

Thursday
February 18, 1982

Federal Register

Highlights

- 7305 Grant Programs—Education** ED extends closing date for transmittal of applications under the Fund for the Improvement of Postsecondary Education's FY 1982 Comprehensive Program.
- 7304 Grant Programs—Education** ED invites individuals to apply to serve as field readers for the High School Equivalency Program and College Assistance Migrant Program. (2 documents)
- 7239 Civil Defense** FEMA establishes peacetime screening of non-federal employees who are Ready Reservists.
- 7255 Motor Vehicle Safety** DOT/NHTSA adopts amendments to school bus emergency exit standard.
- 7292 DOT/NHTSA** terminates rulemaking proceeding to amend air brake systems safety standard for school buses.
- 7250 DOT/NHTSA** revokes standard on speedometers and odometers.
- 7254 DOT/NHTSA** delays effective date of seat belt comfort and convenience requirements.
- 7293 DOT/NHTSA** requests comments on proposed changes to air brake hose safety standard.
- 7291 DOT/NHTSA** requests comments on head restraints evaluation report.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

- 7245 Motor Vehicles** DOT/NHTSA establishes requirements for relief petitions submitted under the Automobile Fuel Efficiency Act of 1980 and amends regulations on light truck fuel economy standards.
- 7283 Railroad Safety** DOT/FRA proposes to amend railroad power brake and drawbar rules.
- 7275 DOT/FRA** proposes to change Track Safety Standards.
- 7242, 7244 Hazardous Materials Transportation** DOT/RSPA authorizes continued use of nonspecification cargo tanks in intrastate commerce of liquefied petroleum gas and anhydrous ammonia. (2 documents)
- 7243 Radioactive Materials** DOT/RSPA reinstates DOE's authority to evaluate and approve radioactive materials package designs.
- 7205 Nuclear Materials** NRC revokes general license permitting the processing of uranium ore and possession of uranium mill tailings.
- 7384 Coal—Air Pollution Control** Interior/SMREO proposes to amend rules on air resources protection for surface and underground coal mining operations. (Part II of this issue)
- 7312 Water Pollution Control** EPA issues final general National Pollutant Discharge Elimination System (NPDES) permit for oil and gas operations on Outer Continental Shelf off Southern California.
- Imports** ITC issues investigation notices on the following:
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 - 7347** Carbon steel wire rod from Venezuela.
 - 7348** Certain card data im printers and components thereof.
 - 7348** Certain cube puzzles.
 - 7348** Certain hot air corn poppers and components thereof.
 - 7350** Hot-rolled carbon steel plate.
 - 7351** Hot-rolled carbon steel sheet and cold-rolled carbon steel sheet from the United Kingdom.
 - 7349** Certain steel wire nails from Korea.
 - 7350** Competitive assessment of the U.S. metal working machine tool industry

- 7223 Freedom of Information** SSS revises procedural rules.

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- 7223** SSS
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Rules and Regulations

Federal Register

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 7]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum size requirement applicable to fresh shipments of Dancy variety tangerines from 2 1/8 inches to 2 1/4 inches in diameter. This action allows an increase in the supply of tangerines in recognition of demand conditions and the size composition of the available supply in the interest of growers and consumers.

EFFECTIVE DATE: February 15, 1982.

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

SUPPLEMENTARY INFORMATION: This final action 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 because it would not measurably affect costs for the directly regulated handlers.

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under

the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

This amendment would relax limitations on the handling of Dancy tangerines by permitting each handler during the period February 15 through August 22, 1982, to ship 246 size (2 1/8 inches) Dancy tangerines. On and after August 23, 1982 the size would remain 210 (2 1/4 inches).

The minimum grade requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirement applicable to Florida Dancy tangerines in recognition of the recent freeze in Florida. The freeze has resulted in some fruit loss and increased market demand for the remaining fruit supply. The committee further reports that the remaining fruit is small, "late bloom" fruit which will not attain larger size and there is a need to augment the total available supply by permitting shipment of smaller size fruit. Specification of this requirement assures that the available supply of marketable fruit reaches the consumer.

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 amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Dancy tangerines. Handlers have been apprised of such provisions and the effective date.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the provisions of § 905.306 (Orange, Grapefruit, Tangerine and Tangelo Regulation 6 (46 FR 60170;

60411; 61441; 47 FR 589; 5192; 5699; 6248)) are amended by amending table I paragraph (a) to read as follows:

§ 905.306 Orange, grapefruit, tangerine, and tangelo regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
* * *	* * *		
Tangerines:			
Dancy	2/15/82-8/22/82	U.S. No. 1	2 1/8
	On and after 8/23/82	U.S. No. 1	2 1/4
* * *	* * *		

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

Dated: February 12, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 82-4378 Filed 2-17-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1139

[Docket No. AO-374-A6]

Milk in the Lake Mead Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Lake Mead order provisions pertaining to butterfat differentials for adjusting prices to the actual butterfat content of the milk being priced and to the classification of milk used in the production of ice cream and other frozen desserts. The amendments are based on industry proposals considered at a public hearing held September 23-24, 1980. The changes, which have been approved by more than two-thirds of the producers in the market, are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued August 27, 1980; published September 3, 1980 (45 FR 58366).

Recommended Decision: Issued September 9, 1981; published September 15, 1981 (46 FR 45776).

Extension of time for filing exceptions to proposed rule: Issued October 2, 1981; published October 8, 1981 (46 FR 49908).

Final Decision: Issued January 19, 1982; published January 25, 1982 (47 FR 3381).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Lake Mead marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to Section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of

industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interest of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling**PART 1139—MILK IN THE LAKE MEAD MARKETING AREA**

It is therefore ordered. That on and after the effective date hereof, the handling of milk in the Lake Mead marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

§ 1139.12 [Amended]

1. In § 1139.12, paragraph (b)(5) is removed.
2. In § 1139.40, paragraphs (b)(3) and (c)(1) are revised to read as follows:

§ 1139.40 Classes of utilization.

- ***
- (b) ***
- (3) Used to produce:
- (i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese; and
 - (ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes.
- (c) ***
- (1) Used to produce:
- (i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);
 - (ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;
 - (iii) Any milk product in dry form;
 - (iv) Custards, puddings, and pancake mixes;
 - (v) Formulas especially prepared for infant feeding or dietary use that are

packed in hermetically sealed glass or all-metal containers;

(vi) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(vii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(viii) Any product that is not a fluid milk product and that is not specified in paragraphs (b) or (c)(1) (i) through (vii) of this section;

3. In § 1139.44, paragraph (a)(7)(vii) is revised to read as follows:

§ 1139.44 Classification of producer milk.

- ***
- (a) ***
- (7) ***
- (vii) Receipts of milk from a dairy farmer pursuant to § 1139.12(b)(4);
- ***

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1139.55 [Removed]

5. Section 1139.55 is removed in its entirety.

6. In § 1139.60, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1139.60 Handler's value of milk for computing uniform price.

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to § 1139.52) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1139.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current

month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44 (b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

7. Section 1139.61 is revised to read as follows:

§ 1139.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60 for all handlers who filed reports prescribed by § 1139.30 for the month and who made the payments pursuant to § 1139.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

8. Section 1139.62 is revised to read as follows:

§ 1139.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

9. Section 1139.74 is revised to read as follows:

§ 1139.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

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

Effective date: April 1, 1982.

Signed at Washington, D.C., on February 10, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection.

[FR Doc. 82-4336 Filed 2-17-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Revocation of General License

AGENCY: Nuclear Regulatory Commission.

ACTION: Revocation of final rule.

SUMMARY: The Commission is revoking the general license issued November 10, 1981, to allow persons licensed by an Agreement State to process uranium ore to also possess uranium mill tailings.

DATES: The revocation is effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Fonner, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-8692.

SUPPLEMENTAL INFORMATION: On November 10, 1981, the Commission issued a general license, effective November 8, 1981, to permit the possession of byproduct material in the form of uranium mill tailings (See 46 FR 55505). The license applies only to persons in Agreement States who hold current Agreement State specific licenses for source material (uranium) processing. The general license was necessary at that time to fill the gap between the accession of jurisdiction over such byproduct material to the Nuclear Regulatory Commission under terms of Section 204 of the Uranium Mill Tailings Radiation Control Act of 1978, as amended, and the time when Agreement States would execute

amendments to their Agreements relinquishing such jurisdiction to them.

It was noted in the Federal Register notice promulgating the general license that the Congress had before it certain legislative proposals that could affect the need for the general license. Subsequent to the publication of the general license the Congress enacted, and the President signed, Public Law 97-88 (effective December 4, 1981), the "Energy and Water Development Appropriation Act, 1982." To the part of Title IV of that Act pertaining to Commission appropriations for fiscal year 1982 (October 1, 1981 to September 30, 1982) the Congress appended the following:

* * * that no funds appropriated to the Nuclear Regulatory Commission in this Act may be used to implement or enforce any portion of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980, or to require any State to adopt such requirements in order for the State to continue to exercise authority under State law for uranium mill and mill tailings licensing, or to exercise any regulatory authority for uranium mill and mill tailings licensing in any State that has acted to exercise such authority under State law: * * * (emphasis supplied)

Each of the four Agreement States with active uranium mills covered by the general license (Washington, Colorado, Texas, and New Mexico) has acted to exercise authority under State law over uranium mill tailings. The Congress, as indicated by the above language and the legislative history of this provision, has intended to delay the exercise of NRC jurisdiction in those States until October 1, 1982. Accordingly, the general license serves no purpose at the present time and should be revoked. However, should no further legislative action be taken by the Congress to amend the Uranium Mill Tailings Radiation Control Act of 1978 or otherwise to further extend the time for accession of jurisdiction to NRC, it may be necessary by October 1, 1982 to reinstate the general license or require specific Commission licenses for uranium mill tailings.

Because this notice serves to implement the intention of Congress the Commission for good cause finds that notice and public comment on the revocation of the general license are unnecessary and that it can be made effective immediately upon publication. 5 U.S.C. 553(d)(3).

Therefore, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of

Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 40, is published as a document subject to codification.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for 10 CFR Part 40 reads as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 83, 84, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846) unless otherwise noted. Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 40.3, 40.25(d)(1)–(3), 40.35(a)–(d), 40.41(b) and (c), 40.46, 40.51(a) and (c) and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)); and §§ 40.25(c) and (d)(3) and (4), 40.28(c)(2), 40.35(e), 40.41(f), 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended, (42 U.S.C. 2201(o)).

§ 40.27 [Removed]

2. Section 40.27 of 10 CFR Part 40 is revoked and removed.

Dated at Washington, D.C., this 12th day of February, 1982.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 82-4351 Filed 2-17-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 81-ASW-66, Amdt. No. 39-4314]

Costruzioni Aeronautiche Giovanni Agusta Model A109A Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires frequent checks and inspections for cracks and loose or missing rivets, and repair as necessary, of several areas of the tail boom on Agusta Model A109A helicopters. If cracks and defective riveting are undetected, structural failure of the tail boom or tail fin may occur with possible

loss of helicopter control. Modifications are approved that will eliminate necessity for the inspections noted in the AD.

DATES: Effective February 19, 1982. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD which requires daily checks and 25-hour interval inspections and repair as necessary of the tail boom and fin assembly of Agusta A109A series helicopters. Only certain specified tail boom assemblies are affected by the AD. The tail boom and fin are one assembly.

Prior History

Technical Bulletin No. 109-23 was issued August 1980 to require frequent visual inspections, to repair as necessary, and to modify several areas of the tail boom and the vertical fin. The bulletin was issued because of several reports of cracks in the tail boom and fin occurring on Model A109A helicopters. Only certain serial numbered tail booms were affected by the bulletin.

Subsequently, Revision A to Technical Bulletin No. 109-23 was issued June 1981 to add an external doubler to the tail boom at the stabilizer support because of continuing reports of cracks in this area on previously modified tail booms. Technical Bulletin No. 109-31 was also issued in June 1981 to provide an alternate and equivalent repair to the repair contained in Revision A of Bulletin No. 109-23 for certain tail booms, and to require frequent visual inspections of the elevator support frames and to allow repair of additional tail booms not included in Bulletin No. 109-23.

Voluntary compliance with the bulletins has been satisfactory. The manufacturer has assisted operators to comply with the repairs noted in the bulletins. Nevertheless, it is necessary to issue an AD making compliance mandatory to maintain airworthiness of the Model A109A helicopters. After all repairs and modifications specified in these bulletins have been accomplished, further inspections are not required by the AD. A representative of the manufacturer has provided the agency with information that most of the tail boom assemblies have been modified as prescribed in the bulletins.

The representative further advised that exchange tail boom assemblies are available to facilitate compliance with the modification and repair aspect of the technical bulletins and the AD. Tail boom assemblies serial numbers 108EM and subsequent have been modified at the factory and are not affected by the AD.

Need for Amendment

Cracks have occurred in the upper fin left-hand forward stringer and the adjacent outer skin. Loosening of rivets and cracking of fin external doubler adhesive were also found. Cracks have been reported in the tail boom aft end bulkhead frame, in the bulkhead frames adjacent to the elevator support, in the upper fin aft longeron stringer, and in the tail boom skin in the area of a tail rotor drive shaft forward bearing hanger. Frequent checks and inspections at daily and 25-hour interval respectively, are necessary to detect cracks or loose rivets in the applicable areas. Repair of cracks or replacement of loose rivets, if found, is necessary to prevent possible structural failure of the tail boom assembly on Agusta Model A109A helicopter. Failure of the tail boom may result in loss of helicopter control.

Since a situation exists that requires immediate adoption of this regulation to enforce the frequent repetitive inspections of the applicable technical bulletins, it is found that notice and public procedure herein are unnecessary since persons are voluntarily complying with the bulletins, and good cause exists for making the amendment effective in less than 30 days.

No additional significant impact, economic or otherwise is anticipated with adoption of this amendment since the manufacturer has reported that operators have been complying with checks and inspections in the noted technical bulletins. These checks and inspections are estimated to cost \$4,160

per year for the 10 Model A109A helicopters that have not been modified.

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:

Costruzioni Aeronautiche Giovanni (Agusta):

Applies to all Model A109A series helicopters equipped with tail boom assembly up to and including Serial Numbers 056 and Serial Numbers 030EM through 107EM, inclusive, certificated in all categories.

Compliance is required as indicated.

To detect possible cracks and prevent structural failure of the tail boom assembly and possible loss of control of the helicopter, accomplish the following:

(a) For tail boom assemblies serial numbers up to and including 056 and 030EM through 057EM, accomplish the following:

(1) Before the first flight of each day, unless the tail boom has been modified in accordance with Agusta Kit No. 109-0820-1 or -3, visually check the tail fin outer skin areas shown in Figures 1 and 2 of Agusta Technical Bulletin No. 109-23, Revision A dated June 17, 1981, (hereinafter referred to as Technical Bulletin 23A) for cracks, missing or loose rivets, and breaking of adhesive.

(2) Within 25 hours' time in service after the effective date of this AD, and thereafter at intervals not exceeding 25 hours' time in service from the last inspection unless the tail boom has been modified in accordance with Agusta Kit No. 109-0820-23-3, inspect the tail boom in accordance with "Accomplishment Instructions," Part II, of the Technical Bulletin 23A.

Note.—Tail booms incorporating modification Kit No. 109-0820-23-1 are still subject to this inspection.

(3) When cracks, missing or loose rivets, or breaking of adhesive are found during the checks or inspections required in subparagraphs (a)(1) or (a)(2), repair the tail boom assembly as necessary, in accordance with "Accomplishment Instructions," Part III, of the Technical Bulletin 23A before further flight, except the aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where the repair may be performed.

(b) For tail boom assemblies serial numbers 058EM through 107EM, accomplish the following:

(1) Within 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 25 hours' time in service from the last inspection, unless the tail boom has been modified in accordance with Agusta Kit No. 109-0950-54, inspect the tail boom elevator support frames in accordance with Part I, of Technical Bulletin No. 109-31 (hereinafter referred to as Technical Bulletin 31) for cracks in the support frames.

(2) When cracks in the frames are found, repair the tail boom assembly, as necessary, before further flight in accordance with Part II of Technical Bulletin 31, except the aircraft

may be flown in accordance with FAR 21.198 and 21.199 to a base where the repair may be performed.

(c) Equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(d) Installation of Repair Modification Kit No. 109-0950-54, "Elevator Support Frames Structural Repair" contained in Technical Bulletin 31 is equivalent to the elevator support frame repair (Modification No. 109-0820-23-3) that is contained in Technical Bulletin 23A.

(e) The checks specified in subparagraph (a)(1) may be performed by the pilot.

Note.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see FAR 91.173.

This amendment becomes effective February 19, 1982.

(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)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979). A copy of the final regulatory evaluation or analysis, prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on February 3, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-4221 Filed 2-17-82; 8:46 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-73-AD, Amdt. 39-4315]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD) which requires a change to the rigging of the slide inflation system firing mechanism on certain Boeing Model 747 series airplanes equipped with fairing

mounted (offwing) escape slides. This AD is prompted by a report of an inservice failure of the slide to inflate when deployed with the flaps in the zero or five unit position. This action is necessary to ensure proper functioning of the escape slide in the event of an emergency evacuation.

DATES: Effective date March 21, 1982.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Don Gonder, Airframe Branch, ANM-120S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring rerigging of the fairing mounted (offwing) escape slide firing mechanisms on certain Boeing Model 747 series airplanes which are equipped with these slides was published in the *Federal Register* on November 16, 1981, (46 FR 56206).

The proposal was prompted by the following history.

It had been reported that during a recent emergency evacuation involving a B-747, the number 3L offwing slide was deployed but did not inflate. Later investigation revealed that the offwing slide would deploy but not inflate with the trailing edge flaps in the full up position. Further tests at Boeing confirmed that the slide may not inflate due to interference between the offwing fairing door and the trailing edge wing panel and flaps when the flaps are in either the zero or five unit position. In 6 of 9 deployment attempts at zero flaps the slide failed to inflate. This is the result of the incorporation of Service Bulletin 747-57-2073 which changed the trailing edge flap rigging. Boeing has issued Alert Service Bulletin No. 747-25A2581 by which the inflation system firing cable may be rerigged to ensure the inflation of the slide. Failure of the slide to properly inflate could have an adverse effect on the emergency evacuation of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires rerigging of the fairing mounted (offwing) escape slide firing

mechanism in accordance with Service Bulletin 747-25A2581 on certain Boeing Model 747 series airplanes which are equipped with these slides and have Service Bulletin 747-57-2073 or the production equivalent incorporated.

Interested persons have been afforded an opportunity to participate in the making of this amendment. In response, the Air Transport Association of America (ATA) commented on behalf of its member airlines. It was stated that all ATA member B747 operators would have Boeing Alert Service Bulletin No. 747-25A2581 accomplished within the proposed 1200 hour time limit. The manufacturer suggested that the AD's applicability statement be revised to exempt B747SP and freighter models since these airplanes are not equipped with the offwing slides. The FAA concurs. The rule as adopted applies only to those airplanes equipped with fairing mounted (offwing) escape slides. Also, the manufacturer notified the FAA of Service Bulletin 747-57-2086 which changed the trailing edge flap rigging on early B747-100 airplanes. This service bulletin has the same effect on the offwing slide operation as Service Bulletin No. 747-57-2073. The AD as adopted also applies to airplanes modified in accordance with Service Bulletin No. 747-57-2086. No other comments were received pertaining to this rule.

After careful review of available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

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:

Boeing: Applies to Model 747 series airplanes, line numbers 147, 149, 154 through 535 and those airplanes modified in accordance with Boeing Service Bulletin Nos. 747-57-2073 or 747-57-2086 or equivalent certificated in all categories which are equipped with fairing mounted (offwing) escape slides. Compliance is required within the next 1200 hours time-in-service after the effective date of this AD unless already accomplished.

To ensure the proper deployment and inflation of the fairing mounted (offwing) slides accomplish the following:

A. Rig the fairing mounted (offwing) escape slide inflation firing mechanism in accordance with Boeing Alert Service Bulletin No. 747-25A2581, dated September 25, 1981, or later FAA approved revisions.

B. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

C. Alternate means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

Note.—Operators unable to determine the configuration of their airplanes (i.e. modification in accordance with Boeing Service Bulletin No. 747-57-2073 or 747-57-2086 or its equivalent) should determine the angle of rotation of the offwing slide fairing door from the closed position to the open position with the flaps in the zero or five unit position. If this angle is not approximately 180 degrees compliance with paragraph A of this AD is required.

The manufacturer's specification 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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 21, 1982.

(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 document involves 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).

I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 4, 1982.

Robert O. Brown,
Acting Director, Northwest Mountain Region.

[FR Doc. 82-4222 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-52-AD; Amdt 39-4316]

Airworthiness Directives: McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) that requires inspection and replacement, if necessary, of rudder pedal arms on McDonnell Douglas DC-8 series airplanes. This action is needed to detect fatigue cracking of the rudder pedal arms; the failure of which could compromise the flight crew's ability to maintain directional control of the airplane at a critical point during takeoff, landing, or approach.

DATE: Effective date March 21, 1982. Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESS: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1-750, (54-60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Michael O'Neil, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive to require inspection of the rudder pedal arms at both the Captain's and First Officer's positions of all DC-8 series airplanes was published in the Federal Register on September 17, 1981, (46 FR 46139). This proposal was prompted by the events discussed below:

Three operators reported five failures of the Captain's left rudder pedal arm and one failure of the Captain's right rudder pedal arm on aircraft having logged between 18,397 and 47,850 flight hours. The failures were due to fatigue cracks in the magnesium casting which originated in the top attachment holes and in the inside diameter of the upper

boss, between the attachment holes and the exterior surface, in the region where the upper boss intersects with the tubular section of the arm.

If undetected, a failure of the rudder pedal arm could cause a momentary loss of rudder control, nose wheel steering or braking input at the Captain's or First Officer's position. Duplication of controls does not alleviate the potential hazard that could occur at a critical flight condition.

Inspection of the rudder pedal arms is necessary to prevent failure of the rudder pedal arms.

Interested persons have been afforded the opportunity to participate in the making of this amendment. Six comments were received in response to the Notice of Proposed Rulemaking. None of the parties who made comments objected to the intent of the proposed rule.

Four commenters presented a rationale for expressing the compliance times of the proposed rule in terms of aircraft landings or cycles rather than flight hours. The FAA concurs and the Final Rule reflects the change to landings in the compliance times. However, the necessity for calendar times as well remains because of the susceptibility of the material to stress corrosion.

One commenter states that the necessity to reinstall the rudder pedal arm, as specified in Paragraph B, is not correct as there is no requirement to remove the parts. The FAA concurs, and the Final Rule reflects this change.

After careful review of available data, including the preceding comments, the FAA has determined that air safety and the public interest require that the rule be adopted with the changes noted above.

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 all McDonnell Douglas Model DC-8 Series airplanes, certificated in all categories with rudder pedal arm P/N 3616012 installed with more than 13,500 hours time in service.

Note.—Time in service on the rudder pedal arm may be used if the operator has records to substantiate it.

