	PHOENIX	19TH AVENUE LANDFILL			E	
05	MI	ST. LOUIS	GRATIOT COUNTY LANDFILL# *	V	R	E	
01	MA	NEW BEDFORD	NEW BEDFORD# *		R	E	
06	LA	DARROW	OLD INGER# *		R		
05	OH	HAMILTON	CHEM DYNE# *	V	R	E	
04	SC	COLUMBIA	SCRDI BLUFF ROAD# *	V	R	E	
01	CT	NAUGATUCK	LAUREL PARK INC.# *			E	
05	IL	WAUKEGAN	OUTBOARD MARINE CORP.# *		R	E	
08	CO	BOULDER	MARSHALL LANDFILL# *				D
01	ME	WINTHROP	WINTHROP LANDFILL# *		R		
01	VT	BURLINGTON	PINE STREET CANAL# *				D
03	WV	POINT PLEASANT	WEST VA ORDNANCE# *		R		
06	NM	ALBUQUERQUE	SOUTH VALLEY# *				D
07	MO	ELLISVILLE	ELLISVILLE SITE# *		R		
08	ND	SOUTHEASTERN	ARSENIC TRIOXIDE SITE # *		R		
09	TT	PACIFIC TRUST TERR.	PCB WASTE# *		R		
03	VA	ROANOKE COUNTY	MATTHEWS# *		R		
07	IA	COUNCIL BLUFFS	AIDEX CORP.# *		R	E	
09	AS	AMERICAN SAMOA	TAPUTIMU FARMS# *		R		
09	AZ	GLOBE	MT. VIEW MOBILE HOME# *				D
04	KY	BROOKS	A. L. TAYLOR# *		R		
04	TN	MEMPHIS	NORTH HOLLYWOOD DUMP# *		R		
04	NC	210 MILES OF ROADS	PCB SPILLS# *		R	E	
09	GU	GUAM	ORDOT LANDFILL# *		R		
04	MS	GULFPORT	PLASTIFAX# *		R		
08	UT	SALT LAKE CITY	ROSE PARK SLUDGE PIT# *	V			
07	KS	ARKANSAS CITY	ARKANSAS CITY DUMP# *		R		
09	CM	NORTH MARIANAS	PCB WAREHOUSE# *		R		

†: V = Voluntary or Negotiated Response, R = Federal and State Response,
E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/EEL. * = States' Designated Top Priority Sites.

Group 3

EPA Region	State	City/County	Site Name	Response Status †			
02	NY	OYSTER BAY	SYOSSET LANDFILL				D
04	AL	GREENVILLE	MOWBRAY ENGINEERING				D
05	MI	BRIGHTEN	SPIEGELBURG LANDFILL				D
04	FL	MIAMI	MIAMI DRUM#		R		
02	NJ	DOVER TOWNSHIP	REICH FARMS			E	
02	NJ	SOUTH BRUNSWICK	SOUTH BRUNSWICK LANDFILL	V			
04	FL	TAMPA	KASSAUF-KIMERLING#				D
05	IL	WAUCONDA	WAUCONDA SAND & GRAVEL#			E	
05	MI	MUSKEGON	OTT/STORY/CORDOVA#				D
01	NH	KINGSTON	OTTATI & GOSS#		R	E	
03	VA	SALTVILLE	SALTVILLE WASTE DISPOSAL				D
02	NJ	RINGWOOD	RINGWOOD MINES/LANDFILL				D
02	NY	NIAGARA FALLS	HOOKER - S AREA			E	
04	FL	WHITEHOUSE	WHITEHOUSE OIL PITS#		R		
05	OH	DEERFIELD	SUMMIT NATIONAL#	V		E	
02	NY	NIAGARA FALLS	LOVE CANAL#		R	E	
05	IN	KINGSBURY	FISHER CALO	V		E	
05	MI	PLEASANT PLAINS TWP	WASH KING LAUNDRY				D
04	FL	WARRINGTON	PIONEER SAND#			E	
04	FL	TAMPA	REEVES SE GALVANIZING#				D
05	MI	DAVISBURG	SPRINGFIELD TOWNSHIP DUMP				D
05	MI	FILER CITY	PACKAGING CORP. OF AMERICA				D
03	PA	BUFFALO	HRANICA#			E	
08	CO	LEADVILLE	CALIFORNIA GULCH				D
04	NC	CHARLOTTE	MARTIN MARIETTA,SODYECO				D
04	FL	ZELLWOOD	ZELLWOOD GROUNDWATER CONTAM#				D
05	OH	CIRCLEVILLE	BOWERS LANDFILL				D
05	OH	ASHTABULA	FIELDS BROOK#		R		
03	PA	HARRISON TOWNSHIP	LINDANE DUMP#			E	
04	FL	SEFFNER	TAYLOR ROAD LANDFILL#			E	
01	RI	BURRILLVILLE	WESTERN SAND & GRAVEL#		R	E	
02	NJ	MAYWOOD & ROCHELLE PK	MAYWOOD CHEMICAL SITES				D
06	OK	CRINER	CRINER/HARDAGE#			E	
05	MN	ST. LOUIS PARK	NATIONAL LEAD TARACORP#				D
05	MI	ROSE TOWNSHIP	ROSE TOWNSHIP DUMP#				D
05	MN	ANOKA COUNTY	WASTE DISPOSAL ENGINEERING#				D
02	NJ	EDISON	KIN-BUC LANDFILL#	V	R	E	
05	MN	LEHILLIER/MANKATO	LEHILLIER#				D
05	MI	GRAND RAPIDS	BUTTERWORTH #2 LANDFILL				D
02	NJ	BOUND BROOK	AMERICAN CYANAMID			E	
02	NY	SOUTH GLENS FALLS	GE MOREAU SITE			E	
02	NJ	PEDRICKTOWN	N.L. INDUSTRIES			E	
01	RI	NORTH SMITHFIELD	L & RR - N SMITHFIELD			E	
04	FL	HIALEAH	NW 58TH STREET#			E	
04	FL	TAMPA	62ND STREET DUMP				D
05	MI	UTICA	G&H LANDFILL#		R		
02	NJ	FRANKLIN TOWNSHIP	METALTEC/AEROSYSTEMS			E	
02	NJ	PEMBERTON TOWNSHIP	LANG PROPERTY				D
02	NJ	PARSIPPANY, TROY HLS	SHARKEY LANDFILL				D
06	LA	SORENTO	CLEVE REBER				D

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 4

EPA Region	State	City/County	Site Name	Response Status †			
05	IL	MARSHALL	VELSICOL ILLINOIS				D
05	MI	ST. LOUIS	VELSICOL MICHIGAN	V		E	
05	MI	MANCELONA	TAR LAKE				D
10	OR	ALBANY	TELEDYNE WAH CHANG				D
02	NY	SOUTH CAIRO	AMERICAN THERMOSTAT			E	
01	MA	DARTMOUTH	RE-SOLVE#		R	E	
02	NJ	PLUMSTEAD TOWNSHIP	GOOSE FARM#		R		
04	TN	TOONE	VELSICOL CHEMICAL CO.	V			
02	NY	MOIRA	YORK OIL COMPANY#		R		
04	FL	COTTONDALE	SAPP BATTERY#		R		
07	KS	HOLIDAY	DOEPKE DISPOSAL, HOLIDAY				D
01	RI	SMITHFIELD	DAVIS LIQUID#		R	E	
01	MA	TYNGSBORO	CHARLES-GEORGE#			E	
02	NJ	WINSLOW TOWNSHIP	KING OF PRUSSIA				D
03	VA	YORK COUNTY	CHISMAN#				D
05	OH	SALEM	NEASE CHEMICAL				D
02	NJ	ELIZABETH	CHEMICAL CONTROL#		R	E	
05	OH	IRONTON	ALLIED CHEMICAL				D
05	MI	PENNFIELD TOWNSHIP	VERONA WELL FIELD#				D
01	CT	BEACON FALLS	BEACON HEIGHTS			E	
03	PA	MALVERN	MALVERN TCE SITE				D
02	NY	ELMIRA HEIGHTS	FACET ENTERPRISES#				D
03	DE	NEW CASTLE	DELAWARE SAND & GRAVEL#				D
08	CO	IDAHO SPRINGS	CENTRAL CITY, CLEAR CREEK#				D
03	PA	PALMERTON	PALMERTON ZINC PILE				D
05	IN	BOONE COUNTY	ENVIROCHEM				D
04	TN	LAWRENCEBURG	MURRAY OHIO DUMP				D
04	FL	WHITEHOUSE	COLEMAN EVANS#			E	
04	FL	INDIANTOWN	FLORIDA STEEL				D
09	AZ	GOODYEAR	LITCHFIELD AIRPORT AREA				D
02	NJ	PLUMSTEAD	SPENCE FARM#		R		
02	NJ	DOVER TOWNSHIP	TOMS RIVER CHEMICAL				D
04	FL	LIVE OAK	BROWN WOOD				D
02	NY	PORT WASHINGTON	PORT WASHINGTON LANDFILL			E	
06	AR	MENA	MID-SOUTH#				D
02	NJ	CHESTER	COMBE FILL SOUTH LANDFILL				D
02	NJ	SOUTH BRUNSWICK TWP	JIS LANDFILL			E	
08	CO	COMMERCE CITY	WOODBURY CHEMICAL#				D
01	MA	WESTBOROUGH	HOCOMOCO POND				D
02	NY	RAMAPO	RAMAPO LANDFILL			E	
05	MI	ALBION	MCGRAW EDISON				D
02	NY	ALBANY	MERCURY REFINING				D
04	FL	FORT LAUDERDALE	HOLLINGSWORTH#				D
02	NJ	ROCKAWAY TOWNSHIP	ROCKAWAY TOWNSHIP WELLS				D
02	NY	OLEAN	OLEAN WELLFIELD#		R		
04	FL	MIAMI	VARSOL SPILL#				D
02	NY	BATAVIA	BATAVIA LANDFILL#				D
09	CA	UKIAH	COAST WOOD PRESERVING				D
08	CO	DENVER	DENVER RADIUM SITE#		R		
08	MT	MILLTOWN	MILLTOWN				D