Compliance required as prescribed herein. To detect fatigue cracking and possible structural failure of the rudder pedal arms, P/N 3616012, accomplish the following, unless already accomplished:

A. Within the next, 2,000 landings or six months after the effective date of this AD,

whichever occurs first, perform ultrasonic and dye penetrant inspections on rudder pedal arm assemblies, P/N 3616012, as outlined in Service Sketch 3224 and Accomplishment Instructions of McDonnell Douglas DC-8 Service Bulletin 27-285 dated June 11, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. If no cracks are found, replace the rudder pedal arms with new P/N 3953505 aluminum rudder pedal arm assemblies or retain the 3616012 parts and repeat ultrasonic and dye penetrant inspections at intervals not to exceed 4,000 landings or one year, whichever occurs first. Replacement with aluminum rudder pedal arm assemblies constitutes terminating action for this AD.

C. If cracks are found, prior to further flight replace the rudder pedal arms with:

1. New P/N 3953505 aluminum rudder pedal arm assemblies and thereby terminate the repetitive inspection requirements of this AD, or

2. Replace with new P/N 3616012 magnesium rudder pedal arm assemblies and repeat inspections specified in paragraph B above.

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.

E. For the purposes of complying with this AD, subject to the acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's number of hours time in service by the operator's fleet average time from takeoff to landing.

F. Upon the request of an operator, an FAA maintenance inspector, subject to prior approval by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

G. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area 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 proposal who have not already received these documents from the manufacturer may obtain copies upon request to the 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, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(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 document involves a regulation which is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and placed in the docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 4, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4223 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-53-AD, Amdt. 39-4317]

Airworthiness Directives: McDonnell Douglas Model DC-9 and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) that requires inspection and replacement, if necessary, of rudder pedal arms on McDonnell Douglas DC-9 and C-9 series airplanes. This action is needed to detect fatigue cracking of the rudder pedal arms; the failure of which could compromise the flight crew's ability to maintain directional control of the airplane at a critical point during takeoff, landing, or approach.

DATE: Effective date March 21, 1982. 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, California 90846, Attention: Director, Publications and Training C1-750, (54-60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT:

Harry Irwin, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION:

A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive to require inspection of the rudder pedal arms at both the Captain's and First Officer's positions of all DC-9 and C-9 series airplanes was published in the Federal Register on September 17, 1981, (46 FR 46140). This proposal was prompted by the events discussed below:

Five operators reported eleven failures of the Captain's left rudder pedal arm and one failure of the Captain's right rudder pedal arm on aircraft having logged between 14,995 and 34,056 flight hours. The failures were due to fatigue cracks in the magnesium casting which originated in the top attachment holes and in the inside diameter of the upper boss, between the attachment holes and the exterior surface, in the region where the upper boss intersects with the tubular section of the arm.

If undetected, a failure of the rudder pedal arm could cause a momentary loss of rudder control, nose wheel steering, or braking input at the Captain's or First Officer's position. Duplication of controls does not alleviate the potential hazard that could occur at a critical flight condition.

Inspection of the rudder pedal arms is necessary to prevent failure of the rudder pedal arms.

Interested persons have been afforded the opportunity to participate in the making of this amendment. Four comments were received in response to the Notice of Proposed Rulemaking. None of the parties who made comments objected to the intent of the proposed rule.

Four commenters presented a rationale for expressing the compliance times of the proposed rule in terms of aircraft landings or cycles rather than inflight hours. The FAA concurs, and the Final Rule reflects the change to landings in the compliance times. However, the necessity for calendar times as well remains because of the susceptibility of the material to stress corrosion.

After careful review of available data, including the preceding comments, the FAA has determined that air safety and the public interest require that the rule

be adopted with the changes noted herein.

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 all McDonnell Douglas Model DC-9 and C-9 series airplanes, certificated in all categories with rudder pedal arm P/N 3616012 installed with more than 13,500 hours time in service.

Note.—Time in service on the rudder pedal arm may be used, if the operator has records to substantiate it.

Compliance required as prescribed herein. To detect fatigue cracking and possible structural failure of the rudder pedal arms, P/N 3616012, accomplish the following, unless already accomplished:

A. Within the next 2,000 landings or six months after the effective date of this AD, whichever occurs first, perform ultrasonic and dye penetrant inspections on rudder pedal arm assemblies, P/N 3616012, as outlined in Service Sketch 3251 and Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 27-209 dated May 29, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. If no cracks are found, replace the rudder pedal arms with new P/N 3953505 aluminum rudder pedal arm assemblies or retain the 3616012 parts and repeat ultrasonic and dye penetrant inspections at intervals not to exceed 4,000 landings or one year, whichever occurs first. Replacement with aluminum rudder pedal arm assemblies constitutes terminating action for this AD.

C. If cracks are found, prior to further flight replace the rudder pedal arms with:

1. New P/N 3953505 aluminum rudder pedal arm assemblies and thereby terminate the repetitive inspection requirements of this AD, or
2. Replace with new P/N 3616012 magnesium rudder pedal arm assemblies, and repeat inspections specified in paragraph B above.

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.

E. For the purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's number of hours time in service by the operator's fleet average time from takeoff to landing.

F. Upon the request of an operator, an FAA Maintenance Inspector, subject to prior approval by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains

substantiating data to justify the change for that operator.

G. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area 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 proposal who have not already received these documents from the manufacturer may obtain copies upon request to the 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 the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(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 document involves a regulation which is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and placed in the docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on February 4, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4224 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD**14 CFR Part 203**

[Reg. ER-1283]

Removal of Certificate Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: By its terms, the CAB's certificate restriction removal program for domestic scheduled service ceased to be in effect on January 1, 1982. On

that date all one-stop operating restrictions on airline certificates were removed. After December 31, 1980, any route authority granted by the Board to an airline has included nonstop authority to all existing points on its route system. This final rule removes these regulations from the Code of Federal Regulations.

DATES: Effective: February 18, 1982.
Adopted: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Because the regulations in 14 CFR Part 203, which set up an airline certificate restriction removal program, expired by their own terms on January 1, 1982, and because public confusion could result if the part remains in the Code of Federal Regulations, the Civil Aeronautics Board is removing Part 203. For those reasons, the Board further finds that notice and public procedure are unnecessary and that there is good cause to make this rule effective upon publication in the Federal Register.

PART 203—REMOVAL OF CERTIFICATE RESTRICTIONS [Removed]

Accordingly, the Civil Aeronautics Board amends 14 CFR Chapter II as follows:

1. The authority for 14 CFR Part 203 is:

Authority: Secs. 102, 204, 401, Pub. L. 85-726, as amended, 72 Stat 740, 743, 754, 49 U.S.C. 1302, 1324, 1371.

2. Part 203, *Removal of Certificate Restrictions*, is removed.

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-4365 Filed 2-17-82; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 377

[Reg. SPR-184; Amdt. No. 1 to Part 377;
Docket No. 39989]

Continuance of Expired Authorizations Pending Board Action on Renewal Requests

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The CAB amends its rule that implements an Administrative Procedure Act provision for automatic extension of certain expiring licenses. The amendment provides consistent treatment of foreign air carrier permits

and exemptions issued to foreign citizens, and clarifies the scope of the rule.

DATES: Adopted: January 29, 1982.
Effective: March 20, 1982.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Gaynes, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428; 202-673-5035.

SUPPLEMENTARY INFORMATION: In order to prevent lapses of authority that could result from the time lags inherent in the administrative process, the Administrative Procedure Act provides for automatic extension of licenses in certain cases, as follows:

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. (5 U.S.C. 558(c))

The Board has issued rules in 14 CFR Part 377 to implement this statutory provision with respect to many, but not all, of the types of temporary authorizations that the Board grants. The rules establish requirements for "timely and sufficient" renewal applications (§ 377.10), including deadlines such as 30, 90, and 180 days before expiration. They also interpret "license with reference to an activity of a continuing nature" (§ 377.3).

In SPDR-83 (46 FR 46338; September 18, 1981), the Board proposed amendments of Part 377 to (1) harmonize the timeliness requirements for applications to renew foreign air carrier permits and non-U.S. citizen exemptions, and (2) clarify the interpretation in § 377.3. No comments were filed in response to the notice of proposed rulemaking, and the Board is now amending Part 377 as proposed. The changes are discussed below.

Timeliness

Under Board rules up to now, a holder of an expiring foreign air carrier permit under section 402 of the Federal Aviation Act could obtain automatic extension by filing a renewal application at any time up to the expiration date. In contrast with permit holders, however, the holder of an expiring exemption under section 416 of the Act was subject to Part 377 and needed to file at least 60 days earlier. The technical reason for the difference was that Part 377 by its terms did not apply to section 402 permits, and the Board had held that in the absence of an agency rule on the subject, any application filed before the expiration

was timely. This result reflected the special circumstances often surrounding applications by foreign persons, which can make earlier filing difficult. For example, foreign carriers must in some cases obtain approval from their home countries before filing applications with the Board.

The Board sees no good reason to treat foreign exemption holders and foreign permit holders differently for the purposes of the Administrative Procedure Act's automatic extension provision. Under the amended rule, therefore, a renewal application of either type will be considered timely if filed at any time before the expiration date. The amendment does this by bringing section 402 permits expressly within the scope of Part 377 and specifying the liberal filing deadline in a revised § 377.10(c). An additional result of this approach is to subject applications for renewal of section 402 permits to the other provisions of Part 377. Most notable among these is the requirement in § 377.10(a) that the application indicate the applicant's intention to rely on 5 U.S.C. 558(c).

Interpretation of 5 U.S.C. 558(c)

Section 377.3 states that an authorization granted for a period of 180 days or less is *not* considered a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c). It similarly excludes authorizations, other than section 401 certificates, that by their terms are subject to termination at an uncertain date upon the happening of an event. The Board is making no change in these provisions.

Section 377.3 also refers to authorizations, other than section 401 certificates, that by their terms terminate alternatively upon the happening of an event or the arrival of a specified date. A typical example would be an exemption to serve a route that is granted for 1 year or until Board action on a permit application, whichever occurs first. This amendment clarifies the treatment of such authorizations, without substantively changing it, and sets it forth in a new § 377.4. The new section states that if the event occurs before the specified date, automatic extension rights will be unavailable. Section 377.4(b) provides that if the event does not occur before the date and the date is more than 180 days after the effective date of the authorization, automatic rights ordinarily will be available. The purpose of this provision is to make it clear that in such cases automatic extension rights will not be denied by virtue of the alternative

termination dates. The rule states only that automatic extension rights "ordinarily" will be available, because Part 377 does not guarantee that any given authorization is covered by 5 U.S.C. 558(c). The Board will decide whether it is so covered upon written request under the former § 377.4, with the request required to be filed at least 60 days before the deadline for renewal applications. This amendment renumbers that section as § 377.5 and revises it to encompass requests from not only the holder of the authorization or a competitively affected U.S. air carrier, but also from a competitively affected foreign air carrier.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The economic impact will not be significant because the rule simply relieves a minor procedural requirement.

The Final Rule

PART 377—CONTINUANCE OF EXPIRED AUTHORIZATIONS PENDING BOARD ACTION ON RENEWAL REQUESTS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 377, *Continuance of Expired Authorizations by Operation of Law Pending Final Determination of Applications for Renewal Thereof*, as follows:

1. The authority for Part 377 is:

Authority: Secs. 204, 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 788; (49 U.S.C. 1324, 1481; 5 U.S.C. 558, 559).

2. Part 377 is retitled and the Table of Contents is amended by retitling § 377.3, redesignating § 377.4 as § 377.5, and adding a new § 377.4, to read:

Sec.

- * * * * *
- 377.3 Authorizations not covered by 5 U.S.C. 558(c).
- 377.4 Certain authorizations with alternative termination dates.
- 377.5 Procedure to obtain Board interpretation.
- * * * * *

3. In § 377.1, the definition of "authorization" is revised by adding "402," so that it reads:

§ 377.1 Definitions.

As used in this part:

"Authorization" means any agency certificate, approval, statutory exemption or other form of permission granted pursuant to sections 101(3), 401,

402, 408, 409, 412 and 416 of the Federal Aviation Act of 1958, as amended. Where any operating authorization creates more than one separate route, each of these shall be deemed a separate authorization for the purposes of this part.

* * * * *

4. Section 377.2 is revised to read:

§ 377.2 Applicability of part.

(a) This part implements the last sentence of 5 U.S.C. 558(c) with regard to temporary authorizations granted by the Board.

Note.—The last sentence of 5 U.S.C. 558(c) provides: "When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency."

(b) Nothing in this part prevents the Board from terminating at any time, in accordance with law, any authorization or any extension of an authorization.

(c) Nothing in this part constitutes a determination that any given authorization is a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c).

5. Section 377.3, *Authorizations not licenses with reference to an activity of a continuing nature*, is retitled and revised, to read:

§ 377.3 Authorizations not covered by 5 U.S.C. 558(c).

The Board hereby determines that the following authorizations are not licenses "with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c):

(a) Authorizations granted for a specified period of 180 days or less; and

(b) Authorizations, other than those granted under section 401 of the Act, that by their terms are subject to termination at an uncertain date upon the happening of an event, including fulfillment of a condition subsequent or occurrence of a contingency.

6. Section 377.4, *Procedure to obtain Board interpretation*, is revised and redesignated as § 377.5, and a new § 377.4 is added, to read:

§ 377.4 Certain authorizations with alternative termination dates.

Unless granted under section 401 of the Act, an authorization that by its terms is subject to termination alternatively, either at an uncertain date upon the happening of an event or upon the arrival of a specified date—

(a) Will not be considered a "license with reference to an activity of a

continuing nature" within the meaning of 5 U.S.C. 558(c), if the event occurs before the specified date; and

(b) Ordinarily (subject to Board interpretation under § 377.5) will be considered such a license, if the event does not occur before the specified date and that date is more than 180 days after the effective date of the authorization.

§ 377.5 Procedure to obtain Board interpretation.

(a) The Board will determine upon written request by the holder of a temporary authorization or by any competitively affected air carrier or foreign air carrier, or upon its own initiative, whether the temporary authorization is a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c).

(b) A written request for such a Board determination shall be filed at least 60 days before the deadline set forth in § 377.10 for a timely renewal application.

(c) The filing of such a written request shall not affect the timeliness requirements for renewal applications that are set forth in § 377.10 or any other applicable Board rule or order.

7. In § 377.10, paragraph (c) is revised to read:

§ 377.10 Requirements for, and effect of, renewal applications.

* * * * *

(c) *Timeliness.* The application must be filed and served in compliance with applicable law and the Board's regulations at least 60 days before the expiration date of the outstanding temporary authorization, except that—

(1) For certificates issued under section 401 of the Act with a specified expiration date, the deadline is 180 days before the expiration date;

(2) For certificates issued under section 401 of the Act that terminate by their terms upon the happening of an event that could not be foreseen, the deadline is 30 days after the time that the carrier has notice that the event will occur or has occurred;

(3) For foreign air carrier permits issued under section 402 of the Act and exemptions issued under section 416 to non-U.S. citizens, the deadline is the expiration date itself;

(4) For renewal by substantially equivalent certificate authority of fixed term route authorizations granted by exemption and for interim extension of the exemption, pursuant to §§ 302.909 and 399.18 of this chapter, the deadline

is 90 days before the expiration date; and

(5) Nothing in this part supersedes a requirement for earlier filing contained in any law, Board rule or order, or temporary authorization.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4384 Filed 2-17-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Miscellaneous Amendments to the Foreign Trade Statistics Regulations

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations (FTSRs) primarily for the purpose of conforming them with existing practices by eliminating obsolete requirements and by updating references that have been changed.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, (301) 763-5342.

SUPPLEMENTARY INFORMATION: On October 2, 1980, a Notice of Proposed Rulemaking was published in the Federal Register (45 FR 65250) to amend the FTSRs. The proposed changes would:

1. Eliminate from the FTSRs the "Specify by name" and "State species" requirements in connection with commodity descriptions on the Shipper's Export Declaration (SED) since these requirements are no longer contained in Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States*.

2. Eliminate the special requirements for reporting partial shipments.

3. Eliminate from the regulations special requirements which expired May 30, 1979, covering the exportation of used vehicles.

4. Update references to the Bureau of East-West Trade which has now been reorganized as the International Trade Administration.

5. Reflect in the FTSRs the wording of Public Law 96-275 concerning the exemption of SEDs from disclosure.

6. Eliminate from the FTSRs the listing of individual country groups to which

certain exemptions do not apply and refer the user instead to the Export Administration Regulations of the Office of Export Administration.

7. Provide in the FTSRs an exemption from SED filing requirements for shipments by the National Oceanic and Atmospheric Administration (NOAA).

Interested persons were advised that December 1, 1980, was the correct closing period to submit comments regarding the proposal.

Discussion of Major Comments:

No comments were received.

Regulatory Impact Analysis and Information Collection

Under the criteria established in Executive Order 12291, this amendment is not a "major" rule and does not require a Regulatory Impact Analysis. Further, this rule change will not increase the reporting burden on the public nor impose an information collection requirement.

Amendments to the Regulations

The FTSRs (15 CFR Part 30) are therefore amended as set forth below.

PART 30—FOREIGN TRADE STATISTICS

§§ 30.7 [Amended]

1. Section 30.7 is hereby amended by removing § 30.7(l)(2) in its entirety and by redesignating §§ 30.7(l)(3) and 30.7(l)(4) to 30.7(l)(2) and 30.7(l)(3), respectively.

§ 30.7 [Amended]

2. In the first paragraph of § 30.7, the parenthetical statement "(See § 30.42 for additional information required for a limited time on Shipper's Export Declarations covering the exportation of used vehicles to foreign countries.)" is hereby removed.

§ 30.32 [Reserved]

3. Section 30.32 is hereby removed in its entirety and that section number reserved for future use.

§ 30.42 [Reserved]

4. Section 30.42 is hereby removed in its entirety and that section number reserved for future use.

§§ 30.2 and 30.39 [Amended]

5. Sections 30.2 (a) and (b), 30.39(b)(1), and 30.91(a) are hereby amended by substituting "International Trade Administration" for the words "Bureau of East-West Trade" wherever that name appears.

6. Section 30.91(e) is hereby amended by removing from the first sentence the words "the withholding" and

substituting the words "applying the exemption from disclosure." This section is further amended by removing from the third sentence the words "withhold the information" and substituting the words "apply the exemption." Also, references to "he" and "his agent" are being changed to "he/she" and to "the agent of the exporter," respectively. As revised, § 30.91(e) reads as follows:

§ 30.91 Confidential Information, Shipper's Export Declarations.

(e) *Determination by the Secretary of Commerce.* When the Secretary of Commerce determines that applying the exemption from disclosure of information provided by an individual Shipper's Export Declaration is contrary to the national interest, he/she may make such information available, taking such safeguards and precautions to limit dissemination as he/she deems appropriate under the circumstances. In recommendations regarding such actions, the Bureau of the Census will, in general, consider that it is not contrary to the national interest to withhold information on Shipper's Export Declarations from private individuals or businesses (except the exporter or the agent of the exporter) or from state or local government agencies or officials, regardless of the purposes for which the information may be requested. In recommendations regarding any other requests for access to official copies, a judgment in the light of circumstances will be made as to whether it is contrary to the national interest to apply the exemption, keeping in view that the maintenance of confidentiality has in itself an important element of national interest.

7. The opening phrase of § 30.39(b) is hereby amended by removing the words "in country groups S and Z, as defined in" and substituting the words "prohibited by" so that the amended § 30.39(b) reads as follows:

§ 30.39 Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.

(b) In addition to the procedures authorized in paragraph (a) of this section, the Bureau of the Census, with the concurrence of the Office of Export Administration, may, on an individual case basis, authorize exemption from the requirement of § 30.6 that an export declaration be filed for each shipment, the exemption to be conditioned upon the filing, after the close of each month,

of a single export declaration or other statistical report, in an approved format including punch cards, computer tapes, etc., covering shipments made during the month to all destinations except countries prohibited by the Export Administration Regulations of the Office of Export Administration (Parts 368-399 of this title),⁷ as follows:

8. The opening phrase of § 30.55(h) is hereby amended by removing the words "included in country groups Q, S, W, Y, and Z, as defined in" and substituting the words "prohibited by" so that as revised § 30.55(h) reads as follows:

§ 30.55 Miscellaneous exemptions.

(h) Shipments (except shipments requiring a validated export license) between the United States and Puerto Rico, to the Virgin Islands of the United States, and to all countries except countries prohibited by the Export Administration Regulations of the Office of Export Administration (15 CFR Parts 368-399),⁸ where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is \$500 or under: *Provided, however,* That this exemption shall be conditioned upon the filing of such reports as the Bureau of the Census shall periodically require to compile statistics on \$500-and-under shipments.

9. Section 30.55 is hereby amended by adding a new paragraph designated § 30.55(m) to reflect an exemption from filing SEDs for shipments in connection with NOAA so that as amended paragraph reads as follows:

§ 30.55 Miscellaneous exemptions.

(m) Shipments for use in connection with NOAA operations under the Office of Export Administration General License G-NOAA.

(Title 13, United States Code, section 302; and title 5, United States Code, section 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 FR 42765)

Bruce Chapman,
Director, Bureau of the Census.
December 28, 1981.

I concur:

J. W. Walker, Jr.,
Assistant Secretary, Department of the Treasury.

[FR Doc. 82-4333 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Removal of the Conditions of Approval of the Maryland Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 920 by removing the conditions of approval of the Maryland permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland has submitted provisions to the Office of Surface Mining (OSM) which satisfy all the conditions of the Secretary's approval of December 1, 1980 (45 FR 79430-79451).

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Christine M. Struminski, Assistant Regional Director, Division of State and Federal Programs, Office of Surface Mining—Region I, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 342-8125.

SUPPLEMENTARY INFORMATION:

Background on the Maryland program submission

On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of certain minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 1, 1980, *Federal Register* (45 FR 79430-79451). 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 explanation of the conditions of approval of the Maryland program can be found in the December 1, 1980, *Federal Register*.

Background on the Secretary's Conditional Approval

The Secretary determined that the Maryland program met all criteria for approval with the exception of 34 minor deficiencies which were discussed in the Notice of Conditional Approval. In accepting the Secretary's conditional approval, Maryland agreed to correct

deficiencies "a" through "k" by October 1, 1981, and deficiencies "l" through "hh" by April 1, 1981.

Submission of Revisions

On April 9, 1981, OSM received a letter from the Maryland Department of Natural Resources (DNR) transmitting a copy of the Notice of Final Action, published in the Maryland Register on April 3, 1981, promulgating regulations to satisfy conditions "l" through "hh" of the conditional Maryland program approval. These regulations were made available to the public for review and comment when a notice of receipt was published in the *Federal Register* on September 4, 1981 (46 FR 44475-44476). On June 3, 1981, OSM received a letter from the Maryland DNR transmitting statutory changes to the Maryland Strip Mining Law, signed by Governor Hughes on April 28, 1981, to be effective on July 1, 1981, to satisfy conditions "a" through "k" of the conditional Maryland program approval. Additionally, statutory conditions "a", "c", "e", and "f" required analogous regulation revisions to the Code of Maryland Regulations (COMAR). These regulations were forwarded to OSM from the Maryland DNR on October 23, 1981, when a copy of the Notice of Final Action published in the Maryland Register on October 16, 1981, was submitted to satisfy the above cited conditions. These statutory and associated regulation revisions were made available to the public for review and comment when a notice of receipt was published in the *Federal Register* on November 25, 1981 (46 FR 57697-57698).