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 5

EPA Region	State	City/County	Site Name	Response	Status †
07	MO	VERONA	SYNTEX FACILITY	V	E
02	NJ	PLUMSTEAD	PIJAK FARM#	R	
02	NJ	SOUTH KEARNY	SYNCON RESINS#		E
09	CA	RICHMOND	LIQUID GOLD		D
09	CA	FRESNO	PURITY OIL SALES, INC.		D
02	NJ	HOWELL TOWNSHIP	BOG CREEK FARM		D
05	IN	BLOOMINGTON	NEAL'S LANDFILL#		D
01	MA	LOWELL	SILRESIM#	R	E
01	NH	LONDONDERRY	TINKHAM SITE		D
02	NJ	PISCATAWAY	CHEMSOL		E
02	NJ	MARLBORO TOWNSHIP	IMPERIAL OIL		E
02	NJ	FAIR LAWN	FAIR LAWN WELLFIELD		D
05	IN	ELKHART	MAIN STREET WELL FIELD		D
02	NJ	MT. OLIVE TOWNSHIP	COMBE FILL NORTH LANDFILL		D
02	PR	JUANA DIAZ	GE WIRING DEVICES		D
02	NJ	MONROE TOWNSHIP	MONROE TOWNSHIP LANDFILL		E
02	NJ	ROCKAWAY BORO	ROCKAWAY BORO WELLFIELD		D
05	IN	COLUMBIA CITY	WAYNE WASTE OIL		D
06	NM	MILAN	HOMESTAKE#		D
02	NJ	BERKLEY	BEACHWOOD/BERKLEY WELLS		D
02	NJ	DOVER	DOVER MUNICIPAL WELL 4		D
02	NY	VESTAL	VESTAL WATER SUPPLY		E
10	WA	TACOMA	COM. BAY, NEAR SHORE TIDE FLAT#		D
05	IL	PEMBROKE	CROSS BROS/PEMBROKE		D
10	ID	CALDWELL	FLYNN LUMBER CO.		D
03	PA	WEST ORMROD	HELEVA LANDFILL		E
10	WA	SEATTLE	HARBOR ISLAND LEAD		D
09	CA	FULLERTON	MCCOLL	V	
10	WA	MEAD	KAISER MEAD	V	
02	PR	RIO ABAJO	FRONTERA CREEK		D
09	CA	FRESNO	SELMA PRESSURE TREATING		D
02	PR	FLORIDA AFUERA	BARCELONETA LANDFILL		D
03	MD	ELKTON	SAND, GRAVEL AND STONE		E
05	MI	WYOMING	SPARTAN CHEMICAL COMPANY		D
02	NJ	FLORENCE	ROEBLING STEEL CO		D
05	MI	GREILICKVILLE	GRAND TRAVERSE OVERALL SUPPLY CO		D
02	NJ	VINELAND	VINELAND STATE SCHOOL		D
03	PA	PHILADELPHIA	ENTERPRISE AVENUE		D
07	MO	SPRINGFIELD	FULBRIGHT LANDFILL#		D
04	SC	CAYCE	SCRDI DIXIANA#		D
02	NJ	SWAINTON	WILLIAMS PROPERTY	R	
02	NJ	EDISON	RENORA		D
04	FL	PENSACOLA	AMERICAN CREOSOTE#		E
05	OH	IRONTON	E.H. SCHILLING LANDFILL		D
02	NJ	BAYVILLE	DENZER & SCHAFER X-RAY		E
02	NJ	GIBBSTOWN	HERCULES		D
05	IN	GARY	NINTH AVE. DUMP	V	E
05	MI	ST. LOUIS	GRATIOT CO GOLF COURSE	V	E
01	RI	CUMBERLAND	PETERSON/PURITAN		D
01	MA	GROVELAND	GROVELAND WELLS		D

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E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/EEL. * = States' Designated Top Priority Sites.

Group 6

EPA Region	State	City/County	Site Name	Response	Status †
10	WA	SPOKANE	COLBERT LANDFILL	R	
09	AZ	SCOTTSDALE	INDIAN BEND WASH AREA		D
09	AZ	KINGMAN	KINGMAN AIRPT INDUSTRIAL AREA		D
02	NY	WHEATFIELD	NIAGARA COUNTY REFUSE#		D
04	FL	DELAND	SHERWOOD MEDICAL		D
05	MI	PARK TOWNSHIP	SOUTHWEST OTTAWA LANDFILL		D
02	NY	HORSEHEADS	KENTUCKY AVE. WELLFIELD#		D
01	ME	WASHBURN	PINETTE'S SALVAGE YARD		D
02	NJ	MILLINGTON	ASBESTOS DUMP		D
04	KY	LOUISVILLE	LEE'S LANE LANDFILL#		D
03	PA	STATE COLLEGE	CENTRE COUNTY KEPONE		E
05	OH	BYESVILLE	FULTZ LANDFILL		D
06	AR	WALNUT RIDGE	FRITT INDUSTRIES#		D
05	OH	COSHOCTON	COSHOCTON CITY LANDFILL		D
03	PA	GIRARD TOWNSHIP	LORD SHOPE#		E
05	IL	WAUKEGAN	JOHNS-MANVILLE		D
01	MA	PALMER	PSC RESOURCES	R	
05	MI	OTISVILLE	FOREST WASTE PRODUCTS		D
04	FL	CLERMONT	TOWER CHEMICAL#		E
03	PA	LOCK HAVEN	DRAKE CHEMICAL INC.#	R	
03	MD	ANNAPOLIS	MIDDLETOWN ROAD DUMP		E
03	DE	NEW CASTLE	TRIS SPILL SITE		D
03	PA	HAVERFORD	HAVERTOWN PCP SITE		E
05	IN	GARY	LAKE SANDY JO		D
05	MI	GRAND RAPIDS	CHEM CENTRAL		D
01	MA	BRIDGEWATER	CANNON ENGINEERING		E
05	MI	TEMPERANCE	NOVACO INDUSTRIES		D
06	LA	BAYOU SORREL	BAYOU SORREL#		D
02	NJ	JACKSON TOWNSHIP	JACKSON TOWNSHIP LANDFILL		E
05	MI	KALAMAZOO	K & L AVE LANDFILL		D
06	AR	EDMONDSEN	GURLEY PIT		D
05	MI	WHITEHALL	WHITEHALL WELLS		D
05	MI	IONIA	IONIA CITY LANDFILL		D
02	NJ	MONTGOMERY TOWNSHIP	MONTGOMERY HOUSING DEV		D
02	NJ	ROCKY HILL	ROCKY HILL MUNICIPAL WELL		D
02	NY	BREWSTER	BREWSTER WELL FIELD		D
02	NJ	ORANGE	US RADIUM		D
08	MT	LIBBY	LIBBY GROUND WATER		D
03	PA	JEFFERSON	RESIN DISPOSAL		E
06	TX	HIGHLANDS	HIGHLANDS ACID PIT#	R	
04	KY	NEWPORT	NEWPORT DUMP		D
03	PA	LOWER PROVIDENCE TWP	MOYERS LANDFILL		D
04	KY	WEST POINT	DISTLER BRICKYARD	R	
01	CT	SOUTHINGTON	SOLVENTS RECOVERY SYSTEM		E
03	PA	ERIE	PRESQUE ISLE		D
02	NJ	SAYREVILLE	SAYREVILLE LANDFILL		D
08	CO	COMMERCE CITY	SAND CREEK		D
08	WY	LARAMIE	BAXTER/UNION PACIFIC		E
01	NH	DOVER	DOVER LANDFILL		D
06	AR	FT. SMITH	INDUSTRIAL WASTE CONTROL		D