Secretary's Findings

The Secretary finds the amendments submitted by Maryland on April 9, 1981, June 3, 1981, and October 23, 1981, correct the deficiencies in the Maryland program as follows:

1. Condition "a" required amendment to remove the authority to allow surface coal mining in the corridor of the Youghiogheny River, a National Wild and Scenic Study River, and to allow waivers to the distance prohibitions set forth in Section 522(e) of SMCRA as found in the Maryland Strip Mining Law, Section NR 7-505(b)(2) and COMAR 08.13.09.10B.

In response to this condition the State has prohibited surface coal mining within the corridor of the Youghiogheny River and has eliminated the waivers to the distance prohibitions in the Maryland Strip Mining Law, Section NR 7-505 and COMAR 08.13.09.105. The program is now consistent with Section 522 of SMCRA.

2. Condition "b" required amendment of the definitions of "lands affected", "open pit mining", and "strip mining" as found in the Maryland Strip Mining Law, Section NR 7-501(n) and COMAR 08.13.09.01B, to reflect the broader jurisdiction to regulate surface coal mining activities contained in Section 701(28) of SMCRA.

In response to this condition, the State has redefined each of these terms, consistent with Section 701(28) of SMCRA, in the Maryland Strip Mining Law, Section NR 7-501(k).

3. Condition "c" required an amendment to reference the right to appeal if the State fails to act within prescribed time limits, as provided in Section 514(f) of SMCRA and 30 CFR 787.12.

In response to this condition, the State has referenced the right to appeal, consistent with Section 514(f) of SMCRA, in the Maryland Surface Mining Law, Section NR 7-505(d)(6) and COMAR 08.13.09.06B and .06C.

4. Condition "d" required amendment to provide for criminal sanctions against a person who knowingly fails to make any statement, representation, or certification in any application or other document, as required by Section 518(g) of SMCRA.

In response to this condition, the State has added this provision in the Maryland Strip Mining Law, Section NR 7-516(b) and now is consistent with Section 518(g) of SMCRA.

5. Condition "e" required amendment of the Maryland Strip Mining Law, Section NR 7-507(c) and COMAR 08.13.09.40E(3), to provide a maximum 90-day period for abatement of a violation.

In response to this condition, the State has deleted the authority to extend the abatement period beyond 90 days from the Maryland Strip Mining Law, Section NR 7-507(c) and COMAR 08.13.09.40E and is now consistent with Section 521(a)(3) of SMCRA.

6. Condition "f" required an amendment to the Maryland Strip Mining Law, to allow any person having an interest which may be adversely affected to request an adjudicatory hearing, and amendment of COMAR to allow any person who is or may be adversely affected to intervene in an adjudicatory hearing.

In response to this condition, the State has amended the Maryland program to provide the right to request an adjudicatory hearing in the Maryland Strip Mining Law, Section NR 7-507(f) and COMAR 08.13.09.40K and is now consistent with Section 525(a)(1) of SMCRA.

7. Condition "g" required amendment of the program to remove the restriction of citizen suits to Maryland residents, as found in the Maryland Environmental Standing Act, Section NR 1-501.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7-523(A) to allow any person to commence a civil action to compel compliance and is now consistent with Section 520(a) of SMCRA.

8. Condition "h" required amendment of the Maryland Strip Mining Law to allow any person to intervene as a matter of right in an action initiated by the State or the Secretary of the Department of the Interior; and to allow the Secretary to intervene in a citizen suit as a matter of right.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7-523(B)(2) and is now consistent with Section 520(c)(2) of SMCRA.

9. Condition "i" required amendment of the Maryland Strip Mining Law to provide for the award of costs, including attorney fees, for plaintiffs in citizen suits.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7-507(g) and is now consistent with Section 520(d) of SMCRA.

10. Condition "j" required amendment of the conflict of interest provisions in Maryland laws to define "financial interest" in accordance with Section 517(g) of SMCRA and consistent with 30 CFR 705.5.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7-522(A) and is now consistent with Section 517(g) of SMCRA and 30 CFR 705.5.

11. Condition "k" required amendment to the Maryland Strip Mining Law, Section NR 7-505(c)(4) and COMAR 08.13.09.17 to delete the restriction on funding of the small operator assistance program as contingent on the availability of Federal funds.

In response to this condition, the State has deleted, in the Maryland Strip Mining Law, Section NR 7-505(c)(4), the reference to funding of the program as contingent on the availability of Federal funding, and is now consistent with Section 507(c) of SMCRA.

12. Condition "l" required amendment of the definition of "topsoil" as the A and B horizon material and other material that will support revegetation, as found in COMAR 08.13.09.01B(93) and 08.13.09.31A, to be consistent with the definition of "topsoil" in 30 CFR 701.5.

In response to this condition, the State has redefined "topsoil" to be consistent with 30 CFR 701.5, 816.22 and 817.22.

13. Condition "m" required amendment of the definition of "hydrologic balance" as found in COMAR 08.13.09.01B.

In response to this condition, the State has redefined "hydrologic balance", consistent with 30 CFR 701.5, as the relationship between the quality and quantity of water.

14. Condition "n" required an amendment to prohibit the diversion or discharge of water from an underground mine into underground mine workings as found in COMAR 08.13.09.23J.

In response to this condition, the State has amended the regulations to forbid the diversion of water from an underground mine into underground mine workings, which is consistent with 30 CFR 817.55.

15. Condition "o" required an amendment to COMAR 08.13.09.05A(13) to require operators to use "the best technology currently available" to maintain environmental integrity in coal recovery.

In response to this condition, the State has added the provision of using "the best technology currently available", which is consistent with 30 CFR 816.59 and 817.59.

16. Condition "p" required Maryland to amend COMAR 08.13.09.25C(4)(b)(ii) to restrict blasting to a four-hour aggregate.

In response to this condition, the State has changed the blasting aggregate to four hours, which is consistent with 30 CFR 816.64(b)(2)(ii).

17. Condition "q" required amendment of COMAR 08.13.09.26 to require the use of "best technology currently available" to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values.

In response to this condition, the State has amended the regulation to include the requirement to use the best technology currently available to minimize adverse impacts, which is consistent with 30 CFR 816.97(d).

18. Condition "r" required the amendment of COMAR 08.13.09.35D to add a provision requiring the operator to maintain necessary fences and proper management practices or revegetated areas.

In response to this condition, the State has amended the regulations to include this requirement and is now consistent with 30 CFR 816.116(c)(1).

19. Condition "s" required amendment of COMAR 08.13.09.35D(1)(d)(iii) to require that revegetation success on cropland be measured on the basis of

crop production; and an amendment to COMAR 08.13.09.35D(1) to redefine the term "productive capability."

In response to this condition, the State has amended the regulations to include the requirement that the success of cropland revegetation be determined on the basis of crop production, which is consistent with 30 CFR 816.116(b)(3)(iii). Additionally, the term "productive capability" has been changed so that the success of revegetation is to be determined by the productivity of the revegetated area, which is consistent with 30 CFR 816.116(b).

20. Condition "t" required amendment of COMAR 08.13.09.03G(1)(b) to extend jurisdiction of the State to regulate facilities connected by transportation mechanisms involving the use of public roads.

In response to this condition, the State has included the jurisdiction over these facilities which is consistent with Section 701(28) of SMCRA.

21. Condition "u" required an amendment to COMAR to include underground permit application requirements for coal development waste and mine development waste, as required by 30 CFR 783.25(i) and 784.11(b)(4).

In response to this condition, the State has amended the regulations in COMAR 08.13.09.020(4)(d) and COMAR 08.13.09.02M(10) to include the requirements for coal development waste which are now consistent with 30 CFR 783.25(i) and 784.11(b)(4).

22. Condition "v" required that COMAR 08.13.09.020, .03 and .13 be amended to include the requirements for monitoring subsidence to measure deformations near specified structures or features.

In response to this condition, the State has amended the regulations to include this requirement and is now consistent with 30 CFR 784.20 and 784.23(b)(12).

23. Condition "w" required an amendment to COMAR 08.13.09.33G to require that specific detail be included in an operator's plan for return of coal processing waste to abandoned underground workings.

In response to this condition, the State has amended COMAR to include these requirements and is now consistent with 30 CFR 784.25.

24. Condition "x" required an amendment to COMAR 08.13.09.03D to require that the postmining land use of prime farmland must be cropland.

In response to this condition, the State has amended COMAR and is now consistent with 30 CFR 785.17(d).

25. Condition "y" required an amendment to COMAR to remedy the omission from COMAR of a provision

for assessment of each day of each continuing violation as a separate violation and amendment of the maximum penalty provisions found in COMAR 08.13.09.41C(1).

In response to this condition, the State has amended COMAR and is now consistent with section 518(a) of SMCRA.

26. Condition "z" required an amendment to COMAR to remedy the omission in COMAR 08.13.09.41E of a provision for an outside time limit for payment of a civil penalty.

In response to this condition, the State has amended COMAR and is now consistent with Section 518 of SMCRA and 30 CFR 845.18.

27. Condition "aa" required Maryland to provide for mandatory enforcement action if non-compliance continues beyond thirty days.

In response to this condition, the State has amended COMAR 08.13.09.41A(5) to provide for a mandatory penalty if non-compliance continues after the thirty day abatement period and is now consistent with Section 518(h) of SMCRA and 30 CFR 845.15.

28. Condition "bb" required amendment of COMAR to remedy the omission from COMAR 08.13.09.42A of minimum criteria which trigger the mandatory issuance of a show cause order and specific criteria for issuing a show cause order under certain circumstances.

In response to this condition, the State has amended COMAR to be consistent with 30 CFR 843.13(a)(2) and (3).

29. Condition "cc" required an amendment to COMAR 08.13.09.40F to establish that cease orders shall be issued on the basis of any one of four independent criteria.

In response to this condition, the State has amended COMAR to be consistent with Section 521(a)(2) of SMCRA and 30 CFR 843.11.

30. Condition "dd" required an amendment to COMAR 08.13.09.40G(3) to require a written response be given to a citizen requesting an inspection within ten days of the inspection or within fifteen days of the request if no inspection is conducted.

In response to this condition, the State has amended COMAR to be consistent with 30 CFR 842.12(d).

31. Condition "ee" required an amendment to COMAR to remedy the omission from COMAR of a provision that costs may only be assessed against a citizen participant in an administrative proceeding if that citizen initiated the proceeding in bad faith and that costs may be awarded to a citizen if he or she makes a substantial contribution to a full and fair determination of the issues.

In response to this condition, the State has amended the regulations in COMAR 08.13.09.43(O) to be consistent with 43 CFR Part 4, Subpart L and 30 CFR 840.15.

32. Condition "ff" required an amendment of COMAR to provide for discovery procedures for administrative hearings.

In response to this condition, the State has amended the program in COMAR 08.13.09.44 to be consistent with 43 CFR 4.1130 *et seq.* and 30 CFR 840.15.

33. Condition "gg" required an amendment to remedy the lack of provisions in COMAR for notification of the public and public participation in mine site hearings.

In response to this condition, the State has amended the program in COMAR 08.13.09.40H to be consistent with 30 CFR 843.15.

34. Condition "hh" required an amendment of COMAR to provide notification to the public of hearings on the suspension or revocation of permits.

In response to this condition, the State has amended the program in COMAR 08.13.09.42D to be consistent with 30 CFR 843.13(d).

Disposition of Public Comments

1. The Environmental Policy Institute commented that COMAR 08.13.09.41A(5) was too vague in providing mandatory enforcement action when non-compliance continues beyond the 30-day abatement period.

This regulation amended COMAR 08.13.09.41A(4) in which Maryland provides for a \$750 per day civil penalty, up to 30 days beyond the date set as the abatement period. Condition "aa" simply required Maryland to set forth some form of mandatory enforcement action, which would be taken if non-compliance continued beyond the thirty day period. Maryland officials have indicated that such mandatory enforcement action would include actions exceeding the \$750 per day civil penalty, such as permit suspension. This action is set forth in COMAR 08.13.09.42A(5).

The Secretary finds that Maryland has complied with Condition "aa" in providing for a mandatory enforcement action if non-compliance continues beyond 30 days.

2. The Environmental Policy Institute commented that COMAR 08.13.09.02I(13) deleted the requirement of the operator to submit a copy of a waiver from the owner of any occupied dwelling, within 300 feet of the proposed surface mining activities.

The Maryland resubmission added a new provision at COMAR 08.13.09.02I(13). With this addition, the

remainder of the Section was re-numbered. Thus, the waiver provision is now located at COMAR 08.13.09.02(14).

Approval Without Condition

Accordingly, the Maryland program is hereby fully approved. 30 CFR 920.10 is amended to indicate approval of the April 9, 1981, June 3, 1981, and October 23, 1981, program amendments. 30 CFR 920.11 which established the conditions of approval is hereby removed.

The removal of the conditions of approval of the Maryland program is effective February 18, 1982.

Additional Determination

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. This document is not a major rule under E.O. 12291; therefore no Regulatory Impact Analysis is being prepared on this approval. 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.

On January 25, 1982, the Administrator of the Environmental Protection Agency transmitted her written concurrence on these aspects of the amendments approved in this document relating to air or water quality standards under the authority of the Clean Water Act, as amended (33 U.S.C. 1151 *et seq.*), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (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 this program amendment is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 920—MARYLAND

For the reasons stated in the preamble above, Part 920 of Title 30 is amended as follows:

1. 30 CFR 920.10 is revised to read:

§ 920.10 State program approval.

The Maryland State program submitted on March 3, 1980, as amended and clarified on June 16, 1980, and as further amended on April 9, 1980, June 3, 1981, and October 23, 1981, is approved effective February 18, 1982. Copies of

the approved program, as amended, are available for review at:

(a) Maryland Department of Natural Resources, Energy Administration, Tawes State Office Building, Annapolis, Maryland 21401, Telephone (301) 269-2261.

(b) Maryland Department of Natural Resources, Energy Administration, Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone (301) 689-4136.

(c) Office of Surface Mining—Region I, 603 Morris Street, Charleston, West Virginia 25311, Telephone (304) 344-2331.

(d) Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, D.C., Telephone (202) 343-4728.

§ 920.11 [Removed]

2. Part 920 is amended by removing § 920.11.

[FR Doc. 82-4461 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05

30 CFR Part 936

[SPA 15]

Permanent State Regulatory Program of Oklahoma

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Final rule.

SUMMARY: The Secretary of the Interior is extending the deadlines for the State of Oklahoma to meet the conditions of its approved State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Since the Secretary's approval of the program on January 19, 1981 (46 FR 4902-4911), circumstances have changed in several respects. On September 25, 1981, the Oklahoma Department of Mines requested the Director, Office of Surface Mining (OSM), to extend the schedule for Oklahoma to meet the Secretary's conditions of its program approval (See Administrative Record No. OK-318). OSM proposed a rule on November 9, 1981 (46 FR 55275-55276), that would extend the deadlines to May 15, 1982. After considering all the information contained in the administrative record, including the public comments, the Secretary has decided to grant Oklahoma's request and hereby publishes amendments to the Federal rules contained in 30 CFR 936.11 to effect the extension.

EFFECTIVE DATE: February 18, 1982.

ADDRESS: Copies of Administrative Record documents are available for

public inspection during normal business hours at: Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street NW., Washington, D.C., Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT:

Arthur W. 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:

Background Information

On January 19, 1981 (46 FR 4902), the Secretary of the Interior approved Oklahoma's permanent State program in accordance with the criteria established by Section 503 of SMCRA and the Federal rules contained in 30 CFR Part 732.

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, and the State is actively proceeding with steps to correct the deficiencies according to a schedule set in the notice of conditional approval. In Oklahoma's case, the Secretary conditioned his approval in Oklahoma's agreement to correct four minor deficiencies. Two of the deficiencies were to have been corrected by July 1, 1981, and the remaining two by November 1, 1981.

On September 25, 1981, the Oklahoma Department of Mines requested OSM to extend the deadlines for the State to meet all four conditions (OK-318). OSM published a proposed rule on November 9, 1981, which would extend the deadlines until May 15, 1982 (46 FR 55275-55276), and requested public comment on the proposed extension.

Secretary's Findings

In the preamble to the proposed rule, the Secretary stated that the extension of the deadlines would not render the deficiencies major because most of them involve standards and requirements which will not become effective for some time. The Secretary explained that there has been a delay in the effective date of Oklahoma's permanent State regulatory program implementation due to the State Legislature's rescission of all the relevant program regulations.

That action has recently been the subject of a series of fact finding actions and the Director, OSM, expects to publish his findings on the status of the Oklahoma program in the near future. The action being taken today is

independent of the Director's investigation. The extension is being made because Oklahoma was unable to meet the deadlines due to the unique events which impacted on the overall implementation of the State's program. Today's decision is also being made in light of what the Secretary believes to be a good faith effort on the part of the State to take the necessary steps leading to the removal of the conditions. The Secretary also wishes to make clear that the conditions could be changed further if other concerns are identified during the review of the new permanent program rules Oklahoma is promulgating to replace the rules rescinded by the State Legislature.

Based on the information contained in the administrative record, including the public comments, the Secretary finds that the need for an extension of the deadlines to Oklahoma to meet the conditions of its program approval is justified.

Disposition of Comments

1. The Natural Resources Defense Council and the Environmental Policy Institute contended that in the Secretary's notice proposing the extension, the Secretary failed to offer any valid justification for the proposed extension of time. The commenters took issue with the Secretary's statements that (1) the extensions do not render the deficiencies major because most deficiencies involve standards and requirements which will not become effective for some time, (2) operators normally do not have to meet the permanent program performance standards for at least eight months after the effective date of program approval and (3) the time period to meet the conditions will be further delayed in Oklahoma because the State Legislature has rescinded all relevant program regulations. The commenters argued that there is no basis in law for the Secretary's suggestion that the time period for meeting permanent program standards has or can be further delayed because of the State Legislature's rescission of the Oklahoma rules. The commenters also stated that even though Oklahoma was temporarily enjoined from enforcing its approved program, that fact alone should not necessarily result in an extension of the time for compliance with the permanent program standards. The commenters pointed out that Section 502(d) of SMCRA requires all operators of surface coal mines who expect to operate mines eight months after program approval to submit applications which comport with permanent program standards regardless of litigation contesting the

approval or implementation of the program, and that Section 506(a) of SMCRA states that these operators cannot continue to mine eight months after program approval unless they have submitted such applications. Thus, the commenters maintained, all operators currently active in Oklahoma should already have submitted permit applications that meet permanent program standards.

The commenters also argued that OSM or the Secretary should take immediate action to assume responsibility for implementing or enforcing Oklahoma's program, or to withdraw the Secretary's program approval.

The Secretary has carefully considered the several arguments presented by the commenters. Most of the commenter's points appear to express concerns more closely related to the overall status of the implementation of Oklahoma's program and the timing for operators to meet the permanent program performance standards. As indicated earlier in this notice, the Director, OSM, has been investigating this matter and expects to publish his findings soon. However, insofar as the commenters' points affect the extension of the deadlines for Oklahoma to meet the condition of its program approval, the Secretary believes that Oklahoma's request was justified due to the unusual and unanticipated series of events which affected the State's ability not only to meet the conditions of approval but to implement its program.

2. The Natural Resources Defense Council and Environmental Policy Institute indicated that three out of the four conditions directly affect the ability of citizens to participate effectively in Oklahoma's program and that, in their view, Oklahoma's continued failure to correct these defects can no longer be deemed a minor problem. The Secretary agrees with the commenters that Oklahoma should still be required to meet the conditions of its program.

The Secretary believes, however, that extending the deadline to meet the conditions by several months is not unreasonable in light of the events which have affected the overall status of Oklahoma's program. However, the Secretary will provide a copy of this comment to Oklahoma and suggest that the State consider rectifying these conditions in the process of developing its new permanent rules.

Other Information

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exemption from Sections 3, 4, 6 and 8 of

Executive Order 12291 all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore this program extension is exempt from preparing a Regulatory Impact Analysis and regulatory review by OMB.

The Secretary has determined that, pursuant to subsection 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. The Secretary has also determined that these rules are not major rules under Executive Order 12291. The Secretary has determined that these rules will not have a significant economic effect on a substantial number of small entities as the rules are essentially a timing change with no direct or indirect impact on small entities.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

The following amendments are made to CFR Title 30, Chapter VII, Subchapter T:

PART 936—OKLAHOMA

§ 936.11 [Amended]

30 CFR 936.11 is hereby amended by substituting "May 15, 1982," for "July 1, 1981," and "November 1, 1981," each time the latter two dates appear.

(Sec. 503, P.L. 95-87, 91 Stat. 407 (30 U.S.C. 1253))

[FR Doc. 82-4306 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 950

[SPA-36]

Removal of Certain Conditions of Approval of the Wyoming Permanent Program and Consideration of Amendments Thereto

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 950 by (1) removing certain conditions of approval of the Wyoming permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and (2) approving certain amendments to the Wyoming program. Wyoming has submitted provisions to the Office of Surface Mining (OSM) which satisfy some of the conditions of the Secretary's approval of November 26, 1980 (45 FR 78637-78684).

EFFECTIVE DATE: The removal of these conditions and the approval of these program amendments are effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: William Schmidt, Assistant Director, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343-4225.

SUPPLEMENTARY INFORMATION:

Background on the Wyoming Program Submission

On August 15, 1979, OSM received a proposed regulatory program from the State of Wyoming. Following a review of that proposed program as outlined in 30 CFR 732, the Secretary determined that certain parts of the Wyoming program met the minimum requirements of SMCRA and the Federal permanent regulations and that others did not. Accordingly, the Secretary approved the Wyoming program in part on February 15, 1980. The State of Wyoming resubmitted its program for approval on May 30, 1980. Following a review of the resubmitted program, the Secretary approved the program subject to the correction of seven minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 26, 1980 *Federal Register* (45 FR 78637-78684).

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 explanation of the conditions of approval of the Wyoming program can be found in the November 26, 1980 *Federal Register* (45 FR 78637-78684).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Wyoming program contained seven minor deficiencies.

a. Wyoming had not implemented a definition of "complete application," pursuant to W.S. 35-11-406, as in 30 CFR 770.5.

b. Wyoming's definition of toxic materials in Rule 12(96) did not require only a showing of "detrimental" effects as in 30 CFR 701.5.

c. The Wyoming program lacked requirements consistent with the attorneys' fees and intervention provisions in 43 CFR Part 4.

d. Wyoming's program guidelines were not enforceable as rules.

e. Wyoming did not require revegetation productivity measurements

in the last two consecutive years of the responsibility period as in 30 CFR 816.116(b)(1)(ii).

f. Wyoming did not require that applicants for a permit demonstrate that all reclamation fees required by 30 CFR Chapter VII, Subchapter R, have been paid.

g. Wyoming had not demonstrated that its law and practice are in accordance with Section 526(c) of SMCRA with respect to its judicial grant of temporary relief.

In accepting the Secretary's conditional approval, Wyoming agreed to correct these deficiencies by March 26, 1981. On October 30, 1981, the Secretary extended the date by which Wyoming is required to satisfy conditions b. and c. to May 26, 1982 (46 FR 54070-54071).

Submission of Revisions and Program Amendments

On March 26, 1981, OSM received from the State of Wyoming revisions to the State regulations intended to satisfy conditions a, d, e and f.

On March 23, 1981, OSM received from the State of Wyoming an Attorney General's Opinion intended to satisfy condition g.

On February 27, 1981, OSM received from the State of Wyoming, pursuant to the 30 CFR 732.17 procedures, a proposed revision to the State program consisting of a change in Wyoming Statute 35-11-406, which is referred to as the "Operator's Window."

On April 8, 1981, OSM received from the State of Wyoming, pursuant to the 30 CFR 732.17 State program amendment procedures, revisions to the State regulations on special bituminous surface coal mines and the use of letters of credit on reclamation bonds.

OSM published a notice in the *Federal Register* on September 9, 1981, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies, and whether the Secretary should approve the additional amendments to the State program (46 FR 44995-44998). The public comment period ended October 9, 1981. A public hearing scheduled October 6, 1981, was not held because no one expressed a desire to present testimony.

Secretary's Findings

1. The Secretary finds the amendments submitted by Wyoming on March 26, 1981, correct the deficiencies in the Wyoming program as follows:

a. Wyoming regulation Chapter 1, Section 2(14) defines "complete application" for a permit as one which contains all information required by the

Act and the Land Quality Division regulations, and thus corrects deficiency a.

b. The following Wyoming regulations require permit applications to comply with certain portions of the State's permit application guidelines, and thus correct deficiency d:

- (i) Chapter II, Section 1.c. [maps].
- (ii) Chapter II, Section 2.a.(1)(f)(ii)[topsoil],
- (iii) Chapter II, Section 3.a.(6)(b)(iii) [overburden].
- (iv) Chapter II, Section 3.a.(6)(d)(ii) [vegetation types].
- (v) Chapter IV, Section 2.c.(2)(a) [topsoil], and
- (vi) Chapter IV, Section 3.p.(1)(a) [roads and powerlines].

c. Wyoming regulation Chapter IV, Section 2.d.(6) requires that revegetation measurements be made during the last two years of the bond period, and thus corrects deficiency e.

d. The Wyoming permit application requires a sworn statement that the applicant has paid all reclamation fees, and corrects deficiency f.

2. The Secretary has reviewed the March 23, 1981, Attorney General Opinion intended to satisfy deficiency g, and finds that the opinion is not persuasive in two respects. First, the Secretary is not convinced that Wyoming law guarantees an opportunity to be heard on a request for temporary relief as in Section 526(c)(1) of SMCRA. Second, the Secretary is not persuaded that Wyoming law requires a showing that temporary relief "will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air or water resources" as in SMCRA Section 526(c)(3). Rather, State law requires a balancing of the effect of the State order at issue on the person seeking temporary relief and the effect on the public of granting such temporary relief. This balancing of interests is the standard test for granting temporary restraining orders in most States. In enacting SMCRA Section 526, however, the Secretary believes that Congress intended to require that the judiciary use a different standard for granting such relief in surface mining cases.

Because Wyoming submitted material to satisfy this condition which the State, in good faith, believed to be adequate to satisfy this deficiency, the Secretary has decided to extend the date by which Wyoming must submit new material to satisfy this condition. OSM has discussed this matter with the State, including the legislative session dates of the Wyoming legislature. In order to allow Wyoming adequate time to draft

and pass suitable legislation, the Secretary hereby extends the date by which Wyoming must satisfy condition g to May 20, 1983.

3. The Secretary finds the program amendments submitted by Wyoming on April 8, 1981, pursuant to the 30 CFR 732.1/State program amendment procedures, to be acceptable and hereby approves them. These amendments are as follows:

a. Wyoming regulation Chapter VIII, Section 3.b.(2) and (4) and Section 4, establishing special alternative standards for existing special bituminous surface coal mines.

b. Wyoming regulations Chapter XII, Section 7.b. and Chapter XXIV, allowing letters of credit to be used on reclamation bonds.

4. The Secretary has not completed his review of the February 27, 1981, proposed revision to the Wyoming program consisting of a change in the Wyoming Statute 35-11-406, referred to as the "Operator's Window," and will, therefore, announce his decision on this revision at a later date.

Public Comments

1. The Environmental Policy Institute (EPI) commented that the materials submitted by Wyoming are not consistent with SMCRA Section 526(c). For the reasons set forth in the section above, the Secretary agrees with this comment.

2. The Fish and Wildlife Service recommended that wildlife species diversity and productivity be included as a measure of acceptable post-mining revegetation, rather than simply plant cover and productivity and the ability of the land to support pre-mining grazing pressure. The commenter's recommendation addresses acceptable revegetation measures which is outside the scope of this decision. To satisfy its condition of approval, Wyoming needs only to require that revegetation be evaluated during the last two years of the bond period. The proposal Wyoming has submitted properly establishes the timing for evaluation of revegetation. Therefore, the commenter's recommendation cannot be adopted. Other provisions in the Wyoming program are consistent with 30 CFR 816.97(d)(9), which requires that where fish and wildlife habitat is to be a primary or secondary post-mining land use, the operator shall select plant species based on the following criteria: (1) Their proven nutritional value for fish and wildlife, (2) their uses as cover for fish and wildlife, and (3) their ability to support and enhance fish and wildlife habitat after release of bonds, and that

plant groupings shall be distributed to maximize benefit to fish and wildlife.

Approval of Amendments To Satisfy Conditions and Additional Program Amendments

Accordingly, conditions a, d, e and f are hereby removed, and two program amendments to Wyoming's permanent program submitted pursuant to 30 CFR 732.17 are hereby approved. 30 CFR 950.11 is amended to indicate (1) approval of the March 26, 1981, program amendments, and (2) an extension of the time by which Wyoming must satisfy condition g. 30 CFR 950.10 incorporates approval of the corresponding March 26, 1981, and April 8, 1981, program amendments. The removal of these conditions of the approval of the Wyoming permanent program and the approval of the amendments to the program are effective February 18, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. 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 all actions taken to approve or conditionally approve State regulatory programs, actions, or amendments. Therefore, these program and extension amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Note.—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.

On August 4, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Wyoming permanent program. The amended regulatory provisions approved in this document are not aspects of the Wyoming permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151-1175), and the Clean Air Act, as amended (42 U.S.C. 1847 *et seq.*).

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Part 950 of Title 30 is amended as follows:

A. 30 CFR 950.10 is revised to read as follows:

§ 950.10 State program approval.

The Wyoming permanent program, as

submitted on August 15, 1970, as amended October 23, 1979, May 30, 1980, August 5, 1980, and as further amended March 26, 1981, and April 8, 1981, is approved February 18, 1982. Copies of the approved program, as amended, are available at:

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002; Office of Surface Mining, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240, Telephone: (202) 343-7896.

§ 950.11 [Amended].

B. Section 950.11 is amended by:
1. 30 CFR 950.11 is amended by removing paragraphs (a), (d), (e) and (f).
2. 30 CFR 950.11(g) is amended by removing the date March 26, 1981, and inserting in its place the date "May 20, 1983."

[FR Doc. 82-4341 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 8010.8-R; Amdt. No. 10]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This amends the CHAMPUS Regulation to implement Pub. L. 96-552. This public law allows CHAMPUS to extend benefits for outpatient surgery on the basis of inpatient cost-sharing rates for dependents of members of the uniformed services serving on active duty. This amendment changes the language in the Regulation to define ambulatory surgical centers as authorized CHAMPUS providers, provides for payment on the basis of reasonable costs and amends the cost-sharing provisions to apply the inpatient rate to certain ambulatory surgical services. The intended effect of the amendment is to encourage beneficiaries to obtain their surgical services in less expensive outpatient settings when medically appropriate to do so, by providing a more favorable cost-share formula.

DATE: This amendment is effective retroactively for covered surgical procedures performed on or after December 19, 1980.

FOR FURTHER INFORMATION CONTACT: Charles M. Gallegos, Chief, Policy Branch, OCHAMPUS, Aurora, Colorado 80045, telephone 303-361-8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 81-27319, appearing in the Federal Register on September 21, 1981 (46 FR 46570), the Office of the Secretary of Defense published an interim notice of policy regarding a change in the cost-sharing rules for certain surgical services performed in an outpatient setting. The change was brought about by Pub. L. 96-552, signed into effect on December 19, 1980, and applies to the dependents of members of the uniformed services on active duty.

Section 199.10(f)(2) of 32 CFR requires CHAMPUS beneficiaries to pay a share of the charges of medical services and supplies covered under the CHAMPUS. For beneficiaries who are dependents of members of the uniformed services on active duty, the cost-share for outpatient services and supplies is an annual \$50 deductible plus 20% of the CHAMPUS allowable charge for each service or supply. When the beneficiary receives care as an inpatient, the cost-share is \$25 or \$6.30 for each day of inpatient care, whichever is greater. CHAMPUS considers a beneficiary to be an inpatient when he or she is admitted to an institution for bed occupancy with the expectation that he or she will remain at least 24 hours.

Since ambulatory surgery involves a stay of fewer than 24 hours, CHAMPUS has considered such surgery to be an outpatient service and has extended benefits on the basis of the outpatient cost-sharing rates. Although the total costs of surgery performed in ambulatory settings are generally lower than for surgery performed in hospitals, the higher outpatient cost-share has tended to discourage beneficiaries from choosing ambulatory surgery.

Pub. L. 96-552 was signed into effect on December 19, 1980, to remove the beneficiaries' financial disincentive toward ambulatory surgery and to permit the government to take advantage of the generally lower costs associated with surgery performed in outpatient settings.

With the exception of certain surgical procedures which traditionally have been performed in outpatient settings, CHAMPUS benefits for the dependents of active duty service members will be extended for surgery performed in the outpatient department of a hospital or in an authorized ambulatory surgical center, based on the inpatient cost-share rate of \$25. The \$25 cost-share includes both institutional and professional services and related presurgical services provided within 72 hours of surgery. The beneficiary is responsible for the \$25 cost-share for each surgical procedure performed at least 24 hours apart.

To qualify as authorized providers under the CHAMPUS, free-standing ambulatory surgical centers must be accredited either by the Joint Commission on Accreditation of Hospitals (JCAH), the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC), or such other standards as authorized by the Director, OCHAMPUS. Ambulatory surgical centers will be paid on the basis of CHAMPUS determined or approved reasonable costs.

As authorized under title 5, United States Code Section 553 (b)(B), the final regulation is being published and no previous public comment has been requested. The benefit was expanded through Congressional legislation in December 1980, and we do not believe it is in the public interest to delay implementation through the publication of a proposed rule.

PART 199—IMPLEMENTATION OF THE CIVILIAN AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Accordingly, 32 CFR, Chapter I, Part 199 is amended reading as follows:

Section 199.10 is amended by inserting a new paragraph (f)(2)(iv).

§ 199.10 Basic program benefits.

* * *

(f) * * *

(2) * * *

(iv) *Ambulatory Surgery.*

Notwithstanding the above provisions pertaining to outpatient cost-sharing, dependents of active duty members of the uniformed services (or their sponsors) are responsible for payment of \$25 for surgical care that is authorized and received while in an outpatient status and that has been designated in guidelines issued by the Director, OCHAMPUS.

* * *

Section 199.12 is amended as follows:

a. By removing the existing paragraph (b)(4)(i) and substituting a new paragraph (b)(4)(i).

b. By revising paragraph (b)(4)(viii) as set forth below.

c. By adding a new paragraph (e)(2)(i).

The revised and added portion of § 199.12 read as follows:

§ 199.12. Authorized providers.

* * *

(b) * * *

(4) * * *

(i) *Hospitals, Acute Care: General and Special.* The term "hospital" means an institution which provides inpatient services, which may also provide outpatient services (including clinical

and ambulatory surgical services), and which:

* * *

(viii) *Other Specialized Treatment Facilities (STFs).* (a) *General.* (1) Care provided by certain specialized treatment facilities (on either an inpatient or outpatient basis), other than those listed above, may be cost-shared by CHAMPUS under specified circumstances.

(i) The course of treatment is prescribed by a doctor of medicine or osteopathy.

(ii) The patient is under the supervision of a physician during the entire course of the inpatient admission or the outpatient treatment.

(iii) The type and level of care and services rendered by the institution are otherwise authorized by this Regulation.

(iv) The facility meets all licensing and/or other certification requirements which are extant in the jurisdiction in which the facility is geographically located.

(v) Is other than a nursing home, intermediate care facility, home for the aged, halfway house, or other institution of similar purpose.

(vi) Is accredited by the Joint Commission on Accreditation or other CHAMPUS-approved accreditation organization, if an appropriate accreditation program for the given type of facility is available. As future accreditation programs are developed to cover emerging specialized treatment programs, such accreditation will be a prerequisite to coverage by CHAMPUS for services provided by such facilities.

(2) In order to assure that CHAMPUS beneficiaries are provided quality care at a reasonable cost when treated by a specialized treatment facility, the Director, OCHAMPUS (or a designee), will retain the right to:

(i) Require prior approval of all admissions to specialized inpatient treatment facilities.

(ii) Set appropriate standards for specialized treatment facilities in addition to or in the absence of JCAH accreditation.

(iii) Monitor facility operations and treatment programs on a continuing basis and conduct on-site inspections on a scheduled and unscheduled basis.

(iv) Negotiate agreements of participation.

(v) Terminate approval of a case when it is ascertained that a departure from the facts upon which the admission was originally based has occurred.

(vi) Declare a specialized treatment facility not eligible for CHAMPUS payment if that facility has been found

to have engaged in fraudulent or deceptive practices.

(3) In general, the following disclaimers apply to treatment by specialized treatment facilities:

(i) Just because one period or episode of treatment by a facility has been covered by CHAMPUS shall not be construed to mean that subsequent episodes of care by the same or similar facility will be automatically covered.

(ii) The fact that one case has been authorized for treatment by a specific facility or similar type of facility shall not be construed to mean that similar cases or subsequent periods of treatment will be automatically extended CHAMPUS benefits.

(b) *Types of Providers.* The following is a list of facilities which have been specifically designated as STF's. The list is for example only and is not to be construed as being all inclusive.

(1) *Freestanding Ambulatory Surgical Centers.* (i) Care provided by free-standing ambulatory surgical centers may be cost-shared by CHAMPUS under the following circumstances:

(a) The treatment is prescribed and supervised by a physician.

(b) The type and level of care and services rendered by the center are otherwise authorized by this Regulation.

(c) The center meets all licensing and other certification requirements of the jurisdiction in which the facility is located.

(d) The center is accredited by the Joint Commission on Accreditation of Hospitals (JCAH), the Accreditation Association for Ambulatory Health Care, Inc. (AAAH) or such other standards as authorized by the Director, OCHAMPUS.

(2) *Program for the Handicapped Facilities.* (i) Other specialized treatment facilities (STF's) also include those facilities which seek approval to provide care authorized under the Program for the Handicapped. (Refer to 199.11 "Program for the Handicapped.")

* * * * *

(e) * * *

(2) * * *

(i) *Freestanding Ambulatory Surgical Centers.* Authorized care furnished by freestanding ambulatory surgical centers, shall be reimbursed on the basis of the CHAMPUS determined reasonable cost.

* * * * *

(10 U.S.C. 1086, 5 U.S.C. 301)

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.

[FR Doc. 82-4299 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Pegasus, et al.

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy has determined that USS PEGASUS (PHM 1), USS TAURUS (PHM 3), and USS AQUILA (PHM 4) are vessels of the Navy, which, due to their special construction and purposes, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as hydrofoil vessels. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply of the different navigational light configurations of these vessels that are not in full compliance with the applicable requirements of the 72 COLREGS.

EFFECTIVE DATE: January 20, 1982.
Captain Richard J. McCarthy, JAGC,
USN, Admiralty Counsel, Office of the
Judge Advocate General, Navy
Department, Alexandria, Virginia 22332,
Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS Pegasus (PHM 1), USS Taurus (PHM 3), and USS Aquila (PHM 4) are vessels of the Navy which, due to their special construction and purposes, cannot fully comply with the 72 COLREGS in the following particulars: rule 23(a)(i) requiring that a power-driven vessel underway shall exhibit a masthead light forward; Rule 30(b) requiring a vessel of less than 50 meters in length, when at anchor, to exhibit an

all-round light where it can be seen; Annex I, section 3(b) requiring that on vessels of 20 meters or more in length the sidelights shall not be placed in front of the forward masthead lights; Annex I section 9(b) requiring that the all-round anchor light be so located where it can best be seen, but need not be placed at an impracticable height above the hull. Full compliance with the aforementioned 72 COLREGS provisions would interfere with certain special functions and features of these hydrofoil vessels as hereinafter described. Full compliance with Rule 23(a)(i) is not possible because hydrofoil vessels have limited space and on these vessels radar installations mounted just forward of the mainmast requiring unobstructed visibility precludes the placement of the masthead light further forward than its present position 3 meters aft of amidships on the mainmast. In addition, the added weight of a separate forward mast for the purposes of locating the masthead light forward of its present position would add additional topside weight to the vessels and, therefore, adversely affect the ability of these vessels to become foiborne while underway. Full compliance with rule 30(b) and annex I, section 9(b) is not possible because to display an all-round light anchor light where it can best be seen would require the addition of a structure stepped-out from the mainmast on which the light would be located. Such a stepped-out structure would also add significant topside weight to the vessel and, therefore, adversely affect the ability of the vessels to become foiborne while underway. Full compliance with Annex I, section 3(b) is not possible because these hydrofoil vessels must be refueled while underway and since the masthead light must be located on the mainmast, which is located 3 meters aft of amidships for reasons hereinbefore stated, locating the sidelights aft of the masthead light would severely interfere with the ability to refuel these vessels while underway. In addition, locating the sidelights aft of the masthead light would require the installation of a cantilevered structure extending outboard from the vessel and this additional structure would also add additional topside weight to the vessel and, therefore, adversely affect the ability of these vessels to become foiborne while underway. The Secretary of the Navy has certified that the aforementioned navigational lights are, therefore, located on these vessels in a

manner that provides the closest possible compliance with the applicable 72 COLREGS.

Moreover, it has been determined, in accordance with CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is

impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

1. Table Two of § 706.2 is amended by adding the following naval vessels to the list of vessels therein to indicate the certifications issued herewith by the Secretary of the Navy:

§ 706.2 [Amended]

Vessel	Number	Mast-head light, distance to stbd of keel in meters; rule 21(a)	Forward anchor light, distance below flight dk in meters; section 2(K), Annex I	Forward anchor light, number of, rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; rule 21(e), rule 30(a)(ii)	AFT anchor light, number of, rule 30(a)(ii)	Side lights, distance below flight dk in meters; section 2(g), Annex I	Side lights, distance forward of forward mast-head light in meters; section 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; section 3(b), Annex I
USS Pegasus	PHM 1	*	*	*	*	*	*	8.4	*
USS Taurus	PHM 3	*	*	*	*	*	*	8.4	*
USS Aquila	PHM 4	*	*	*	*	*	*	8.4	*

2. Table Four of § 706.2 is amended by adding to the existing paragraph 6 the following vessels for which navigational light certifications are herewith issued by the Secretary of the Navy:

6. The masthead light required by Rule 23(a)(i) is not located in the forepart of the vessel on the following ships:

USS Taurus (PHM 3)—3.0 meters aft of amidships
 USS Aquila (PHM 4)—3.0 meters aft of amidships

3. Table Four of § 706.2 is amended by adding the following note numbered 20 which reflects navigational light certifications herewith issued by the Secretary of the Navy:

20. On USS PEGASUS (PHM 1); USS TAURUS (PHM 3); and USS AQUILA (PHM 4), two lights are installed at the same level, one fore and one aft, high on the mast to provide the closest possible compliance to the all-round anchor light visibility required by Rule 30(b) and Annex I, section 9(b).

(Executive Order 11964, 33 U.S.C. 1605)

Dated: January 20, 1982.

John Lehman,
 Secretary of the Navy.

[FR Doc. 82-4330 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-AE-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1608, 1662, and 1665

Selective Service Regulations; Revised Procedures To Implement the Freedom of Information Act and the Privacy Act of 1974

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: Procedures under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a) are revised in the interest of clarity and efficiency.

EFFECTIVE DATE: The amendments will become effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435, Phone: (202) 724-0844.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations were published in the Federal Register for December 22, 1981 (46 FR 62093) for comment pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b) and 5 U.S.C. 552 and 552a). No comment was received. The proposal amendments to the regulations, without change, will be made final by this publication.

These Regulations implement 5 U.S.C. 552 and 552a.

As required by Executive Order 12291,

I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

Thomas K. Turnage,
 Director of Selective Service.
 February 12, 1982.

The amendments are:

PART 1608 [Removed]

Part 1608—Public Information is removed.

Part 1662 and 1665 are added.

PART 1662—FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES

- Sec.
- 1662.1 Applicability of this part.
 - 1662.2 Procedure for requesting information.
 - 1662.3 Identification of information requested.
 - 1662.4 Consideration of requests for information.
 - 1662.5 Inspection, copying, and obtaining copies.
 - 1662.6 Fees.
- Authority: 5 U.S.C. 552, as amended.

§ 1662.1 Applicability of this part.

The provisions of this part prescribe

the procedures for requests for information under 5 U.S.C. 552, as amended (Freedom of Information Act).

§ 1662.2 Procedure for requesting information.

Requests for information under the Freedom of Information Act (FOIA) shall be in writing and should be addressed to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435.

§ 1662.3 Identification of information requested.

Any person who requests information under FOIA shall provide a reasonably specific description of the information sought so that it may be located without undue search. If the description is not sufficient, the records manager will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

§ 1662.4 Consideration of requests for information.

(a) Upon receipt of any request for information or records, the records manager will determine within 10 days (excepting Saturdays, Sundays, and legal federal holidays) whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request will include the reasons therefor and a notice that an appeal may be lodged with the Director of Selective Service.

(b) Appeals shall be in writing and addressed to the Director of Selective Service at the address specified in § 1662.2 of this part. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be in writing and signed by the Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal federal holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will include the reasons therefor and also contain a notification of the provisions for judicial review.

§ 1662.5 Inspection, copying, and obtaining copies.

When a request for information has been approved in accord with § 1662.4, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the records manager at the address listed in § 1662.2. Such materials may be copied manually without charge, and

reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available as specified in § 1662.6; however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner.

§ 1662.6 Fees.

(a) Search of records is made without charge.

(b) The charge for office copy reproduction is 25 cents per page. The charge for shelf stock is 10 cent per page.

(c) Copies will not be released to any requester until the required fee is paid in full by cash, check or money order. Checks and money orders should be made payable to the Selective Service System.

(d) Documents will be furnished without charge or at a reduced charge where it is determined that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

PART 1665—PRIVACY ACT PROCEDURES

Sec.

- 1665.1 Rules for determining if an individual is the subject of a record.
 - 1665.2 Requests for access.
 - 1665.3 Access to the accounting of disclosures from records.
 - 1665.4 Requests to amend records.
 - 1665.5 Request for review.
 - 1665.6 Schedule of fees.
 - 1665.7 Information available to the public or to former employers of registrants.
- Authority: 5 U.S.C. 552a.