†: V = Voluntary or Negotiated Response, R = Federal and State Response,
E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/EEL. * = States' Designated Top Priority Sites.

Group 7

EPA Region	State	City/County	Site Name	Response	Status †
02	NY	CLAYVILLE	LUDLOW SAND & GRAVEL		D
07	MO	IMPERIAL	ARENA 2: FILLS 1 & 2		D
06	LA	SLIDELL	BAYOU BONFOUCA		D
03	WV	LEETOWN	LEETOWN PESTICIDE PILE		D
01	CT	CANTERBURY	YAWORSKI	E	
05	OH	DODGEVILLE	NEW LYME LANDFILL		D
02	NJ	OLD BRIDGE	EVOR PHILLIPS		D
03	PA	CHESTER	WADE (ABM)#	R E	
03	PA	OLD FORGE	LACKAWANNA REFUSE		D
02	NJ	GALLOWAY TOWNSHIP	MANNHEIM AVENUE DUMP		D
02	NY	FULTON	FULTON TERMINALS		D
05	MI	MUSKEGON	SCA INDEPENDENT LANDFILL		D
01	NH	LONDONDERRY	AUBURN RD LANDFILL	E	
03	WV	NITRO	FIKE CHEMICAL	V	
10	WA	KENT	WESTERN PROCESSING#	E	
05	MI	PETOSKEY	PETOSKEY MUNICIPAL WELLS		D
05	OH	ROCK CREEK	ROCK CREEK/JACK WEBB	R	
05	OH	JEFFERSON	POPLAR OIL#	R E	
07	KS	WICHITA	JOHN'S SLUDGE POND		D
02	NJ	PENNSAUKEN	SWOPE OIL AND CHEMICAL#		D
05	MI	KENTWOOD	KENTWOOD LANDFILL		D
05	MN	ANDOVER	SOUTH ANDOVER SITE#		D
06	AR	NEWPORT	CECIL LINDSEY		D
05	IN	MARION	MARION (BRAGG) DUMP		D
05	OH	READING	PRISTINE		D
04	KY	CALVERT CITY	AIRCO		D
05	OH	ST. CLAIRSVILLE	BUCKEYE RECLAMATION		D
06	TX	GRAND PRAIRIE	BIO-ECOLOGY#	R	
04	FL	MOUNT PLEASANT	PARRAMORE SURPLUS		D
01	VT	SPRINGFIELD	OLD SPRINGFIELD LANDFILL		D
02	NY	LINCKLAEN	SOLVENT SAVERS		D
03	VA	PINEY RIVER	US TITANIUM	E	
05	IL	GALESBURG	GALESBURG/KOPPERS		D
05	OH	KINGSVILLE	BIG D CAMPGROUNDS		D
02	NY	NIAGARA FALLS	HOOKER - HYDE PARK	V E	
05	MI	MARQUETTE	CLIFF/DOW DUMP		D
05	MI	MUSKEGON	DUELL & GARDNER LANDFILL		D
02	NJ	EVESHAM	ELLIS PROPERTY		D
04	KY	JEFFERSON COUNTY	DISTLER FARM#		D
09	CA	CLOVERDALE	MGM BRAKES		D
05	MI	LUDINGTON	MASON COUNTY LANDFILL		D
05	MI	ROSE TOWNSHIP	CEMETARY DUMP SITE		D
01	RI	NORTH SMITHFIELD	FORESTDALE		D
06	TX	HOUSTON	HARRIS (FARLEY ST)#	R	
03	PA	SEVEN VALLEYS	OLD CITY OF YORK LANDFILL	E	
05	IL	OGLE COUNTY	BYRON SALVAGE YARD	E	
03	PA	KING OF PRUSSIA	STANLEY KESSLER	E	
02	NJ	FREEHOLD TOWNSHIP	FRIEDMAN PROPERTY#	R	
02	NJ	FRANKLIN TOWNSHIP	MYERS PROPERTY		D
02	NJ	BOONTON	PEPE FIELD		D

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= IPL/EEL. * = States' Designated Top Priority Sites.

Group 8

EPA Region	State	City/County	Site Name	Response	Status †
05	MI	SOUTH OSSINEKE	OSSINEKE		D
05	MI	NILES	U.S. AVIEX		D
06	NM	CLOVIS	ATSP/CLOVIS#	E	
10	WA	YAKIMA	PESTICIDE PIT, YAKIMA		D
04	TN	LEWISBURG	LEWISBURG DUMP		D
01	ME	SACO	SACO TANNING		D
03	PA	PHILADELPHIA	METAL BANKS	E	
06	AR	MARION	CRITTENDEN CO. LANDFILL		D
05	MI	GRANDVILLE	ORGANIC CHEMICALS		D
10	OR	PORTLAND	GOULD, INC.		D
02	PR	JUNCOS	JUNCOS LANDFILL		D
04	FL	NORTH FLORIDA	MUNISPORT		D
05	MI	CLARE	CLARE WATER SUPPLY		D
02	NJ	ASBURY PARK	M&T DELISA LANDFILL		D
10	WA	YAKIMA	FMC YAKIMA		D
05	MI	ODEN	LITTLEFIELD TOWNSHIP DUMP		D
05	MI	KALAMAZOO	AUTO ION		D
04	SC	FORT LAWN	CAROLAWN, INC.	R E	
05	MI	SPARTA	SPARTA LANDFILL		D
05	IL	WINNEBAGO	ACME SOLVENT/MORRISTOWN#		D
05	MI	CHARLEVOIX	CHARLEVOIX MUNICIPAL WELL		D
03	WV	FOLLANSBEE	FOLLANSBEE SLUDGE FILL		D
01	ME	AUGUSTA	O'CONNOR SITE		D
03	PA	WESTLINE	WESTLINE		D
05	MI	BRIGHTON	RASMUSSEN'S DUMP		D
05	MI	OSCODA	HEDBLUM INDUSTRIES		D
02	PR	BARCELONETA	RCA DEL CARIBE		D
05	IN	LEBANON	WEDZEB INC		D
04	KY	CALVERT CITY	B.F. GOODRICH		D
03	PA	STROUDSBURG	BRODHEAD CREEK	R E	
05	MI	ADRIAN	ANDERSON DEVELOPMENT		D
05	MI	LIVINGSTON COUNTY	SHIAWASSEE RIVER	E	
05	IL	LA SALLE	LASALLE ELECTRIC UTILITIES	E	
04	TN	GALLOWAY	GALLOWAY PONDS		D
03	DE	KIRKWOOD	HARVEY KNOTT DRUM SITE#	R	
03	DE	DOVER	WILDCAT LANDFILL		D
03	PA	WEST CHESTER TWP	BLOSENSKI LANDFILL	E	
03	DE	DELAWARE CITY	DE CITY PVC PLANT#		D
03	MD	CUMBERLAND	LIMESTONE ROAD SITE	E	
02	NY	NIAGARA FALLS	HOOKER - 102ND STREET	E	
03	DE	NEW CASTLE	NEW CASTLE STEEL SITE		D
06	NM	CHURCHROCK -	UNITED NUCLEAR CORP.#		D
09	CA	HOOPA	CELTOR CHEMICAL		D
04	AL	PERDIDO	PERDIDO GRDWATER CONTAMINATION		D
02	NY	COLD SPRINGS	MARATHON BATTERY#		D
03	PA	OLD FORGE	LEHIGH ELECTRIC#	R E	
04	TN	CHATTANOOGA	AMNICOLA DUMP		D
05	OH	WEST CHESTER	SKINNER LANDFILL		D
07	MO	MOSCOW MILLS	ARENA 1 (DIOXIN)		D
04	NC	SWANNANOA	CHEMTRONICS, INC.		D

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= IPL/EEL. * = States' Designated Top Priority Sites.

Group 9

EPA Region	State	City/County	Site Name	Response Status †					
07	NE	BEATRICE	PHILLIPS CHEMICAL						D
05	MI	BUCHANAN	ELECTROVOICE						D
03	PA	KIMBERTON	KIMBERTON						D
05	IN	BLOOMINGTON	LEMON LANE LANDFILL						D
10	ID	RATHDRUM	ARRCOM (DREXLER ENTERPRISES)						D
03	PA	WARMINSTER	FISCHER & PORTER				E		
10	WA	LAKEWOOD	LAKEWOOD						D
05	OH	ZANESVILLE	ZANESVILLE WELL FIELD						D
09	CA	SACRAMENTO	JIBBOOM JUNKYARD						D
02	NJ	SPARTA	A. O. POLYMER			R			
07	IA	DES MOINES	DICO						D
06	TX	ORANGE COUNTY	TRIANGLE CHEMICAL			R	E		
02	NJ	JERSEY CITY	PJP LANDFILL						D
05	OH	MARIETTA	VAN DALE JUNKYARD						D
03	PA	PARKER	CRAIG FARM DRUM SITE						D
03	PA	UPPER SAUCON TWP	VOORTMAN						D
05	IL	BELVIDERE	BELVIDERE						D
05	IN	ALLEN COUNTY	PARROT ROAD						D

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= IPL/EEL. * = States' Designated Top Priority Sites.

[FR Doc. 82-35376 Filed 12-29-82;8:45 am]
BILLING CODE 6560-50-C

federal register

Thursday
December 30, 1982

Part V

Department of Transportation

Federal Aviation Administration

Transport Category Airplanes; Cabin Ozone Concentration

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 22438; Amdt. Nos. 25-56 and 121-181]

Transport Category Airplanes; Cabin Ozone Concentration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments relieve operators of certain airplanes from having to purchase, install, and maintain ozone control equipment or establish ozone avoidance procedures. These amendments reduce the operating cost of the affected airplanes with no reduction in flight safety.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Bedore, Project Development Branch (AFO-240), Air Transportation Division, Office of Flight Operations, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8096.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) established specific airplane cabin ozone concentration standards for the issuance of type certificates for transport category airplanes. Cabin ozone standards were also adopted for the operation of large transport category airplanes by air carriers and commercial operators. The final rule was published in the **Federal Register** on January 21, 1980 (45 FR 3880), as Amendments 25-50 and 121-154.

Amendment 25-50 added a new § 25.832 which stated that the airplane cabin ozone concentration during flight above flight level (FL) 180 must be shown not to exceed 0.25 parts per million by volume, sea level equivalent, at any time and 0.1 parts per million by volume, sea level equivalent, time-weighted average during any 3-hour interval.