§ 1665.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Selective Service System (SSS) contains a record pertaining to them should address their inquiries to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435. The written inquiry should contain a specific reference to the system of records maintained by Selective Service listed in the SSS Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of SSS Systems of Records subject to the Privacy Act is in the *Federal Register* and copies of the notices will be available upon request to the records manager. A compilation of such notices will also be made and published by the Office of Federal Register, in accord with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should

also contain sufficient information to identify the requester in order to allow SSS to determine if there is a record pertaining to that individual in a particular system of records. In instances when the information is insufficient to insure that disclosure will be to the individual to whom the information pertains, in view of the sensitivity of the information, SSS reserves the right to ask the requester for additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the records manager will inform the requester of the reason for the delay and the date by which a response may be anticipated.

§ 1665.2 Requests for access.

(a) Requirement for written requests. Individuals desiring to gain access to a record pertaining to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth in paragraph (b) below.

(b) *Procedures.*—(1) *Content of the request.* (i) The request for access to a record in a system of records shall be addressed to the records manager, at the address cited above, and shall name the system of records or contain a description of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of specifying solely the Privacy Act of 1974 and, if the request may be processed under both the Freedom of Information Act and the Privacy Act and the request specifies both or neither act, the procedures under the Privacy Act of 1974 will be employed. The individual will be advised that the procedures of the Privacy Act will be utilized, of the existence and the general effect of the Freedom of Information Act, and the difference between procedures under the two acts (e.g. fees, time limits, access). The request should contain necessary information to verify the identity of the requester (see § 1665.2(b)(2)(vi)). In addition, the requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment,

etc.) as well as any other identifying information contained in and required by SSS Notice of Systems of Records.

(ii) If the request for access follows a prior request under § 1665.1, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence, or a copy of the SSS response to that request is attached.

(iii) If the individual specifically desires a copy of the record, the request should so specify.

(2) *SSS action on request.* A request for access will ordinarily be answered within 10 days, except when the records manager determines that access cannot be afforded in that time, in which case the requester will be informed of the reason for the delay and an estimated date by which the request will be answered. Normally access will be granted within 30 days from the date the request was received by the Selective Service System. At a minimum, the answer to the request for access shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by SSS;

(ii) A statement as to whether access will be granted only by providing copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternative arrangements may be made with the official specified in § 1665.2(b)(1);

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the records manager has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see § 1665.6) (Fees are applicable only to requests for copies);

(v) The name, title, and telephone number of the SSS official having operational control over the record; and

(vi) The documentation required by SSS to verify the identity of the requester. At a minimum, SSS's verification standards include the following:

(A) *Current or former SSS employees.* Current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former SSS employee cannot be so

identified by the official having operational control over the records, identification documentation will be required. Employee identification cards, annuitant identification, drivers licenses, or the "employee copy" of any official personnel document in the record are examples of acceptable identification validation.

(B) *Other than current or former SSS employees.* Individuals other than current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS must produce identification documentation of the type described herein, prior to being granted access. The extent of the identification documentation required will depend on the type of record to be accessed. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements are specified in the system notices published pursuant to 5 U.S.C. 552a(e)(4).

(C) *Access granted by mail.* For records to be accessed by mail, the records manager shall, to the extent possible, establish identity by a comparison of signatures in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to the requester of information required to be made available to the public by 5 U.S.C. 552. When in the opinion of the records manager the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) *Unavailability of identification documentation.* If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to a record about another person under false pretenses may result in a fine of up to \$5,000. In addition, depending upon the sensitivity of the records sought to be accessed, the official having operational control over the records may require such further reasonable assurances as may be considered appropriate e.g., statements of other individuals who can attest to the identity of the requester. No verification of identity will be required of individuals seeking access to records

which are otherwise available to any person under 5 U.S.C. 552, Freedom of Information Act.

(E) *Access by the parent of a minor, or legal guardian.* A parent of a minor, upon presenting suitable personal identification, may access on behalf of the minor any record pertaining to the minor maintained by SSS in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction. Absent a court order or consent, a parent or legal guardian has no absolute right to have access to a record about a child. Minors are not precluded from exercising on their own behalf rights given to them by the Privacy Act.

(F) *Granting access when accompanied by another individual.* When an individual requesting access to his or her record in a system of records maintained by SSS wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) *Denial of access for inadequate identification documentation.* If the official having operational control over the records in a system of records maintained by SSS determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the records manager prior to finally denying the individual access.

(H) *Review of decision to deny access.* Whenever the records manager determines, in accordance with the procedures herein, that access cannot be granted the response will also include a statement of the procedures to obtain a review of the decision to deny in accord with § 1665.5.

(vii) *Exceptions.* (A) Nothing in these regulations shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding. The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. This provision is not intended to preclude access by an individual to the records which are available to that individual under the other processes such as the Freedom of Information Act or the rules of civil procedure.

(B) Within any system of records pertaining to possible violations of the Military Selective Service Act, the identity of or any information pertaining to any individual who provides information relating to a suspected violator will not be revealed to the suspected violator. This exemption is made under the provision of 5 U.S.C. 552a(k)(2).

§ 1665.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosure are the same as those for granting accesses to the records (including verification of identity) outlined in § 1665.2.

§ 1665.4 Requests to amend records.

(a) *Requirement for written requests.* Individuals desiring to amend a record that pertains to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth herein. Records not subject to the Privacy Act of 1974 will not be amended in accord with these provisions. However, individuals who believe that such records are inaccurate may bring this to the attention of SSS.

(b) *Procedures.* (1)(i) The requests to amend a record in a system of records shall be addressed to the records manager. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individual's having gained access to the record in accordance with the provisions concerning access to records as set forth above, copies of previous correspondence between the requester and SSS will serve in lieu of a separate description of the record.

(ii) When the individual's identity has been previously verified pursuant to § 1665.2(b)(2)(vi), further verification of identity is not required as long as the communication does not suggest that a need for verification is present. If the individual's identity has not been previously verified, SSS may require identification validation as described in § 1665.2(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should contact the records manager at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth

with such particularity as to permit SSS not only to understand the individual's basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by SSS of personal information merely to permit verification of records, the burden of persuading SSS to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness or incompleteness of the record.

(v) Incomplete or inaccurate requests will not be rejected categorically. The individual will be asked to clarify the request as needed.

(2) *SSS action on the request.* To the extent possible, a decision, upon a request to amend a record will be made within 10 days, (excluding Saturdays, Sundays, and legal Federal holidays). The response reflecting the decisions upon a request for amendment will include the following:

(i) The decision of the Selective Service System whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for determination for any portion of the request which is denied.

(iii) The name and address of the official with whom an appeal of the denial may be lodged.

(iv) The name and address of the official designated to assist, as necessary and upon request of, the individual making the request in preparation of the appeal.

(v) A description of the review of the appeal with SSS (see § 1665.5).

(vi) A description of any other procedures which may be required of the individual in order to process the appeal.

(3) If the nature of the request for the correction of the system of records precludes a decision within 10 days, the individual making the request will be informed within 10 days of the extended date for a decision. Such a decision will be issued as soon as it is reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal Federal holidays) unless unusual circumstances preclude completing action within that time. If the expected completion date for the decision indicated cannot be met, the individual will be advised of the delay of a revised date when the decision may be expected to be completed.

§ 1665.5 Request for review.

(a) Individuals wishing to request a review of the decision by SSS with regard to any initial request to access or amend a record in accord with the provisions of §§ 1665.2 and 1665.4, should submit the request for review in writing and, to the extent possible, include the information specified in § 1665.5(b). Individuals desiring assistance in the preparation of their request for review should contact the records manager at the address provided herein.

(b) The request for review should contain a brief description of the record involved or in lieu thereof, copies of the correspondence from SSS in which the request to access or to amend was denied and also the reasons why the requester believes that access should be granted or the disputed information amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §§ 1665.2 and 1665.4 set forth by SSS in its decision denying access or amendment. Appeals filed without a complete statement by the requester setting forth the reasons for review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be set forth in an understandable manner. In order to avoid the unnecessary retention of personal information, SSS reserves the right to dispose of the material concerning the request to access or amend a record if no request for review in accord with this section is received by SSS within 180 days of the mailing by SSS of its decision upon an initial request. A request for review received after the 180 day period may, at the discretion of the records manager, be treated as an initial request to access or amend a record.

(c) The request for review should be addressed to the Director of Selective Service.

(d) The Director of Selective Service will inform the requester in writing of the decision on the request for review within 20 days (excluding Saturdays, Sundays, and legal federal holidays) from the date of receipt by SSS of the individual's request for review unless the Director extends the 20 days period for good cause. The extension and the reasons therefor will be sent by SSS to the requester within the initial 20 day period. Such extensions should not be routine and should not normally exceed an additional thirty days. If the decision does not grant in full the request for amendment, the notice of the decision

will provide a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with SSS setting forth the individual's reasons for his disagreement with the decision and the procedures for filing such a statement of disagreement. The Director of Selective Service has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper, concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed is apparent, a copy of the concise statement furnished and a concise statement by SSS setting forth its reasons for not making the requested changes, if SSS chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs the agency of his disagreement with SSS's determination in accord with § 1665.5(a), (b) and (c). A copy of the individual's statement, and if it chooses, SSS's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accord with the individual's request, SSS will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552a(c). The notification of correction pertains to information actually disclosed.

§ 1665.6 Schedule of fees.

(a) *Prohibitions against charging fees.* Individuals will not be charged for:

(1) The search and review of the record.

(2) Any copies of the record produced as a necessary part of the process of making the record available for access, or

(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail.

(4) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he

may designate, one copy of his Selective Service file free of charge.

(b) *Waiver.* The Director of Selective Service may at no charge, provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) *Fee schedule and method of payment.* Fees will be charged as provided below except as provided in paragraphs (a) and (b) of this section.

(1) *Duplication of records.* Records will be duplicated at a rate of \$.25 per page.

(2) Fees should be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests, copies will not be provided for any subsequent request until the arrears have been paid in full.

(3) Remittance shall be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the records manager, Selective Service System, Washington, D.C. 20435.

(4) A receipt of fees paid will be given upon request.

§ 1665.7 Information available to the public or to former employers of registrants.

(a) Each area office maintains a classification record which contains the name, Selective Service number, and the current and past classifications for each person assigned to that board. Information in this record may be inspected at the area office at which it is maintained.

(b) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(c) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, Washington, D.C. 20435.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2043-8]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: The purpose of today's rulemaking is to approve a revision to Michigan's State Implementation Plan (SIP) for the Detroit area, Wayne County. Four types of studies were conducted to identify the pollution sources causing the total suspended particulates (TSP) problem. This revision satisfies EPA's condition of approval for the State to submit several additional studies to assess the nature of the primary TSP nonattainment problem in the Detroit area.

EFFECTIVE DATE: This action will be effective on April 20, 1982. Unless notice is received on or before March 22, 1982 that someone wishes to submit critical or adverse comments.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

U.S. Environmental Protection Agency,
Air Programs Branch, Region V, 230
South Dearborn Street, Chicago,
Illinois 60604

Michigan Department of Natural
Resources, Air Quality Division, State
Secondary Government Complex,
General Office Building, 7150 Harris
Drive, Lansing, Michigan 48917

Written comments should be sent to:
Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs Branch,
Region V, U.S. Environmental Protection
Agency, 230 South Dearborn Street,
Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Toni Lesser, Regulatory Analysis
Section, Air Programs Branch, Region V,
U.S. Environmental Protection Agency,
230 South Dearborn Street, Chicago,
Illinois 60604; (312) 886-60337.

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 FR 29790), EPA announced final rulemaking to conditionally approve certain portions of the Michigan SIP for controlling TSP. On that same date, EPA also proposed rulemaking on Michigan's commitment to remedy the identified deficiencies in portions of the State's TSP SIP.

On September 4, 1980, (45 FR 58527), EPA announced final approval of Michigan's schedule committing itself to remedy those identified deficiencies.

Also, on September 4, 1980 (45 FR 58527), EPA announced final approval of Michigan's schedule committing itself to the completion of additional particulate studies in the Detroit area to determine the causes of the primary TSP nonattainment problem. The State agreed to submit a particulate size distribution report, refinement of the emission inventory, assessments of meteorological variables, and an analysis of a microscopy report. These studies were formally submitted by the State of Michigan to EPA on March 7, 1980 (*Down-River Dichotomus Impactor Special Study*) and on April 21, 1981 (*Wayne County Primary TSP Standard Nonattainment Studies*).

The submittal of April 21, 1981 was based upon a site-by-site analysis of the emission inventory, meteorological characteristics and particulate microscopy results for each of the seven monitoring stations within Wayne County that reported violations of primary TSP standard in 1979.

EPA has determined that the Detroit TSP studies submitted by the State of Michigan are comprehensive and satisfy EPA's condition of approval. EPA, therefore, takes action today to approve these studies as part of the Michigan federally approved SIP. A complete review of these studies is contained in EPA's rationale document dated October 30, 1981.

EPA believes that this action is a noncontroversial rulemaking, since the revision satisfies Michigan's commitment to complete several studies. This action will be effective April 20, 1982. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a new rulemaking will propose this action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that approvals of SIPs under Section 110 or 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Today's action approves a State action for Michigan under Sections 110 and 172 of the Act. It imposes no requirements beyond those which the State has already imposed.

This regulation is exempt from the Office of Management and Budget under Section 3 of Executive Order 12291.

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 appropriate circuit within 60 days of February 18, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in a civil or criminal proceeding brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director of Federal Register on July 1, 1981.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: February 9, 1982.

Anne M. Gorsuch,
Administrator

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(49) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(49) On March 7, 1980 and April 21, 1981 the State of Michigan submitted particulate studies for the Detroit area. These studies satisfy EPA's conditional approval and the State's commitment.

* * * * *
[FR Doc. 82-4565 Filed 2-17-82; 8:45 am]
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40 CFR Part 81

[A-5-FRL-2041-6]

Designation of Areas for Air Quality Purposes; Michigan; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: At the request of the State of Michigan EPA changed the attainment designation for seven counties in Michigan in a notice of final rulemaking published on November 6, 1981 (46 FR 55108). In a letter dated December 2, 1981, the State notified EPA that several errors were contained in the tables describing the attainment status designations. This action corrects those errors.

EFFECTIVE DATE: This correction notice becomes effective March 22, 1982.

FOR FURTHER INFORMATION CONTACT:

Delores Sieja, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6038.

SUPPLEMENTARY INFORMATION: Pursuant to section 107(d) of the Clean Air Act, the State of Michigan on October 27, 1980, requested EPA to make changes in the attainment status of (1) Berrien, Genesee, Lapeer, Monroe, Saginaw and Washtenaw Counties for total suspended particulates, and (2) Wayne County for carbon monoxide. EPA's notice of final rulemaking on this request was published on November 6, 1981 (46 FR 55108). In a December 2, 1981, letter, the State of Michigan notified EPA that several errors were contained in the tables describing the attainment status designations.

EPA reexamined these designations and is making the following corrections as requested by the State.

Total Suspended Particulates

AQCR 122

1. Bay County: R5E, T14N, Sections 14-16 and 21-23. Due to a typographical error this area was incorrectly designated as "cannot be classified". The correct designation is "Does not meet secondary standards".

2. Genesee County: Portion "a". Due to a typographical error this area was incorrectly designated as "Does not meet secondary standards". The correct designation is "Does not meet primary standards."

AQCR 125

1. Calhoun County: RSW, T2S, Section 34. RSW should be changed to R4W. The attainment status designation is correct.

Carbon Monoxide

AQCR 123

1. Macomb, Oakland, Wayne Counties. Continuous portions of Macomb, Oakland and Wayne Counties are designated "Does not meet primary standards" for carbon monoxide (40 CFR part 81).

On October 27, 1980 the State of Michigan requested EPA to reduce the size of the area in Wayne County to include only the following area:

Starting at Base Line Road (extending east to Lake St. Clair), west to Inkster Road, south to Pennsylvania Road, extending east to the Detroit River.

On July 27, 1981 (46 FR 38389) EPA proposed to reduce the size of the CO nonattainment area to the area described above.

EPA approved the above designation in a November 6, 1981 notice of final rulemaking (46 FR 55108). In the table describing the attainment status of Macomb, Oakland and Wayne Counties EPA only listed the above nonattainment area of Wayne County and inadvertently omitted the contiguous portions of Macomb and Oakland Counties. Today, EPA is correcting this error. Therefore, the following area within Macomb, Oakland

and Wayne Counties should be "Does not meet primary standards."

Area included within the following (counterclockwise): Lake St. Clair to 14 Mile Road to Kelly Road, N. to 15 Miles Road to Hayes Road, S. to 14 Mile Road to Clawson City boundary, following N. Clawson City boundary to N. Royal Oak City boundary to 13 Mile Road to Evergreen Road to southern Beverly Hills City boundary to southern Bingham Farms City boundary to southern Franklin City boundary to Inkster Road,

south to Pennsylvania Road, extending east to the Detroit River.

This rule was exempted by the Office of Management and Budget from review under section 3 of Executive Order 12291.

(Sec. 107, Clean Air Act, as amended)

Dated: January 25, 1982.

David Kee,

Acting Regional Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.323 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is corrected as follows.

§ 81.323 [Corrected]

(1) In the table for "Michigan—TSP" the entries for Bay and Genesee Counties (Counties within AQCR 122) and Calhoun County (County within AQCR 125) should read as follows:

—MICHIGAN—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 122—Except subareas defined.....				X.
1. Bay County: R5E, T14N, Sections 14-16 and 21-23.		X		
2. Genesee County:				
a. Starting on Industrial Avenue, north to Stewart Avenue, east to Hitchcock Street, south to Olive Avenue (extended), south to Robert T. Longway Boulevard, west and southwest to Industrial Avenue.	X			
b. Starting on Industrial Avenue, north to Pierson Road, east to Dort Highway, south to Hitchcock Street, south to Olive Avenue (extended), south to Robert T. Longway Boulevard, west and southwest to Industrial Avenue.		X		
AQCR 125—Except subareas defined.....				X.
1. Calhoun County: R4W, T2S, Section 34.....	X			

(2) In the table for "Michigan—CO" the entry for AQCR 123 should read as follows:

MICHIGAN—CO

Designated area	Does not meet primary standards	Cannot be classified or better than standards
AQCR 123—Except subareas defined.....		X.
1. Macomb, Oakland, Wayne Counties, Area included within the following (counterclockwise): Lake St. Clair to 14 Mile Road to Kelly Road, N. to 15 Mile Road to Hayes Road, S. to 14 Mile Road to Clawson City boundary, following N. Clawson City boundary to N. Royal Oak City boundary to 13 Mile Road to Evergreen Road to southern Beverly Hills City boundary to southern Bingham Farms City boundary to southern Franklin City boundary to Inkster Road, south to Pennsylvania Road, extending east to the Detroit River.	X	

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 100

Limitation on Federal Participation For Capital Expenditures; Policy Notice

AGENCY: Public Health Service, HHS.

ACTION: Interpretive Ruling.

SUMMARY: This Notice announces a change in an interpretive ruling under section 1122 of the Social Security Act which applies to the requirement under 42 CFR 100.106 that a State notify an applicant of certain actions within a specified period of time. This interpretive ruling is being revised to prevent the possibility that a finding of a Designated Planning Agency (DPA) or hearing officer be invalidated because of untimely delivery of decisions.

DATES: This new interpretive ruling is effective February 18, 1982 and will apply to each initial determination made by the Secretary under section 1122(d)(1) after that date.

FOR FURTHER INFORMATION CONTACT: James O'Donnell, Division of Regulatory Activities, Bureau of Health Planning, 3700 East-West Highway, Room 6-50, Hyattsville, Maryland 20782, Telephone Number (301) 436-6134.

SUPPLEMENTARY INFORMATION: Under section 1122 of the Social Security Act, the Secretary is authorized to enter into an agreement with a Governor of a State under which a health planning agency designated by the State (designated planning agency or DPA) reviews certain proposed capital expenditures by or on behalf of health care facilities. The purpose of this program is to assure that Federal funds under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act are not used to support unnecessary capital expenditures made by or on behalf of health care facilities. Under this agreement, a DPA will make a finding as to whether the proposal is consistent with the applicable plans, criteria, and standards and forward that finding to the Secretary. Under the section 1122 program regulations, the DPA and the State hearing officer, who upon appeal reviews a DPA's negative finding, are required to notify the applicant of certain actions within a specified period of time at three stages of the review process: (1) The DPA has 15 days from the date of receipt of an application to notify the applicant that additional information is required (42 CFR 100.106(a)(3)); (2) the DPA is required to

provide written notification to the applicant within a specified period of time (varying from 60 to 90 days) as to whether the proposal is consistent with applicable plans, criteria, and standards (42 CFR 100.106(a)(4)); and (3) the hearing officer is required to notify the applicant of his decision within 45 days after the conclusion of the hearing (42 CFR 100.106(c)(3)).

The Secretary has previously interpreted those three notification provisions to require that the applicant receive actual notice of the action in question by the specified period. The Secretary is revising this interpretive ruling to provide that notice under these three provisions will be effective on the date the DPA or hearing officer mails to the applicant its finding on incompleteness or its finding as to conformity. The Secretary is revising this interpretive ruling to provide greater consistency with State certificate of need programs and to prevent the possibility that a finding of a DPA or hearing officer be invalidated because its mailed decision was not delivered within a reasonable period of time.

This revised interpretive rule will apply to each initial determination under section 1122 made after February 18, 1982. Under currently delegated authority, the Department's Regional Health Administrators make these initial determinations. In any reconsideration of a Regional Health Administrator's determination under section 1122, the interpretive rule in effect at the time the Regional Health Administrator's determination was made will apply.

Dated: February 9, 1982.

Robert Graham,

Acting Administrator.

[FR Doc. 82-4336 Filed 2-16-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6130

[OR-24318 (WASH)]

Washington; Revocation of Executive Order No. 9036

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew 41.60 acres of land as an Air Navigation Facility. This action will restore the land to such forms of disposition as may by law be made of national forest lands,

including the mining and mineral leasing laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office; 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 9036 of January 22, 1942, which withdrew the following described lands for use by the Federal Aviation Administration as an air navigation facility is hereby revoked in its entirety:

Willamette Meridian

Wenatchee National Forest

T. 22 N., R. 11 E.,

Sec. 21, lot 3.

The area described contains 41.60 acres in Kittitas County.

2. At 10 a.m. on March 12, 1982, the land will be open to such forms of disposition as may by law be made of national forest lands, including location and entry under the United States mining laws and applications and offers under the mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 5, 1982.

[FR Doc. 82-4301 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6151

[CA (5704)]

California; Revocation of Lighthouse Withdrawals

AGENCY: Bureau of Land Management, Interior

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive orders which withdrew 54.25 acres of land and unsurveyed Lion Rock, located off the coast of California, for lighthouse purposes and will restore 43.52 acres and Lion Rock to the public land laws generally, including the mining and mineral leasing laws. The remaining 10.75 acres are privately owned and not subject to disposition under the public land laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204

of the Federal Land Policy and management Act of 1976, 90 Stat. 2751; 43 M.S.C. 1714, it is ordered as follows:

1. Executive Orders dated January 26, 1867, and November 3, 1905, withdrawing lands for lighthouse purposes, are hereby revoked.

San Bernardino Meridian

T. 10 N., R. 36 W.,

Sec. 34, lots 3, 4, and unsurveyed Lion Rock (located off shore).

The area aggregates 54.25 acres in Santa Barbara County.

2. Of the lands described in paragraph 1, lot 4 is privately owned and not subject to disposition under the public land laws.

3. At 10 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. The public lands will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws at 10 a.m. on March 16, 1982.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4366 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6152

[LA-0164625]

California; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Departmental order which withdrew 555 acres of land for the Bureau of Reclamation's Colorado River Storage Project. Of this acreage, 11.25 acres are privately owned and not subject to disposition under the public land laws. The remaining 543.75 acres will be restored to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Order of October 16, 1931, which withdrew certain lands for reclamation purposes in connection with the Colorado River Storage Project, is hereby revoked insofar as it affects the following described lands:

San Bernardino Meridian

T. 9 N., R. 22 E.,

Sec. 13, lots 3, 4, 5, and 6, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.

Sec. 24, W $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 9 N., R. 23 E.,

Sec. 30, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described aggregates 555 acres in San Bernardino County.

2. Of the lands listed in paragraph 1, the following described public lands shall at 10 a.m. on March 16, 1982, be open to the operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

San Bernardino Meridian

T. 9 N., R. 22 E.,

Sec. 13, lots 3, 4, 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$; Sec. 24, W $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described aggregates 543.25 acres in San Bernardino County.

3. Of the lands described in paragraph 1, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 30, T. 9 N., R. 23 E., containing 10 acres is privately owned and not subject to disposition under the public land laws.

4. The surface estate of lot 6, sec. 13, T. 9 N., R. 22 E., containing 1.25 acres has been conveyed from United States ownership pursuant to the Small Tract Act of June 1, 1938 (43 U.S.C. 682a-682e); therefore, unless and until appropriate regulations are issued, the land will not be open to location under the United States mining laws (30 U.S.C. Ch. 2). This land and all of the public lands described in paragraph 2 have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841 Federal

Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4367 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6153

[CA-7369 WR, CA-8191 WR]

California; Revocation of Stock Driveway Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Secretarial Orders affecting 433.05 acres of land. This action will restore 233.12 acres to operation of the public land laws. The lands have been open to the mining and mineral leasing laws. The remaining 199.93 acres are privately owned.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Morrison, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION:

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of September 13, 1918, creating Stock Driveway Withdrawal No. 38, is hereby revoked as to the following described lands:

San Bernardino Meridian

T. 8 N., R. 19 W.,

Sec. 16, N $\frac{1}{2}$ SE $\frac{1}{4}$.

Mount Diablo Meridian

T. 44 N., R. 6 E.,

Sec. 4, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$.

The area described aggregates 240.42 acres in Ventura and Modoc Counties.

2. The Secretarial Order of February 4, 1919, creating Stock Driveway Withdrawal No. 57, is hereby revoked as to the following described lands:

Mount Diablo Meridian

T. 29 N., R. 1 E.,

Sec. 24, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 27 N., R. 1 W.,

Sec. 6, lot 9.

T. 27 N., R. 2 W.,

Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 28 N., R. 2 W.,

Sec. 30, lot 1.

The area described aggregates 192.63 acres in Tehama County.

3. Lot 2, section 24, T. 29 N., 1 E., and lots 3 and 4, S½NW¼, section 4, T. 4 N., R. 6 E., Mount Diablo Meridian, are no longer public lands and as such are not subject to disposition under the public land laws.

4. At 10:00 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 2800 Cottage Way, Room E2841, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.

[FR Doc. 82-4368 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6154

[WASH-05325]

Washington; Partial Revocation of Executive Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order in part as to 49.30 acres of land withdrawn for lighthouse purposes. The land will not be restored to operation of the public land laws, including the mining laws, because it remains withdrawn for the San Juan Islands National Wildlife Refuge.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6901.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 15, 1875, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked

insofar as it affects the following described land:

Willamette Meridian

Flatop Island

T. 36 N., R. 3 W.,

Sec. 4, lot 1;

Sec. 5, lot 1.

The area described contains 49.30 acres in San Juan County.

2. The above described land is withdrawn and reserved for the San Juan Islands National Wildlife Refuge and remains segregated from operation of the public land laws generally, including the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.

[FR Doc. 82-4369 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6155

[OR-20252, OR-20255, OR-20257]

Oregon; Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Secretarial orders which withdrew 32.81 acres of land for reclamation purposes. The lands are in private ownership.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of January 3, 1919, January 13, 1920, and February 10, 1922, which withdrew the following described lands for use by the Bureau of Reclamation for reclamation purposes in connection with the Klamath Project are hereby revoked:

Willamette Meridian

Klamath Project

T. 36 S., R. 7 E.,

Sec. 19, lots 4, 6, 8, 10, 12, 13, 20, 21, 24, 30, and 32;

Sec. 30, lot 3.

T. 37 S., R. 8 E.,

Sec. 24, lot 7.

The areas described aggregate 32.81 acres in Klamath County.

2. The lands described above have been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.

[FR Doc. 82-4370 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6156

[A-12981]

Arizona; Revocation of Executive Order of September 23, 1912; Mineral Land Withdrawal No. 1, Arizona No. 1

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew lands in aid of legislation affecting approximately 10,800 acres of which approximately 9,500 acres are privately owned. This action will restore approximately 1,300 acres to operation of the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of September 23, 1912, which withdrew the following described lands in aid of legislation, is hereby revoked in its entirety:

Gila and Salt River Meridian

T. 23 S., R. 24 E.,

Secs. 13 to 16, inclusive;

Secs. 21 to 28, inclusive;

Sec. 36.

T. 23 S., R. 25 E.,

Secs. 18 and 19;

Secs. 30 and 31.

The area described contains approximately 10,800 acres in Cochise County.

2. Of the lands described in paragraph 1, approximately 9,500 acres are privately owned and not subject to disposition under the public land, mineral, and mineral leasing laws.

3. At 10:00 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10:00 a.m. on March 16, 1982, the public lands shall be open to nonmetalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws. The lands have been and will continue to be open to metalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

February 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4349 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6157

[W-23824]

Wyoming; Partial Revocation of Powersite Reserve Nos. 115, 647, and 650

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three Executive orders embracing approximately 2,680.38 acres situated along the Big Horn River and in the Big Horn Canyon National Recreation Area. The lands were withdrawn to protect the Yellowtail (Big Horn Canyon) reservoir site which was developed and is now protected by a Bureau of Reclamation withdrawal.

Approximately 240 acres of public land will be restored to operation of the public land laws generally. The remaining lands remain withdrawn for the Big Horn Canyon Recreational Area.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, 41

Stat. 1075, as amended 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-168, Wyoming, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 115 is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 55 N., R. 94 W.,

Sec. 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 57 N., R. 94 W.,

Sec. 5, lot 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 6, lot 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 7, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 8, lots 1, 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 58 N., R. 94 W.,

Sec. 19, lots 2, 3, 4, 6, 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 30, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 31, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 844.76 acres in Big Horn County.

2. The Executive Order of September 29, 1917, creating Powersite Reserve No. 647, is hereby revoked insofar as it affects the following described lands:

T. 56 N., R. 94 W.,

Sec. 4, lot 2;

Sec. 8, lots 3 and 4;

Sec. 9, lots 2 and 5;

Sec. 17, lots 2 and 5;

Sec. 20, lot 2;

Sec. 22, lots 2, 3, 4, and 6;

Sec. 27, lot 1;

Sec. 28, lot 1;

Sec. 33, lot 5;

Sec. 34, lot 3.

T. 57 N., R. 94 W.,

Sec. 9, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 15, W $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 21, lot 1;

Sec. 22, lots 1, 7, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 23, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 26, lots 1, 2, and E $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 27, lots 1, 3, 4, and 6.

T. 58 N., R. 95 W.,

Sec. 3, lots 1 and 2;

Sec. 6, lots 5, 6, and 8.

The area described aggregates 1,038.85 acres in Big Horn County.

3. The Executive Order of August 16, 1917, creating Powersite Reserve No. 650, is hereby revoked insofar as it affects the following described lands:

T. 57 N., R. 95 W., (Partially Surveyed),

Sec. 1, The remaining lands in Section 1,

excluding: Lots 1, 2, 3, 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$,

NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and

N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 58 N., R. 95 W.,

Sec. 24, lot 1, and E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 25, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$.

The land described contains approximately 796.77 acres in Big Horn County.

4. The State of Wyoming has waived its right to select lands for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

5. At 10 a.m. on March 16, 1982, the following described public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Sixth Principal Meridian

T. 55 N., R. 94 W.,

Sec. 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 57 N., R. 94 W.,

Sec. 23, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 26, E $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 58 N., R. 95 W.,

Sec. 6, lots 5 and 6.

The area described contains 240.03 acres in Big Horn County.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4371 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6158

[M-40673]

Montana; Partial Revocation of Public Water Reserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order and a Secretarial order as to 120 acres withdrawn for a public water reserve. The 80 acres will be restored to operation of the general land laws, including nonmetalliferous mineral location under the mining laws. The remaining 40 acres are privately owned.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Secretarial Order of April 8, 1932, as Interpretation No. 160, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 23 N., R. 17 E.,
Sec. 1, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described contains 120 acres in Blaine County.

2. At 8 a.m. on March 16, 1982 the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in order of filing.

3. The lands described in paragraph one will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on March 16, 1982.

4. This action will not restore the SW $\frac{1}{4}$ SE $\frac{1}{4}$ to operation of the public land laws as it is in private ownership.

The lands described in paragraph one have been and continue to be open to location for metalliferous minerals under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.

[FR Doc. 82-4372 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6159

[LAKEVIEW-013504]

Oregon; Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: The order revokes a Secretarial order which withdrew 1,882.57 acres of land as a stock driveway. This action restores the land

to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 16, 1930, which withdrew the following described lands for a stock driveway is hereby revoked:

Willamette Meridian

Freemont National Forest

T. 31 S., R. 14 E.,

Sec. 35, W $\frac{1}{2}$ E $\frac{1}{2}$.

T. 32 S., R. 14 E.,

Sec. 2, Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 11, W $\frac{1}{2}$ E $\frac{1}{2}$;

Sec. 14, W $\frac{1}{2}$ E $\frac{1}{2}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 15, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 22, E $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 27, E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 34, E $\frac{1}{2}$ W $\frac{1}{2}$.

T. 33 S., R. 14 E.,

Sec. 3, Lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 4, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 9, E $\frac{1}{2}$ E $\frac{1}{2}$;

Sec. 16, E $\frac{1}{2}$ E $\frac{1}{2}$.

The areas described aggregate 1,882.57 acres in Lake and Klamath Counties.

2. At 10 a.m., on March 16, 1982, the lands described above will be open to such forms of disposition as may by law be made of national forest lands. The lands have been and continue to be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4373 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6160

[OR-18994-A, OR-20221-B]

Oregon; Partial Revocation of Public Water Reserves No. 61 and No. 118

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive Orders in part as to 520.53 acres of land withdrawn as public water reserves. This action will restore the lands to operation of the public land laws generally, including

nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Champ C. Vaughan, Jr., Oregon State Office 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders of February 25, 1919 and February 13, 1929, which withdrew certain lands for public water reserve purposes are hereby revoked insofar as they affect the following described lands:

Willamette Meridian

Public Water Reserve No. 118

T. 18 S., R. 37 E.,

Sec. 29, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$.

Public Water Reserve No. 61

T. 22 S., R. 40 E.,

Sec. 32, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 33, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 23 S., R. 40 E.,

Sec. 5, Lots 1 and 2.

T. 29 S., R. 41 E.,

Sec. 12, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 35 S., R. 42 E.,

Sec. 19, Lots 10, 11, 12, 19, and 20.

The areas described aggregate 520.53 acres in Malheur County.

2. At 10 a.m., on March 16, 1982, the lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on March 16, 1982, the lands described above will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4345 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6161

[OR-22095 (WASH)]

Washington; Partial Revocation of Secretarial Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order in part as to 157.50 acres of land withdrawn for lighthouse purposes. The lands will not be restored to operation of the public land laws because they remain withdrawn for the Dungeness National Wildlife Refuge.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT:

Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of October 1, 1851, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

- T. 31 N., R. 3 W.,
Sec. 18, westerly 2,000 feet of lot 1.
T. 31 N., R. 4 W.,
Sec. 13, lots 1, 2, 3, and 4;
Sec. 14, lot 1;
Sec. 24, lots 1 to 5, inclusive;
Sec. 25, lot 5;
Sec. 26, lot 3.

The areas described aggregate approximately 157.50 acres in Clallam County.

2. The above described lands are withdrawn for the Dungeness National Wildlife Refuge and remain segregated from operation of the public land laws generally, including the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4346 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6162

[R-2601]

California; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke Bureau of Reclamation Orders which withdrew public lands for the Colorado River Storage and Yuma Projects in California. This action will restore 442.10 acres of public land to the operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Marie M. Getsman, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Orders of the Bureau of Reclamation dated January 31, 1903; April 2, 1909; April 9, 1909; April 5, 1910; October 19, 1920; and July 26, 1929, withdrawing public lands for the Colorado River Storage and Yuma Projects, are hereby revoked insofar as they affect the following described lands:

San Bernardino Meridian

- T. 15 S., R. 12 E.,
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, lots 2, 3, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 29, lots 1, 2, 3, 4, and 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, lots 1, 2, 3, 4, 5, 6, and 7, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, and that part of Tract 73 lying within sec. 32.
T. 16 S., R. 12 E.,
Sec. 5, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 7, lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, lots 3 and 4, E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 34, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 16 $\frac{1}{2}$ S., R. 12 E.,
Sec. 2, lot 1, 2, 3, Tract 108 (Formerly described as sec. 36, T. 16 S., R. 12 E.).

T. 14 S., R. 13 E.,
Sec. 32, lot 1, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 17 S., R. 13 E.,
Sec. 17, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, lots 3, 4, 6, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 14 S., R. 15 E.,
Sec. 24, lot 20;
Sec. 25, lot 1.

T. 13 S., R. 16 E.,
Sec. 16, E $\frac{1}{2}$;
Sec. 21, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 27, SW $\frac{1}{4}$.

T. 15 S., R. 16 E.,

Sec. 36, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$.

T. 16 S., R. 16 E.,

Sec. 13, lot 22;

Sec. 23, That portion of Tract 64 located in Section 23;

Sec. 24, That portion of Tract 64 located in Section 24;

Sec. 25, That portion of Tract 64 located in Section 25;

Sec. 26, That portion of Tract 64 located in Section 26;

T. 17 S., R. 16 E.,

Sec. 3, That portion of Tract 68 located in Section 3;

Sec. 4, That portion of Tract 68 located in Section 4;

Sec. 9, That portion of Tract 68 located in Section 9;

Sec. 10, lots 1, 10, 20, 21, W $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, portion of Tract 41 in sec. 10, portion of Tract 68 located in Section 10, NW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 11, lots 7, 10, 11, 13, 15, portion of Tract 41 located in Section 11, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 14, That portion of Tract 41 in Section 14;

Sec. 15, lots 2, 3, 4, 7, portion of Tract 41 in Section 15;

Sec. 16, lot 3.

The area described aggregates 5,821.80 acres in Imperial County.

2. At 10 a.m. on March 16, 1982, the following described public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

San Bernardino Meridian

- T. 15 S., R. 12 E.,
Sec. 32, lot 7, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 16 S., R. 12 E.,
Sec. 29, S $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 14 S., R. 13 E.,
Sec. 32, lot 1, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 14 S., R. 15 E.,
Sec. 24, lot 20;
Sec. 25, lot 1.
T. 17 S., R. 16 E.,
Sec. 10, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described aggregates 442.10 acres.

3. The public lands in paragraph 2 will be open to location under the United States mining laws at 10 a.m. on March 16, 1982. All the lands in paragraph 2 and the W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ sec. 17, and N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 20, T. 17 S., R. 13 E., have been and continue to be open to applications and offers under the mineral leasing laws.

4. Of the lands described in paragraph 1, the following are privately owned and

not subject to disposition under the public land laws:

- T. 15 S., R. 12 E.,
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, lots 2, 3, E $\frac{1}{2}$ NW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 29, lots 1, 2, 3, 4, 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 32, lots 1, 2, 3, 4, 5, and 6, E $\frac{1}{2}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, and
that part of Tract 73 lying within Sec. 32.
- T. 16 S., R. 12 E.,
Sec. 5, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 7, lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, lots 3 and 4, E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 34, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 16 $\frac{1}{2}$ S., R. 12 E.,
Sec. 2, lots 1, 2, 3, Tract 108 (Formerly
described as Sec. 36, T. 16 S., R. 12 E.)
- T. 17 S., R. 13 E.,
Sec. 17, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, lots 3, 4, 6, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 13 S., R. 16 E.,
Sec. 16, E $\frac{1}{2}$;
Sec. 21, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 27, SW $\frac{1}{4}$.
- T. 15 S., R. 16 E.,
Sec. 36, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$.
- T. 16 S., R. 16 E.,
Sec. 13, lot 22;
Sec. 23, That portion of Tract 64 located in
Section 23;
Sec. 24, That portion of Tract 64 located in
Section 24;
Sec. 25, That portion of Tract 64 located in
Section 25;
Sec. 26, That portion of Tract 64 located in
Section 26.
- T. 17 S., R. 16 E.,
Sec. 3, That portion of Tract 68 in Section 3;
Sec. 4, That portion of Tract 68 in Section 4;
Sec. 9, That portion of Tract 68 in Section 9;
Sec. 10, lots 1, 10, 20, 21, W $\frac{1}{2}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$, portion of Tract 41 in section
10, portion of Tract 68 in Section 10;
Sec. 11, lots 7, 10, 11, 13, 15, portion of Tract
41 in Section 11, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, That portion of Tract 41 in Section
14;
Sec. 15, lots 2, 3, 4, 7, portion of Tract 41 in
Section 15;
Sec. 16, lot 3.

The area described aggregates 5,379.70 acres.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, U.S. Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.

[FR Doc. 82-4344 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6163

[Nev-047458, Nev-047460, Nev-047461,
Nev-047465, Nev-047469, Nev-047471,
Nev-047473]

Nevada; Revocation of Public Water Reserves

AGENCY: Bureau of Land Management,
Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke seven Executive orders that withdrew 538.15 acres for use as public water reserves. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Vienna Wolder, Nevada State Office,
702-784-5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 5344 of May 8, 1930, Executive Order No. 5594 of April 6, 1931 and Executive Orders dated May 25, 1921, April 15, 1922, November 27, 1922, November 20, 1925 and October 28, 1929, which withdrew the following described lands for use as public water reserves are hereby revoked in their entirety:

Mount Diablo Meridian

- T. 34 N., R. 22 E.,
Sec. 2, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
T. 36 N., R. 23 E.,
Sec. 5, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
T. 42 N., R. 25 E.,
Sec. 25, lots 1 to 5 inclusive.
T. 39 N., R. 26 E.,
Sec. 3, lot 16.
T. 24 N., R. 48 E.,
Sec. 3, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
T. 23 $\frac{1}{2}$ N., R. 49 E.,
Sec. 1, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
T. 47 N., R. 68 E.,
Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described contains 538.15 acres (160 in Elko County, 120 in Eureka County, 40 in Humboldt County, 218.15 in Washoe County).

2. At 10 a.m. on March 16, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received

thereafter shall be considered in the order of filing.

3. At 10 a.m. on March 16, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and will continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.

[FR Doc. 82-4350 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6164

[C-22037]

Colorado; Powersite Restoration No. 757; Partial Revocation of Powersite Reserve Nos. 116, 244, and 253; Powersite Cancellation No. 346; Partial Cancellation of Powersite Classification No. 89

AGENCY: Bureau of Land Management,
Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three Executive orders and a Secretarial order which withdrew lands for powersite purposes. Approximately 3,006 acres will be opened to operation of the public land laws, and 1,391 acres of national forest lands will be opened to such forms of disposition as may be made of such lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Richard D. Tate, Colorado State Office,
303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-509 Colorado, it is ordered as follows:

1. Executive Order of July 2, 1910, withdrawing lands for Powersite Reserve No. 116 is hereby revoked insofar as it pertains to the following described national forest lands:

White River National Forest, Sixth Principal Meridian**Powersite Reserve No. 116**

T. 5 S., R. 87 W.,

Sec. 16, lots 7 thru 12;

Sec. 20, lots 10 thru 18, N $\frac{1}{2}$ NE $\frac{1}{4}$,SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 21, lots 5 thru 9, 11, N $\frac{1}{2}$ NE $\frac{1}{4}$,NW $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 29, lots 1, 2, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;Sec. 30, lots 10 thru 20, SE $\frac{1}{4}$ NE $\frac{1}{4}$,SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 31, lots 5, 6.

The lands described aggregate approximately 1,391 acres in Garfield County.

2. Executive Order of July 2, 1910, withdrawing lands for Powersite Reserve No. 116 is hereby revoked insofar as it pertains to the following described public lands:

Sixth Principal Meridian**Powersite Reserve No. 116**

T. 5 S., R. 86 W.,

Sec. 1, lots 7, 8;

Sec. 2, lots 9 thru 13, NE $\frac{1}{4}$ SW $\frac{1}{4}$,SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 3, lots 11 thru 17, S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 4, lots 16 thru 27;

Sec. 5, lots 24 thru 26, 28, 29;

Sec. 6, lots 21 thru 23, 25, 27, 28.

T. 5 S., R. 87 W.,

Sec. 1, lots 14 thru 17, SW $\frac{1}{4}$ SW $\frac{1}{4}$,NW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 10, SE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 11, lots 9 thru 16, N $\frac{1}{2}$ SW $\frac{1}{4}$,NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 12, lots 11 thru 17, 19 thru 22,

NW $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 14, lots 3, 4, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 15, lots 9 thru 12, 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$,SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The lands described aggregate approximately 2,002 acres in Eagle County.

3. Executive Order of February 17, 1912, withdrawing lands for Powersite Reserve No. 224 is hereby revoked insofar as it pertains to the following described public lands:

Powersite Reserve No. 244

T. 5 S., R. 86 W.,

Sec. 5, lots 23, 27;

Sec. 6, lots 16, 20, 24, 26, SE $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 7, lots 5 thru 8, E $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 8, lots 1 thru 3.

The lands described aggregate approximately 404 acres in Eagle County.

4. Executive Order of March 23, 1912, withdrawing lands for Powersite Reserve No. 253 is hereby revoked insofar as it pertains to the following described public lands:

Powersite Reserve No. 253

T. 5 S., R. 86 W.,

Sec. 1, lots 5, 6, S $\frac{1}{2}$ N $\frac{1}{2}$;

Sec. 2, lots 5 thru 8;

Sec. 3, lots 5, 6, 9, 10;

Sec. 5, lots 21, 22;

Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The lands described aggregate approximately 560 acres in Eagle County.

5. Secretary's Order of February 24, 1925, withdrawing lands for Powersite Classification No. 89 is hereby revoked insofar as it pertains to the following described public land:

Powersite Classification No. 89

T. 5 S., R. 86 W.,

Sec. 1, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The land described contains 40 acres in Eagle County.