Amendment 121-154 added a new § 121.220 which was later changed to § 121.578 stating that after February 20, 1981, no certificate holder may operate a transport category airplane above FL 180 unless it has successfully demonstrated to the Administrator that the concentration of ozone inside the cabin will not exceed 0.25 parts per million by volume, sea level equivalent, at any time and for each flight segment that exceeds 4 hours, 0.1 parts per million by volume, sea level equivalent, time-weighted average over that flight segment.

In response to a petition for rulemaking from the Air Transport Association of America (ATA) dated April 30, 1980, which was published in the **Federal Register** on September 11, 1980 (45 FR 59905), and a petition from Rosenbalm Aviation, Inc., dated March 31, 1980, which was published in the **Federal Register** on October 9, 1980 (45 FR 67100), the FAA issued a Notice of Proposed Rulemaking (NPRM) No. 81-15 which was published in the **Federal Register** on November 23, 1981 (46 FR 57442). That notice proposed amendments to §§ 25.832 and 121.578 of the regulations to relieve operators of cargo-only airplanes and narrow-body four-engine airplanes to be retired or re-engined because of the FAA's noise regulations (14 CFR Part 91, Subpart E) from the necessity of meeting the ozone operating requirements and to simplify the compliance requirements for many other airplane operations.

Discussion of Comments

Sixteen public comments were received in response to NPRM 81-15. In summary, nine commenters agree with the NPRM; two disagree; and five comment on the overall cabin ozone concentration methodology.

The nine concurrences were from the ATA, Aerospace Industries Association of America, Inc. (AIA), Englehard Industries Division (a manufacturer of catalytic ozone destruction filters), the Human Factors Division, Wright-Patterson Air Force Base Ohio, and five air carriers. Of the air carriers, two operate four-engine narrow-body aircraft; two operate turboprop aircraft; and one is a cargo operator.

ATA also comments that a few B-727 aircraft flights exceed 4 hours, and penalties will be associated with complying with the time-weighted average (TWA) provisions of the rule. Because of these penalties and Report No. FAA-AM-80-16, Subject: "Effects of Long-Term Exposure to Low Levels of Ozone: A Review," by C. E. Melton of the FAA Civil Aeromedical Institute, dated September 1980, (which according to ATA finds the entire TWA concept to be one of questionable validity), ATA urges further relaxation of the rule to unburden narrow-body intercontinental operations from the 4-hour TWA provision AIA also comments that the TWA should be eliminated based on Report No. FAA-AM-80-16.

The FAA did not grant that portion of the ATA petition which requested relaxation of the rules for aircraft such as the B-727 because flight segments of these narrow-body turbojet airplanes which exceed 4 hours comply with the requirements of § 121.578 without installation of ozone filters provided the airplanes do not exceed FL 390 over the continental United States (excluding Alaska). (Higher altitudes may be used in many cases as shown in Table 2 of the NPRM.) On the other hand, flights over Western North America at latitudes higher than the continental United States, almost exclusively Alaskan operations, during the months of February, March, and April could not utilize the highest possible altitude and be in compliance with § 121.578. During that 3-month period, those Alaskan operations could incur a minimal economic burden in the form of reduced fuel efficiency of less than 1 percent. For those few flights which might encounter elevated ozone levels, the public benefit of ozone avoidance outweighs the burden imposed on the operator.

Report No. FAA-AM-80-16 does not indicate that the TWA standard should be discontinued, as suggested by the commenters. The report does state in part, that ozone concentration is more important than duration of exposure in determining the effectiveness of an ozone exposure (dose). This is interpreted to mean that peak concentrations are more important than the duration of exposure in assessing ozone-induced symptoms, and a time-weighted average may not give an accurate index of exposure without due consideration being given to peak exposures. The FAA has already taken this fact into account by having a higher standard for the maximum value than for the TWA.

In the NPRM, the FAA announced that it would allow the use of a value of 0.7 for aircraft without a measured ozone retention ratio, based on its review of recently established ratios for a number of aircraft. AIA comments that aircraft without a measured retention ratio should be allowed to use a value of 0.6 rather than 0.7 based on an average retention ratio in measured aircraft of 0.504, which it computes from Table 1 of the NPRM.

One carrier comments that Table 2 of the NPRM should be increased to show retention ratios and altitudes for all aircrafts operating above FL 250. Such an addition to the table, however, would be impractical and unnecessary.

Although the data was measured only on the aircraft types listed in Table 1 of the proposal, other aircraft types should use the data provided in Table 2 for a retention ratio of 0.7 which is an

acceptable value to use if the actual ratio has not been measured.

The FAA-accepted retention ratio of 0.7 is considered reasonable. One airplane listed in Table 1 has a retention ratio of 0.59, and the B–747SP had a retention ratio of 0.83 before the air conditioning system was reconfigured. Thus, lowering the accepted retention ratio to 0.6 for use in any airplane type without a measured value would not provide for an adequate margin of error. Moreover, using this retention ratio, all but a minimal number of flights can show compliance without restricting altitude or installing ozone filters.

The Independent Union of Flight Attendants (IUFA) states that the flight crewmembers of cargo aircraft should be protected from the health hazard of ozone. The FAA recognizes that high ozone levels are a health hazard. However, as stated in the proposal, flight crewmembers of cargo-only aircraft have protection. The availability of supplemental oxygen and the sedentary activity of cargo-only aircraft occupants reduce or eliminate the physiological impact of exposure to high ozone concentrations. The safety of the aircraft and its occupants can be assured.

IUFA, the Air Line Pilots Association (ALPA), and the Association of Flight Attendants (AFA) comment that cargo-only aircraft should be excluded only if ozone monitors are required equipment on the aircraft. With respect to requiring ozone monitors on cargo-only aircraft, such action is not justified based on costs associated with equipment purchase and maintainability. Because persons aboard cargo-only aircraft are normally sedentary and have supplemental oxygen available in the event symptoms of ozone discomfort are experienced, the benefit of monitoring would be minimal.

ALPA and AFA oppose the exemption of cargo-only airplanes based on their opinion that flight planning is not acceptable and that operational avoidance is not a dependable alternative. In addition, they request that the ozone concentration limits be changed to 0.05 ppmv as an action point, 0.1 ppmv for a threshold, and 0.3 ppmv as a never-to-be-exceeded level.

Proper flight planning and in-flight procedures are recommended practices to reduce exposure by aircraft occupants to high ozone concentration. Moreover, as indicated by Table 2 of the NPRM, ozone avoidance through flight planning is only necessary in a small number of cases and for few months each year.

A tightening of the ozone concentration limits is not justified. Those limits are based on studies conducted by the FAA Civil Aeromedical Institute and are comparable to standards adopted by the Environmental Protection Agency and the Occupational Safety and Health Administration.

British Aerospace (BA) comments that the permissible maximum ozone concentration is 0.25 ppmv "at any time" as stated in the proposal while the rule uses the phrase "at any point in time." Thus, taken literally, "at any point in time" would require infinitely rapid instrumentation response. BA recommends that the rule be changed to allow the ozone concentration to exceed 0.25 ppmv for 2 minutes. BA also comments that for "altitude restrictions for flights under 4 hours," the retention ratio does not take into account the dissociation within the cabin. Accordingly, BA requests that retention ratio be defined to take into consideration the ozone concentration existing within the occupied space and not be limited to ozone which enters the airplane cabin during flight.

The meaning of the rule is not changed by dropping the words "point in." Ozone monitoring equipment is not required. Thus, this provision should not raise the problem addressed by the commenter because no requirement exists for onboard ozone monitors. Compliance with these rules may be shown by statistical means. In addition, measured retention ratios accepted by the FAA use an airplane cabin average value, not the ozone as it enters the airplane. Thus, it is unnecessary to define retention ratio as the commenter suggests.

Economic Evaluation

These amendments clarify and modify Cabin Ozone Contamination Rules. These amendments specifically relieve two types of operators, those that operate cargo-only aircraft and those that operate certain narrow-body four-engine aircraft. Operators would not have to install ozone filters in these aircraft. So the rule will initially save up to $1.4 million for the cargo-only operators and $750,000 for the narrow-body four-engine aircraft, for a total saving of $2,150,000. Recurring costs saved are about one-third of that, or $700,000 annually. These benefits are savings for not having to comply with the regulations as they were before these amendments. There are no costs to society or air carriers for adopting these amendments.

List of Subjects

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Transportation, Common carriers.

Adoption of the Amendment

Accordingly, the regulations (14 CFR Parts 25 and 121) are amended, effective January 31, 1983 as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By revising § 25.832(a), (1), and (2) to read as follows:

§ 25.832 Cabin ozone concentration.

(a) The airplane cabin ozone concentration during flight must be shown not to exceed—

(1) 0.25 parts per million by volume, sea level equivalent, at any time above flight level 320; and

(2) 0.1 parts per million by volume, sea level equivalent, time-weighted average during any 3-hour interval above flight level 270.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

2. By amending § 121.578 by revising (b) and by adding a new paragraph (e) to read as follows:

§ 121.578 Cabin ozone concentration.

* * * * *

(b) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may operate a transport category airplane above the following flight levels unless it is successfully demonstrated to the Administrator that the concentration of ozone inside the cabin will not exceed—

(1) For flight above flight level 320, 0.25 parts per million by volume, sea level equivalent, at any time above that flight level; and

(2) For flight above flight level 270, 0.1 parts per million by volume, sea level equivalent, time-weighted average for each flight segment that exceeds 4 hours and includes flight above that flight level. (For this purpose, the amount of ozone below flight level 180 is considered to be zero.)

* * * * *

(e) A certificate holder need not comply with the requirements of paragraph (b) of this section for an aircraft—

(1) When the only persons carried are flight crewmembers and persons listed in § 121.583;

(2) If the aircraft is scheduled for retirement before January 1, 1985; or

(3) If the aircraft is scheduled for re-engining under the provisions of Subpart E of Part 91, until it is re-engined.

(Secs. 313, 601, 603, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—These amendments relieve certain operators of large transport category aircraft of the economic burden of purchasing, installing, and maintaining ozone control equipment on some airplanes or establishing ozone avoidance procedures. Accordingly, the FAA has determined that this document involves a final rule which is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (14 CFR 11034; February 26, 1979). For this same reason and because the operating rule changed by this amendment does not, for the most part, apply to operations by small entities, and the change in the certification rule will have only a minimal effect on the price of certain transport category aircraft that might be purchased by small entities, it is certified that under the criteria of the Regulatory Flexibility Act, this final rule will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on December 3, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-35466 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
December 30, 1982

Part VI

Department of Labor

Employment and Training Administration

Establishment of State Job Training Coordinating Councils and Private Industry Councils; Designation of Service Delivery Areas Under the Job Training Partnership Act

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 626

Establishment of State Job Training Coordinating Councils and Private Industry Councils; Designation of Service Delivery Areas Under the Job Training Partnership Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement certain provisions of the Training Partnership Act (Pub. L. 97–300). The final rule provides guidance on the structure and implementation of the planning systems authorized under Title I of the Act.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone (202) 376–8444.

SUPPLEMENTARY INFORMATION: Proposed rulemaking governing certain provisions of the Job Training Partnership Act was published in the **Federal Register** on November 19, 1982 (47 FR 52197), for the purpose of soliciting public comment. The Department received 32 written comments on the proposal. Following is a description of each affected section as it appears in these final regulations, a summary of the comments received, and the Department's response.