6. At 7:45 a.m. on March 16, 1982, the lands described in paragraph one shall be open to such forms of disposition as may by law be made of national forest lands.

7. At 7:45 a.m. on March 16, 1982, the public lands described in paragraphs two, and three, four and five shall be open to operation of the public land laws generally, subject to any valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. All of the lands described above remain open to mineral leasing and to location and entry under the United States mining laws.

Inquiries concerning these lands should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4347 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6165

[M 41833]

Montana; Partial Revocation of Public Land Order No. 642; Public Water Reserve No. 164

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Public Land Order No. 642, which withdrew lands for use as a public water reserve. This action will restore the lands to national forest status and open them to such forms of disposition as may by law be made of such lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 642, dated May 9, 1950, which withdrew lands within the Deer Lodge National Forest for a public water reserve is hereby revoked insofar as it affects the following described lands:

Public Water Reserve No. 164**Principal Meridian**

T. 4 N., R. 8 W.,

Sec. 34, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,NE $\frac{1}{4}$ SW $\frac{1}{4}$; and NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 160 acres in Silver Bow County.

2. At 8 a.m. on March 16, 1982, the lands will be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4346 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6166

[OR-19025, OR-19029]

Oregon; Powersite Restoration No. 695; Partial Revocation of Powersite Reserves No. 26 and No. 63

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive Order in part as to 520.67 acres of land withdrawn for powersite reserves. This action will restore the lands to operation of the public land laws generally.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-545-Oregon, it is ordered as follows:

1. The Executive Order of July 2, 1910, which created Powersite Reserves No. 26 and No. 63, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian**Powersite Reserve No. 26**

T. 12 S., R. 12 E.,
Sec. 29, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 15 S., R. 12 E.,
Sec. 25, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 35, N $\frac{1}{2}$ SE $\frac{1}{4}$.

Powersite Reserve No. 63

T. 12 S., R. 12 E.,
Sec. 27, Lot 3;
Sec. 28, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 33, E $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 520.67 acres in Deschutes and Jefferson Counties.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m., on March 16, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands have been open to applications and offers under the mineral leasing laws and 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).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4374 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6167

[C-16100]

Colorado; Modification and Partial Revocation of Public Land Order Nos. 725, 2302, and 3092 Affecting Lands in the Roosevelt, San Isabel, and Rio Grande National Forests

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies Public Land Order Nos. 725, 2302 and 3092 to eliminate a duplication of national forest withdrawals and partially revokes Public Land Order Nos. 725 and 2302 to restore about 150 acres to such forms of

disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 725 dated June 4, 1951, is revoked as to the following described lands:

Sixth Principal Meridian

Laramie River Road Camp—Roosevelt National Forest

T. 8 N., R. 75 W.,
Sec. 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$. 10 acres.

New Mexico Principal Meridian

Garfield Campground—San Isabel National Forest

T. 50 N., R. 6 E.,
Sec. 33, lot 7. 38.41 acres.

2. Public Land Order No. 3092 dated May 22, 1963, is revoked as to the following described land:

New Mexico Principal Meridian

Garfield Campground—San Isabel National Forest

T. 50 N., R. 6 E.,
Sec. 33, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$. 10 acres.

The 58.41 acres of land described in paragraphs one and two remain withdrawn by other national forest withdrawal orders.

3. Public Land Order No. 2302 dated March 14, 1961, is revoked as to the following described lands:

New Mexico Principal Meridian

North Crestone Campground—Rio Grande National Forest

T. 44 N., R. 12 E.,
Sec. 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$. 110 acres.

4. Public Land Order No. 725 dated June 4, 1951, is revoked as to the following described lands:

New Mexico Principal Meridian

Shavano Campground—San Isabel National Forest

T. 50 N., R. 6 E.,
Sec. 12, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$. 40 acres.

5. At 7:45 a.m. on March 16, 1982, the lands described in paragraphs three and four shall be open to such forms of

disposition as may by law be made of national forest lands.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4375 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6168

[C-21456]

Colorado; Partial Revocation of Reclamation Withdrawals, Fryingpan-Arkansas Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order and a Public Land Order which withdrew lands for reclamation purposes. The national forest lands will be opened to such forms of disposition as may be made of such lands. The public lands will be opened to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Secretary's Order dated May 24, 1946, withdrawing lands for the Gunnison-Arkansas Project (now Fryingpan-Arkansas Project) is hereby revoked as to the following described national forest lands:

San Isabel National Forest**Sixth Principal Meridian**

T. 15 S., R. 79 W.,
Sec. 27, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 28, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The land described contains 220 acres in Chaffee County.

2. Public Land Order No. 3500 dated December 2, 1946, is hereby revoked as to the following described lands:

Sixth Principal Meridian

T. 15 S., R. 78 W.,
Sec. 17, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

New Mexico Principal Meridian

T. 51 N., R. 8 E.,
Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 27, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$;

Part of the land in section 27 described by metes and bounds is in patent No. 1097106.

The lands described aggregate approximately 600 acres in Chaffee County.

3. At 7:45 a.m. on March 16, 1982, the lands in paragraph one shall be open to such forms of disposition as may by law be made of national forest lands.

4. At 7:45 a.m. on March 16, 1982, the public lands in paragraph two shall be open to operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 7:45 a.m. on March 16, 1982, the lands will be open to location under the United States mining laws. All the lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be directed to Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior,
February 8, 1982.

[FR Doc. 82-4376 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6169

[M 40893]

Montana; Partial Revocation of Executive Order Dated March 3, 1915; Public Water Reserve No. 27

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order as to 320 acres withdrawn for public water reserve purposes. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 16, 1982

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management

Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive order dated March 3, 1915, is hereby partially revoked insofar as it affects the following described lands:

Public Water Reserve No. 27

Principal Meridian

T. 21 N., R. 36 E.,
Sec. 24, W 1/2 W 1/2;
Sec. 25, W 1/2 W 1/2.

The area described contains 320 acres in Garfield County.

2. At 8 a.m. on March 16, 1982, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The lands will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on March 16, 1982.

The lands have been and continue to be open to locations for metalliferous minerals under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior,
February 8, 1982.

[FR Doc. 82-4377 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 333

[Docket No. FEMA-PP-333-1]

Peacetime Screening of Non-Federal Employees Who Are Members of the Military Reserve

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule applies to key non-Federal employees who are Ready Reservists. It establishes screening procedures to provide the maximum military force in the event of mobilization and at the same time assures effective functioning of State

and local governments and civil industries.

EFFECTIVE DATE: February 18, 1982.

ADDRESS: Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT:

Messrs. Charles McIntosh (202-287-3963) or Robert Frandsen (202-287-3952), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION:

On February 23, 1981, the Federal Emergency Management Agency published a proposed rule entitled "Peacetime Screening of Non-Federal Employees Who Are Members of the Military Reserve" (44 CFR Part 333). The comment time has now passed. Seven comments were received; all requested information and clarification which was provided by telephone. Based on these discussions and other suggestions, we are publishing the proposed rule in final form.

It has been determined that this regulation is informative in nature, will have little, if any, impact on costs or competition, and thus is not a major rule. Also, as the regulation only specifies procedures for planning for a contingency, it has little if any economic impact. Thus, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. No regulatory impact analysis will be prepared. As this rule is procedural, it can and will become effective February 18, 1982.

On March 27, 1979, in a related rule affecting Federal departments and agencies the Federal Preparedness Agency, General Services Administration, published a Circular (FPC-9) entitled "Federal Employees who are Members of the Military Ready Reserve." Subsequently, the functions of the Federal Preparedness Agency were transferred to the Federal Emergency Management Agency by Executive Order 12148 (44 FR 43239, effective July 15, 1979). This rule involves the Secretary of Defense and the Secretary of Transportation under Executive Order 11190, as amended by Executive Order 11382. It relates to DOD Directive 1200.7, November 28, 1978, Screening the Ready Reserve (44 FR 11215, February 28, 1979). In connection with DOD Screening under 32 CFR Part 44, this Part 333 furnishes FEMA guidance to State and local governments, and private industry. Accordingly, Subchapter E of Chapter I of Title 44 of the Code of Federal Regulations is

amended by adding new Part 333, to read as follows:

PART 333.—PEACETIME SCREENING

Sec.

- 333.1 Purpose.
- 333.2 Scope and applicability.
- 333.3 Policy.
- 333.4 Procedures.
- 333.5 Responsibilities.

Authority: Section 103 of the National Security Act of 1947, as amended (50 U.S.C. 404), Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*), Executive Order 12148 of July 20, 1979 (44 FR 43239), Executive Order 11190, as amended by Executive Order 11382.

§ 333.1 Purpose.

To provide procedures for eliminating conflict between key civil employment and military assignment of Ready Reservists in the event of a mobilization of the Ready Reserve.

§ 333.2 Scope and applicability.

Employees are responsible for informing employers of their reserve status. If mobilization is directed, procedures in § 333.4(e) will terminate and all members of the Ready Reserve will be subject to mobilization.

Employers in State and local governments and private industry should identify and inform the Department of Defense of those reservists who continue to occupy key positions in their organizations after other remedies to staff these positions with non-reserve personnel are inappropriate.

§ 333.3 Policy.

(a) Ready Reservists will be called into active military service in a national emergency. No deferment from mobilization will be granted because of civil employment.

(b) The Federal Emergency Management Agency and the Department of Defense recognize that a potential for conflict between military and civil employment could exist for Ready Reservists. They have agreed to consider changing a reservist's assignment if they are essential civil employees. This change in status could only be made prior to a mobilization.

(c) It is in the interest of employers that key positions held by Ready Reservists be screened and appropriate steps be taken to correct military and civil assignments.

§ 333.4 Procedures.

Prior to a mobilization, State and local governments, and private industry may identify all key employees who are

members of the Ready Reserve, assess impact on their organization of a call-up of Reservists, and use the following procedures as appropriate:

(a) Prepare other employees to assume the essential functions of Ready Reservists.

(b) Transfer the essential functions of Ready Reservists to other employees.

(c) Develop plans to fill positions vacated by Ready Reservists in a mobilization.

(d) Make other arrangements to have the essential functions of Ready Reservists performed.

(e) If these remedies are not appropriate, these organizations can use the criteria and procedures in Department of Defense Regulation 32 CFR Part 44 on a case-by-case basis to request that particular key employees be screened out of the Ready Reserve.

§ 333.5 Responsibilities.

Employers of Ready Reservists may notify the Armed Forces in order to determine if potential conflicts affecting their employees between military or civil duties warrant change in Ready Reserve status. The Department of Labor, through appropriate national and regional offices, will be available to advise State and local government and private industry in support of a mobilization and assist such entities in substantiating their claims for essential civil positions.

The Department of Defense may advise civilian employers of Ready Reservists of their employees' Ready Reserve status, including name, social security number, and other data necessary to identify Ready Reserve employees.

In all cases, 32 CFR Part 44 procedures shall pertain. If an organization's request for exemption from military duties is denied by DOD and should continued conflict between DOD and employers persist on essential civil employment, on the basis of criteria adopted jointly by the Departments of Commerce, Defense, and Labor and the Federal Emergency Management Agency, then FEMA shall adjudicate the differences.

Dated: February 10, 1982.

John R. Brinkerhoff,

Acting Associate Director, National Preparedness Programs Directorate, Federal Emergency Management Agency.

[FR Doc. 82-4302 Filed 2-17-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-567; RM-3619]

FM Broadcast Station in Brookville and Versailles, Ind.; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action denies the request of Twin Forks, Inc. to delete FM Channel 276A from Versailles, Indiana, and reassign it to Brookville, Indiana.

DATE: Effective April 9, 1982.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, 632-5414.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Brookville and Versailles, Indiana); BC Docket No. 80-567, RM-3619; Report and order (proceeding terminated).

Adopted: January 28, 1982.

Released: February 8, 1982.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 45 FR 64984, published October 1, 1980, proposing the deletion of Channel 276A from Versailles, Indiana, and reassignment of that channel to Brookville, Indiana, at the request of Twin Forks, Inc. ("petitioner"), and a Request For Supplemental Information by the Commission, 46 FR 39629, published on August 4, 1981.

2. Versailles (population 1,560),¹ seat of Ripley County (population 24,398), is located approximately 112 kilometers (70 miles) southeast of Indianapolis, Indiana. Versailles has no local aural broadcast service, although it has one FM assignment, Channel 276A. Brookville (population 2,879), seat of Franklin County (population 16,612), is located approximately 43 kilometers (27 miles) northeast of Versailles, Indiana. It has no local aural broadcast service or FM assignments.

3. Petitioner expressed an interest in applying for the channel, if assigned to Brookville. Assignment of the channel would require a site restriction of approximately 11.5 kilometers (7.2 miles) northwest of the city. See, para. 11, *infra*.

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

4. An opposition to the proposal was filed by WCNB, Inc. ("WCNB"), licensee of Stations WCNB(AM) and WCNB-FM, Connersville, Indiana. WCNB submitted an engineering report indicating that a city-grade signal cannot be placed over Brookville from the petitioner's proposed transmitter site as required by the Commission's Rules² due to the fact that Brookville is located in a valley to which FM line-of-sight is impossible.

5. In response, petitioner stated that the proposed transmitter location was the best possible site for serving Brookville and portions of the surrounding area; and that certain assumptions made by WCNB are without basis in fact.

6. Our analysis of the engineering data submitted by WCNB led us to doubt whether a 70 dBu signal could be placed over Brookville given the necessary site restrictions. Accordingly, we issued the above-referenced Request for Supplemental Information, calling upon petitioner to "submit further information regarding its ability to provide a 70 dBu signal over the community of Brookville and include in its showing specific technical data to support its conclusions." We also pointed out that, although the Commission does not generally consider technical issues in the rule making context, an exception is made if it can be shown that there are no possible sites which can be utilized to provide city-grade service to the principal community to be served. See, e.g., *Attica, New York*, 59 F.C.C. 2d 1137 (1975); and that, rather than denying petitioner's proposal at that time, the petitioner should be given an opportunity to address our concerns.

7. In its Reply to our Request for Supplemental Information, petitioner states that the site which it proposed initially is not the only site available within the "open area" fixed by separation requirements. Petitioner claims that there are locations in such area from which a 70 dBu signal could be placed over Brookville, and shows "a new example of transmitter site" in what appears on its topographic map to be the Metamora Quadrangle. From that site, petitioner has depicted a radial at 106° E running directly through the community of Brookville. Petitioner concludes that "a line of site signal is easily transmittable to the lowest mean ground level of the community of Brookville, from the sample site shown and/or other like it nearby;" and that "in

fact, a site level 50' higher is readily available only 900' northeast of the sample site used for the Exhibit."

8. Petitioner disputes the site restriction of 11.5 kilometers (7.2 miles) which we indicated. Petitioner pleads that easing of mileage separations as proposed in BC Docket No. 80-90 would remove any line-of-sight problems with respect to assignment of Channel 276A to Brookville.

9. WCNB, in its Reply to petitioner's supplemental information, contends that, although petitioner was to provide specific technical data for its proposed station, it has, instead, supplied speculation as to what its antenna height might be, and where a site might be located. WCNB submitted an affidavit of its consulting engineer showing that petitioner's depiction of the 106° radial across Brookville indicates shadowing at the elevation in Brookville where most people live. The affidavit also notes substantial questions regarding shadows in the city limits on radials either side of the 106° radial. WCNB notes that the petitioner has not shown that there is a site available which would meet all present mileage separation requirements and provide a city grade signal over Brookville. WCNB also notes that if petitioner intends to seek the Brookville channel allocation under the proposed new mileage separations in BC Docket No. 80-90, it should file its proposal when and if the proposed rules are actually implemented; that the proposed new rules have no bearing on this case. In conclusion, WCNB states that petitioner's request should be denied and that Channel 276A should remain allocated to Versailles, Indiana.

10. Petitioner's proposal to delete FM Channel 276A from Versailles, Indiana, and assign it to Brookville, Indiana, will be denied. Petitioner's reply to our request for supplemental information fails to set forth specific technical data to establish that it could comply with the mileage separation requirements and provide a 70 dBu signal over all of Brookville as required by § 73.315(a) of our Rules.

11. Our further examination of the proposal shows that petitioner's assertion that the mileage restriction should be lessened was correct. A site restriction of 9.92 kilometers (6.2 miles) northwest would be required, based on a 64 kilometer (40 mile) separation requirement from FM Station WBLZ, Hamilton, Ohio (Channel 278).

12. Petitioner submitted no further technical data to show that it could provide a 70 dBu signal over Brookville

from the site which it originally specified. With respect to petitioner's new "sample site," our examination shows that a 70 dBu signal would not cover the entire community of Brookville. It appears that the required signal would be provided to a small part of the community but would leave most of the community with a derogated signal. Shadowing would appear to occur 0.4 mile in length, within Brookville, while the distance across the entire city is approximately 0.7 mile, as pointed out by WCNB. Such derogated service would be disadvantageous to the community and a wasteful use of the channel. We believe that the public interest would be better served under the circumstances by retaining the channel in Versailles, Indiana.

13. Petitioner argues that the purpose of an FM rule making is to determine whether there is a need for, and interest in, a proposed facility and that the overriding consideration here is the petitioner's providing a first local broadcast service for Brookville. However, where it is concluded that there are no possible sites which can be utilized to provide city-grade service to the principal community to be served, a rule making would serve no useful purpose. Rather, the channel could be put to better use in providing a first local service at Versailles. See, para. 6, above.

14. Petitioner's reliance in any way upon proposed easing of separation requirements in BC Docket No. 80-90, is premature. A proposal relying upon any provisions therein could be filed if and when such rules are promulgated.

15. For the reasons set forth above, we find that the public interest would be served by denying the petition of Twin Forks, Inc. to delete Channel 276A from Versailles, Indiana, and reassign it to Brookville, Indiana.

16. Authority for the action herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

17. Accordingly, it is ordered, that the above-captioned petition by Twin Forks, Inc., IS DENIED.

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

19. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

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

² Section 73.315(a) provides that a minimum field strength of 70 dBu must be provided over the entire principal community to be served.

Federal Communications Commission.
 Martin Blumenthal,
 Acting Chief, Policy and Rules Division,
 Broadcast Bureau.
 [FR Doc. 82-4305 Filed 2-17-82; 8:45 am]
 BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 173

[Docket No. HM-166I; Amdt. Nos. 171-64,
 173-53]

Transportation of Liquefied Petroleum Gas in Intrastate Commerce

AGENCY: Research and Special Programs
 Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule authorizes the continued use in intrastate service of certain nonspecification cargo tanks for the carriage of liquefied petroleum gas (LPG) in States where this practice was permitted prior to the adoption of the Department's Hazardous Materials Regulations (HMR) by those States. This action is necessary because, in the past, individual States have permitted LPG to be transported in intrastate service in cargo tanks which were not built to the requirements of DOT Specification MC-330 or MC-331. When States adopted the HMR, these nonspecification cargo tanks were no longer authorized for the transportation of LPG. These amendments will allow the continued use of nonspecification cargo tanks for the transportation of LPG in intrastate commerce until they are taken out of service and replaced with new tanks that meet DOT requirements.

DATE: This amendment is effective April 19, 1982. However, compliance with the regulations as amended herein, is authorized immediately.

FOR FURTHER INFORMATION CONTACT:
 Darrell L. Raines, Chief, Exemptions and
 Regulations Termination Branch, Office
 of Hazardous Materials Regulation,
 Materials Transportation Bureau, 400
 7th Street SW., Washington, D.C. 20590
 (202-472-2726).

SUPPLEMENTARY INFORMATION: On May 18, 1981, the MTB published a notice of proposed rulemaking under Docket No. HM-166I; Notice No. 81-2 (46 FR 27146), which proposed an amendment to allow the continued use of certain nonspecification cargo tanks for the transportation of LPG in intrastate commerce.

Since passage of the Hazardous
 Materials Transportation Act (HMTA)

of 1974 (49 USC 1801 et seq.) the MTB has encouraged the adoption of the Hazardous Materials Transportation Regulations (49 CFR Parts 170 to 179) by the States in order to promote uniformity in safety regulation throughout the nation. However, the adoption of the Department's Hazardous Materials Regulations has created a few problems for some cargo tank owners and operators in certain States. DOT regulations require cargo tanks for LPG to be constructed in compliance with either DOT Specification MC-330 or MC-331. However, a number of cargo tanks not subject to DOT regulations (nor ICC regulations prior to 1967) have been constructed and used in intrastate commerce for many years without incident. While they were manufactured in accordance with certain consensus standards and were otherwise qualified for use, they do not meet the standards now required by DOT regulations. The result of a State's adoption and enforcement of DOT regulations is to immediately require that all cargo tanks in that jurisdiction comply with DOT specifications without provision for an adequate transition period.

The MTB received six comments on Notice No. 81-2. Two commenters stated that they supported the proposed amendments. However, they thought that the DOT should broaden the proposal to include interstate use of the nonspecification tanks. The MTB does not concur in the use of cargo tanks having a design pressure of less than 250 psig in interstate commerce. Three reasons for this denial are (1) it goes far beyond on what was proposed in the Notice; (2) it would be unfair to all of the carriers and owners who have purchased DOT specification equipment, and (3) it would be setting a precedent for the use of nonspecification cargo tanks in interstate commerce which would denigrate the value and validity of a nationally uniform system establishing the level of safety required for cargo tanks used to transport flammable gases such as propane.

Two comments received supported the proposed amendments with certain exceptions. First, they recommended that proposed paragraph §173.315(k) be revised to include reference to the API-ASME Code. One commenter recommended that a new paragraph (i) be added to §173.315(k) to read "Tanks designed and constructed in accordance with paragraphs U-68 or U-69 of the 1949 and earlier editions of the ASME Code and having a design pressure of 200 psi may be used provided that they comply with the other provisions of 173.315(k) of this subchapter. Such tanks may be rerated at a working pressure 25

percent in excess of the design pressure for which the tank was originally constructed, and if rerated shall be marked as follows: "Re-rated working pressure . . . psi." For purposes of setting safety relief valves and pressure control valves, and for establishing maximum and minimum design pressures, the rerated working pressure shall be considered as the equivalent of the design pressure as defined in these regulations." One commenter questioned use of the words "ASME certificate" in §173.315(k)(3). One commenter later withdrew his recommendation regarding reference to the API-ASME Code. The MTB does not concur that specific reference to made to the joint API-ASME Code. Inasmuch as the DOT (ICC prior to 1967) specification cargo tanks have referenced only the ASME Code for design, construction, and inspection requirements, it is not considered appropriate to include a reference to the API-ASME Code. Tanks designed and constructed in accordance with the ASME Code which have a design pressure less than 250 psig must be rerated to a working pressure of not less than 250 psig before entering service. The minimum design pressure which DOT is willing to accept for a cargo tank used to transport LPG is 250 psig.