The proposed regulations at § 626.2 describe the appointment of the State job training coordinating council (SJTCC). Commentators suggested that the regulations set forth an order of events in establishing the SJTCC, and suggested that the regulations prescribe a process to be used by the Governor in selecting SJTCC members. The Department believes, however, that it would be appropriate not to compromise the flexibility of the Governor in appointing the SJTCC. Therefore, the provision remains as proposed.

The proposed regulations at § 626.3 provide guidance on the designation of service delivery areas (SDAs). Several commentators requested additional rules addressing circumstances the Governors will face in designating SDAs for areas of the State comprised of units of general local government with populations of less than 200,000. Other comments on § 626.3 suggested that the regulations set dates for establishing SDAs, and provide more structure for appeals. Consistent with the decentralized spirit of the Act, the Department believes that the Governor is in the best position to resolve any issues that arise during the designation of SDAs. Therefore, the provision remains as proposed.

Commentators suggested clarification on whether the entire State is to be covered by an SDA. That clarification has been included.

In § 626.3, paragraph (a) was relettered as paragraph (b) and paragraph (b) was relettered as paragraph (a) to reorder the presentation of events which must occur in the SDA designation process.

In § 626.4, paragraph (a) governs the establishment and certification of the private industry council (PIC) and paragaph (b) covers PIC functions. Commentators requested additional rules and/or guidance concerning delineation of responsibilities in cases of a combined SJTCC/PIC, criteria for evaluating, appointing and certifying PIC members, delineation of monitoring and oversight functions of the PIC versus the local elected official(s), and public notice of PIC nominees prior to the Governor's certification. Consistent with the intent of the Act, the regulations were written to provide those at the State and local levels with the authority for making these determinations. Therefore, additional guidance is unnecessary.

Numerous commentators objected to the authority granted in § 626.4(b) for the PIC to exercise independent oversight over activities under the job training plan. Commentators pointed out that the law places oversight responsibility jointly with the PIC and the unit(s) of local government in the SDA. The regulation as proposed was not intended to diminish the oversight authority of others, including local elected officials. Instead, in addition to any joint oversight, the PIC is authorized to undertake its own independent oversight activities. We are, however, revising the regulation to explicity state that such additional oversight is authorized, but not required.

The proposed regulations at § 626.4, paragraph (b), state that the PIC is to provide policy and program guidance for all activities under the job training plan. There was objection to the word program since the law only specifies that the PIC will provide policy guidance. The statute requires the PIC to provide policy guidance and such guidance would be related solely to the program, therefore inclusion of the word program is appropriate.

Also in § 626.4, paragraph (b), is a reference to the agreements to be negotiated between the PIC and the chief elected official(s). There was comment that in Section 163(b) of the Act the term chief elected official can include an authorized representative. The comment suggested that the regulation be revised to add "or his designee" after chief elected official. The Department, however, believes this addition is unnecessary since the statute is clear on this point. Therefore, no further clarification by regulation is necessary.

Commentators objected to the language in § 626.4(c) concerning the development of the plans required under the Wagner-Peyser Act. The commentators felt that the language should repeat the statutory provision. Accordingly, the language in paragraph (c) has been revised.

A question was also raised with respect to Section 181(f)(7) of the statute concerning the Secretary's authority to provide up to $80,000 to each PIC for Fiscal Year 1983. Because this provision does not impose a Secretarial responsibility, it is not addressed as a regulation. However, this issue will be addressed through an internal Department of Labor administrative issuance at a later date.

Due to the statutory deadline of January 1, 1983 for publication of these regulations, these rules have not been submitted to OMB for review under Executive Order 12291. See Section 8(a)(2) of the Executive Order.

List of Subjects in 20 CFR Part 626

Grant programs—Labor, Manpower training programs.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended by adding a new part, Part 626, to read as follows:

PART 626—JOB TRAINING PARTNERSHIP SYSTEM

Sec.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

§ 626.1 Scope and purpose.

These regulations implement provisions of the Job Training Partnership Act (JTPA or the Act) governing the establishment of the State job training coordinating councils, the designation of service delivery areas, and the establishment and certification of private industry councils.

§ 626.2 State job training coordinating council.

The Governor shall appoint a State job training coordinating council (SJTCC) pursuant to Section 122 of the Act. The SJTCC shall have specific functions and responsibilities outlined in Sections 122 and 501 of the Act.

§ 626.3 Service delivery areas.

(a) The SJTCC shall make recommendations to the Governor on proposed SDA designations in a form and by a date established by the Governor (Sec. 101(a)(1) and (2)).

(b) Pursuant to Section 101 of the Act, the Governors shall designate service delivery areas (SDAs) for the State. All areas within the State must be covered by designated SDAs. Requests for designation shall be submitted in a form and by a date established by the Governor.

(c) Pursuant to Section 101(a)(4)(C) of the Act, an entity described in Section 101(a)(4)(A) may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, ATTENTION: ASET. A copy of the apeal shall simultaneously be provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(3) The appealing party shall explain why it believes the denial is contrary to the provisions of Section 101 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the denial is inconsistent with Section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after this appeal is received (Sec. 101(a)(4)(C)).

§ 626.4 Private industry council.

(a) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to Section 102 of the Act.

(b) Pursuant to Section 103 of the Act, the PIC shall provide policy and program guidance for all activities under the job training plan for the SDA. In accordance with agreements negotiated with the appropriate chief elected official(s), the PIC shall: determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA. The PIC may exercise independent oversight over activities under the job training plan, and oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(c) The employment service shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act of 1933, as amended, applicable to the SDA (Sec. 501(d)).

Signed at Washington, D.C., this 28th day of December, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-35220 Filed 12-29-82; 8:45 am]

BILLING CODE 4510-30-M

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