One commenter stated that although the intention of the proposal is to "allow continued use of nonspecification cargo tanks for the transportation of LPG in intrastate commerce," proposed section 173.315(k)(6) goes far beyond the current situation. This commenter further stated that the Department has required, and enforced, the use of DOT specification cargo tanks by interstate carriers regardless of the inter/intra-state nature of the commerce. Since the proposal would permit a deterioration of the present safety situation, it is not believed to be in accordance with Congress' intent regarding "uniform national standards." Finally, this commenter recommended eliminating the words "including its operation by a motor carrier otherwise engaged in interstate commerce" from proposed §173.315(k)(6) and provide the "grandfather" exception to only intrastate carriers. The MTB does not agree with this commenter because application of the "grandfather" exception only to intrastate carriers would not alleviate the problems faced by a carrier whose status has changed from intrastate carrier to interstate carrier.

The last comment received was from the Hazardous Substances
 Transportation Board (HSTB) of the

Pennsylvania Department of Transportation which concurred in part with the proposed amendments. However, they recommended that documentation be required to be carried on each vehicle to establish the fact that the cargo tank complies with the requirements of § 173.315(k). Reasons cited by the HSTB for such documentation were to facilitate the highway enforcement program of the various States and to prevent unnecessary disruption of service by enforcement officials. While MTB recognizes that a requirement for the documentation recommended by the HSTB would somewhat ease the enforcement burden on both State and Federal enforcement personnel, this benefit is outweighed by the recordkeeping burden placed on the motor carrier to maintain a copy of these documents in each vehicle at all times. It is the policy of the Federal government to reduce, not add to the paperwork burdens to the regulated community. However, if the carrier elects to carry this documentation with the vehicle, it may facilitate inspection and prevent delays by enforcement officials.

Except for minor editorial changes in § 173.315(k)(1), (3), (k)(6), and a new (k)(7) no other changes have been made to Notice No. 81-2.

The MTB has determined that this regulation is consistent with Section 2 of Executive Order 12291, and is a non-major rule under the terms of that Order. Pursuant to the Regulatory Flexibility Act, this rule will not result in a significant economic impact on a substantial number of small entities because its effect is to eliminate a burdensome restriction on certain carriers of LPG.

In consideration of the foregoing, 49 CFR Parts 171 and 173 are amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7, paragraph (d)(6) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * *

(d) * * *

(6) NFPA Pamphlet No. 58 is titled, "Standard for the Storage and Handling of Liquefied Petroleum Gases," 1979 edition.

* * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.315, Note 2 following the table and paragraph (k) are revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * *

Note 1. * * *

Note 2. See § 173.32 for authority to use other portable tanks and for manifolding cargo tanks, see § 173.301(d).

* * *

(k) A nonspecification cargo tank meeting, and marked in conformance with, the edition of the ASME Code in effect when it was fabricated, may be used for the transportation of liquefied petroleum gas if it—

(1) Has a minimum design pressure no lower than 250 psig;

(2) Has a capacity of 3,500 gallons or less;

(3) Was manufactured in conformance with the ASME Code prior to January 1, 1981, according to its ASME name plate and manufacturer's data report;

(4) Conforms to NFPA Pamphlet 58;

(5) Has been inspected and tested in accordance with § 173.33 as specified for Specification MC-330 or MC-331;

(6) Is operated exclusively in intrastate commerce (including its operation by a motor carrier otherwise engaged in interstate commerce) in a state where its operation was permitted by the laws of that State (not including the incorporation of this subchapter) prior to January 1, 1981;

(7) Was used to transport liquefied petroleum gas prior to January 1, 1981; and

(8) Is operated in conformance with all other requirements of this subchapter.

* * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.) A regulatory evaluation and an environmental assessment are available for review in the docket. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4456 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Part 173

[Docket No. HM-166M; Amdt. No. 173-55]

Reinstatement of Department of Energy Approval Authority for Radioactive Materials Package Designs

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to reinstate authority to the Department of Energy (DOE) for the evaluation and approval of radioactive materials package designs. Prior authority was removed effective December 1, 1980. This action is necessary in order to avoid delays in the approval process which could severely limit the effectiveness of DOE nuclear programs.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Richard R. Rawl, Chief, Radioactive Materials Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202-426-2311).

SUPPLEMENTARY INFORMATION: On December 11, 1980, the MTB published Docket No. HM-56; Amdt. No. 106-3, 107-8, 171-58, 172-63, 173-142, 174-39, 175-18, 176-12, 177-51, 178-64 (45 FR 81570) which made numerous miscellaneous changes to 49 CFR. Item Number 39 of the referenced docket changed the designations "U.S. Atomic Energy Commission" and "USAEC" to read "U.S. Nuclear Regulatory Commission" and "USNRC" each time they appeared in the following sections and section headings: § 173.393a(a), (a)(1), (a)(2) (a)(3) and (a)(5), § 173.394(b)(3) and (c)(2), § 173.395(b)(2) and (c)(2), § 173.396(b)(4) and (c)(3). Prior to the above changes, the DOE and the NRC as successors to the Atomic Energy Commission had approval authority under the above referenced sections. Although the final rule was not intended to impose burdens upon any person, it did have an impact on the ongoing programs of DOE. The DOE has stated that their energy, space, medical, industrial and waste programs would

meet with lengthy delays if all package designs were required to pass through the approval process of the NRC and these delays could severely limit the effectiveness of the DOE nuclear program.

In view of the strict procedures the DOE requires to be followed to certify its own package designs for radioactive materials, the MTB agrees that DOE packaging requirements and evaluation techniques which demonstrate compliance with safety standards equivalent to those contained in 49 CFR Parts 100 to 177 and 10 CFR Part 71 are sufficient to protect the public health and safety.

Since this amendment is only reinstating an approval authority that was in 49 CFR prior to Docket HM-56 and does not impose additional requirements, public notice has not been provided and this amendment is effective without delay.

In consideration of the foregoing, Part 173 is amended to read as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

In § 173.7, paragraph (d) is added to read as follows:

§ 173.7 U.S. Government material.

(d) Notwithstanding the requirements of §§ 173.393a and 173.394 through 173.396 of this subchapter, packagings made by or under the direction of the U.S. Department of Energy may be used for the transportation of radioactive materials when evaluated, approved, and certified by the Department of Energy against packaging standards equivalent to those specified in 10 CFR Part 71. Packages shipped in accordance with this paragraph shall be marked and otherwise prepared for shipment in a manner equivalent to that required by this subchapter for packagings approved by the Nuclear Regulatory Commission.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1)

Note.—Because this amendment is only a reinstatement of a prior approval, the Materials Transportation Bureau has determined that the final rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the Docket. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4455 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Part 173

[Docket No. HM-166K, Amdt. No. 54]

Transportation of Anhydrous Ammonia in Intrastate Commerce

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Department's Hazardous Materials Regulations to allow the continued use in intrastate service of certain cargo tanks for the carriage of anhydrous ammonia in States where this practice was permitted until the Hazardous Materials Regulations were extended to cover both interstate and intrastate transportation of certain materials, including anhydrous ammonia, and prohibited such practice.

This is not a major rule. It is supported by the majority of the persons who submitted comments on the notice of proposed rulemaking. It is designed to rectify a situation which would cause hardship in the agricultural community and the industries which serve it.

EFFECTIVE DATE: This amendment is effective April 19, 1982. However, compliance with the regulations as amended herein is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street SW., Washington, D.C. 20590, telephone number (202) 426-2075.

SUPPLEMENTARY INFORMATION: On Thursday, September 24, 1981, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket No. HM-166K, Notice No. 81-7 [46 FR 47099], which proposed to amend the Hazardous Materials Regulations (HMR) to allow the continued use of certain specification and nonspecification cargo tanks in intrastate anhydrous ammonia service in States which historically have permitted, or never prohibited, the use of these cargo tanks for that service.

The Notice was based in part on a petition from the fertilizer industry to allow the continued use of these cargo tanks in order to avoid hardship both to farmers using anhydrous ammonia for

fertilizer and the fertilizer industry. Comments on the Notice were solicited with a closing date of November 23, 1981.

A total of eleven comments were received, ten from private individuals or companies and one from the Pennsylvania Department of Transportation (Pennsylvania DOT). Based on the comments received, the proposals in the Notice, with one revision, are being incorporated as amendments to the HMR. The following is a summary of the comments received on the Notice.

Of the ten comments received from individuals or companies, nine requested that the amendments proposed in the Notice be adopted. None of these comments went into detail on the proposed amendments or recommended any changes to them. All of these comments stressed the hardship that would fall on the agricultural community and the fertilizer industry which services it if the amendments were not adopted. The tenth commenter protested the elimination of the use of State approved cargo tanks in the first place.

The Pennsylvania DOT concurred in part in the amendments proposed in the Notice. However, they recommend that documentation be required to be carried on each vehicle to establish the fact that the vehicle had complied with the requirements contained in the proposed amendment. Reasons cited by the Pennsylvania DOT for such documentation were to make enforcement of the HMR by State authorities easier and to prevent unnecessary disruption of service by enforcement officials. While MTB recognizes that a requirement for the documentation suggested by the Pennsylvania DOT would somewhat ease the enforcement burden of both State and Federal enforcement personnel, this benefit is out-weighed by the recordkeeping burden placed on the carrier to maintain a copy of these documents in each vehicle at all times. It is the policy of the Federal government to reduce, not add to the paperwork burden of the regulated community. However, if the carrier elects to carry this documentation with the vehicle, it may facilitate inspections and prevent delays by enforcement officials.

As stated in the summary of the Notice it was the intention of the proposal to authorize the use of specification and nonspecification cargo tanks with a design service pressure of 250 psig in the carriage of anhydrous ammonia in intrastate service. However, due to oversight, the proposed change

dealt only with nonspecification cargo tanks. Cargo tanks built to Specification MC-330 or MC-331 with a design service pressure of 250 psig were omitted from the proposed rule change. This omission has been corrected by including Specification MC-330 and MC-331 cargo tanks in Note 17.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

1. In § 173.315 a new note, Note 17, is added to the Table in § 173.315(a)(1) and the entry for "Anhydrous ammonia" is revised. The note is referenced in the first column and the last two columns of the Table (with headings of "Type" and

"Minimum design pressure," respectively) for the first material entry: "Anhydrous ammonia."

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * * * *

(a) * * *

(1) * * *

TABLE

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
Anhydrous ammonia (see Notes 14 and 17 and paragraph (1) of this section).	56	82; see Note 5.....	DOT-51, MC-330, MC-331; see Notes 12 and 17.	265; see Note 17.

Note 17.—A Specification MC-330 or MC-331 cargo tank or a nonspecification cargo tank meeting, and marked in conformance with, the edition of the ASME Code in effect when it was fabricated, may be used for the transportation of anhydrous ammonia if it—

- (1) Has a minimum design pressure not lower than 250 psig;
- (2) Was manufactured in conformance with the ASME Code prior to January 1, 1981, according to its ASME name plate and manufacturer's data report;
- (3) Is painted white or aluminum;
- (4) Complies with Note 12 of this paragraph;
- (5) Has been inspected and tested in accordance with § 173.33 as specified for Specification MC-330 or MC-331;
- (6) Was used to transport anhydrous ammonia prior to January 1, 1981;
- (7) Is operated exclusively in intrastate commerce (including its operation by a motor carrier otherwise engaged in interstate commerce) in a state where its operation was permitted by the laws of that State (not including the incorporation of this subchapter) prior to January 1, 1981; and
- (8) Is operated in conformance with all other requirements of this subchapter.

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, Appendix A to Part 1).)

Note.—The Materials Transportation Bureau has determined that this document is not a "major rule" under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the Docket. I certify that this Amendment will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4457 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Parts 526 and 533

[Docket No. FE 82-01; Notice 1]

Petitions Under the Automobile Fuel Efficiency Act of 1980; Procedures Relating to Light Truck Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: This notice establishes requirements for the contents of petitions filed under the Automobile Fuel Efficiency Act of 1980 ("the 1980 Act"). The 1980 Act authorizes the granting of relief from certain requirements related to the automobile

fuel economy standards established under Title V of the Motor Vehicle Information and Cost Savings Act ("the Cost Savings Act"). This notice is being issued to inform manufacturers about the types of information which must be submitted in support of the various types of relief petitions and plans. This notice also expands the flexibility of manufacturers in determining how to group their vehicles for the purposes of compliance with the MY 1982 light truck fuel economy standards. Finally, this notice seeks comments on these actions before permanent rules are adopted.

DATES: Effective date: February 18, 1982. Comments on this notice must be received by the agency not later than April 5, 1982.

ADDRESS: Comments should refer to the docket and notice numbers and be submitted (preferably in 10 copies) to: Docket Section, Room 5109, National

Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Richard Strombotne, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0846).

SUPPLEMENTARY INFORMATION: The Automobile Fuel Efficiency Act of 1980 (94 Stat. 1821) amended the fuel economy provisions of the Motor Vehicle Information and Cost Savings Act to assist the automobile manufacturers in complying with fuel economy standards and to promote employment in the U.S. automotive industry. To obtain this relief, the 1980 Act requires manufacturers first to file petitions or plans with the agency and make certain specified showings. This

notice establishes an interim final regulation concerning the specific information which manufacturers must submit in their petitions and plans.

This notice addresses four different types of relief authorized under the 1980 Act. The agency has previously issued a rule under the 1980 Act relating to the availability of monetary credits for exceeding the light truck average fuel economy standards. See 45 FR 83233, December 19, 1980, and section 6(b) of the 1980 Act.

The first set of requirements established in this notice applies to the exemption provided by section 4(a) of the 1980 Act from the domestic content requirement in section 503 of the Cost Savings Act. The requirement specifies that if at least 75 percent of the cost to the manufacturer of an automobile is attributable to value added in the United States or Canada, the automobile is considered domestically-manufactured. If the percentage is below that level, the automobile is considered to be foreign-manufactured. See section 503(b)(2)(E). Under that requirement, if a manufacturer produces cars both in this country and abroad for sale in this country and it raises the domestic content of the cars produced in this country above 75 percent, it must ensure that its domestically-produced cars and its foreign-produced cars separately meet the fuel economy standards. Thus, the manufacturer could not average high fuel economy imported cars with lower fuel economy domestically-manufactured cars as a strategy for complying with the fuel economy standards.

The domestic content provision was originally included in the Cost Savings Act to promote employment in the U.S. automobile industry by encouraging manufacturers to produce high fuel economy vehicles in this country, instead of relying on the importation of high fuel economy cars which they produce or purchase abroad. However, the requirement for separate compliance has had the opposite effect on U.S. employment in its application to foreign manufacturers. Foreign manufacturers which seek or might seek to produce high fuel economy cars in the U.S. are penalized under the original domestic content provision. If they produce their high fuel economy cars in this country and eventually exceed 75 percent domestic content, they would lower the average fuel economy of their remaining foreign-produced fleet. As a result, a manufacturer's foreign fleet might not comply with the fuel economy standards, although its combined foreign

and domestic fleet would probably exceed the standard substantially.

To reduce this disincentive for foreign manufacturers to initiate production in this country and to achieve high levels of domestic content, Congress amended section 503(b) of the Cost Savings Act by adding a new subsection (3). Under that provision, a manufacturer which completes its first model year of domestic production of automobiles between 1975 and 1985 may petition the agency for exemption from the requirement for separate compliance so that it does not apply when the domestic content of the U.S. produced fleet exceeds 75 percent. Section 503(b)(3) requires that the agency grant such a petition unless it finds that doing so would "result in reduced employment in the United States related to motor vehicle manufacturing." Employment reductions could occur if, for example, granting the petition resulted in the petitioner's capturing increased sales from current U.S. manufacturers whose vehicles have a higher domestic content. The agency has already granted a petition under this provision to Volkswagen of America. (See 46 FR 54453; November 2, 1981.) It appears that in most instances, increasing U.S. content for one company should produce net increases in overall U.S. employment.

To determine whether to grant a petition filed under this provision, the agency needs information on the magnitude of these possible adverse employment effects, if any. The agency would also need to know the magnitude of the positive employment effects resulting from the decision to begin domestic production or increase domestic content. Therefore, the regulations or petitions and plans for relief set forth below specifies that a petitioning manufacturer submit information describing insofar as possible the vehicles it plans to sell in the United States during the exemption period, the projected sales of those vehicles, the domestic content of those vehicles and plans for obtaining components from domestic sources. Information is also required on the extent, if any, to which additional sales of the petitioner's vehicles are expected to be gained at the expense of current U.S. manufacturers, and the net employment impact of the shift in sales. The petitioner must also submit data on the yearly total employment related to its U.S. production operations to give an overview of the positive impact of granting the petition. Finally, information is required on the extent to which the petitioner's product plan and

component sourcing decisions would be affected by the agency's granting or denial of the petition.

The second relief provision added by the 1980 Act is intended to encourage manufacturers to transfer production of a foreign-produced vehicle to this country. Section 503(b)(4) of the Cost Savings Act authorizes a temporary exemption from the domestic content requirement in section 503. Under that requirement, an automobile whose domestic content is less than 75 percent must be treated as a foreign-produced automobile. This poses a problem particularly if a manufacturer wishes to transfer production of a high fuel economy car and average it with its domestic fleet. The exemption is available to any manufacturer which plans to phase-in domestic production of a new vehicle by gradually increasing its domestic content to 75 percent. A manufacturer which satisfies the statutory requirements is permitted to include up to 150,000 automobiles in its domestic fleet if the automobiles have at least 50 percent domestic content initially and if the manufacturer submits and the agency approves a plan for achieving 75 percent domestic content by the fourth year of the exemption.

In considering whether to approve a plan under this provision, the agency must determine whether the plan is adequate. To verify achievement of the 50 and 75 percent domestic content levels, the regulation specifies that information must be provided on the total manufacturing costs of the vehicles whose production is to be transferred to this country. In addition, information is required on the changes in domestic content of the vehicles to be produced in this country during each of the four years covered by the plan, including information on the timing and nature of the change.

The third relief provision relates to compliance with fuel economy standards for 4-wheel drive light trucks. This provision, which was added by the 1980 Act to the Cost Savings Act as section 502(k), authorizes the agency to adjust the manner in which average fuel economy is calculated for a petitioner's 4-wheel drive light truck fleet or to provide other relief with respect to a fuel economy standard for 4-wheel light trucks. To obtain this relief, the petitioner must show that it would be unable to comply with such a standard "without causing severe economic impacts such as plant closings or reduction in employment in the United States related to motor vehicle manufacturing." (Section 502(k)).

To enable the agency to assess the impacts on a petitioning manufacturer of compliance with a fuel economy standard for 4-wheel drive light trucks, the regulation requires that information be submitted on the changes planned by the manufacturer to achieve compliance and the cost and fuel economy impacts of each of those changes. The manufacturer must also identify the particular compliance steps which the manufacturer believes would cause "severe economic impacts" and the nature of those impacts. This information will permit the agency to determine what level of rule economy the petitioner is capable of achieving without experiencing "severe economic impacts".

Information must also be submitted on monetary credits likely to be earned in the three model years preceding and the three model years following the model year for which relief is sought. This information will permit the agency to assess the effect of available credits on the need for relief. Credits are earned at the rate of five dollars per vehicle for each tenth of a mile per gallon by which a manufacturer's fleet exceeds a average fuel economy standard. Earned credits may be used to offset civil penalties (accrued at the same rate) for the manufacturer's falling below a standard in one or more of the three model years before or after the model year in which the credit was earned.

Finally, the petitioner must specify the precise type and extent of relief being sought.

The final relief provision is section 502(1) of the Cost Savings Act which was added by section 6(b) of the 1980 Act. Section 502(1) authorizes a manufacturer which expects to fail to meet a fuel economy standard in a particular model year to file a plan with NHTSA regarding the prospects for earning credits in the next three model years. The plan must set forth the individual actions comprising the plan and a schedule for accomplishing those actions. If NHTSA approves the plan, the credits are available immediately to offset the civil penalty for the model year in which the manufacturer failed to meet the standard. The benefit of having such a plan approved is that the manufacturer can avoid ever being deemed to have violated the fuel economy standard for that model year if it actually earns the projected credits. If such a manufacturer does not obtain the agency's approval for a plan under section 502(1), the manufacturer may have to pay the civil penalty and then seek a refund if credits are subsequently earned.

Section 502(1) directs the agency to approve any plan submitted by a manufacturer under that section unless the agency determines that "it is unlikely that the plan will result in the manufacturer earning sufficient credits" to offset the civil penalty. The agency might make such a finding if either the technological or other steps planned by the manufacturer will fail to produce the levels of average fuel economy necessary to earn the credits.

Therefore, the regulation specifies that the manufacturer must submit information demonstrating the feasibility of its plan. Among types of required information are descriptions of planned product actions which will affect fuel economy (e.g., the introduction of a new model), and the effect of that product action on the manufacturer's average fuel economy.

In addition to establishing a regulation regarding certain types of submissions under provisions added to the Cost Savings Act by the 1980 Act, this notice also adopts a simple change relating to how light trucks are grouped for purposes of compliance with the light truck fuel economy standards for model year 1982. The change would give manufacturers the same latitude in grouping their light trucks in that model year that they presently have for model years 1983-1985. On December 31, 1979, the NHTSA published a proposal to establish separate standards for 2-wheel drive and 4-wheel drive light trucks for model years 1982-1985. Due to a statutory deadline for issuing the model year 1982 standards, the agency published them on March 31, 1980. The standards were 16 miles per gallon for 4-wheel drive light trucks and 18 miles per gallon for 2-wheel drive light trucks. The NHTSA then sought further comment on the model year 1983-1985 standards and expressly focused public attention on the concept of a combined standard. When the agency published its decision on December 11, 1980, it provided manufacturers with an option of complying with separate standards or a single combined standard. The NHTSA did not, however, then go back and provide the same option for model year 1982.

Over the past year, the agency has been reviewing its existing procedures and regulations pursuant to E.O. 12291 to determine the need for any amendments to eliminate ineffective or unnecessarily burdensome or inflexible regulations. However, it was only in December that the agency received information indicating the value of increasing the flexibility of the manufacturers in grouping their light

trucks for compliance purposes. In that month, the manufacturers submitted their semi-annual fuel economy reports required by 49 CFR 537. The agency's analysis of the information in those reports revealed for the first time the value of giving manufacturers the same flexibility in grouping their light trucks for model year 1982 as they already have for model years 1983-1985. By placing all of its light trucks in a single group, a manufacturer has greater freedom to choose how it allocates its efforts to improve fuel economy between technology changes and sales mix changes.

Accordingly, the agency has decided to provide manufacturers with the option of complying with a single, combined standard. In terms of required fuel savings, the separate standards of 16 and 18 miles per gallon are essentially the equivalent of a single standard of 17.5 miles per gallon for all light trucks together. The single standard has therefore been set at that level. The figure of 17.5 was calculated by harmonically weighting the separate standards based on the 75 percent/25 percent sales mix of 2-wheel drive light trucks and 4-wheel drive light trucks used in the 1983-85 proceeding. This notice adopts that combined standard of 17.5 miles per gallon. As noted above, this action makes no change in the level of fuel economy required of manufacturers, but does allow a manufacturer the choice of placing all of its 2-wheel drive and 4-wheel drive light trucks together in a single group or maintaining two separate groups for compliance purposes. It also provides an additional method of compliance, i.e., selling larger numbers of the higher fuel economy 2-wheel drive light trucks.

The actions taken by this notice are being issued as an interim final rule because they are essentially procedural and therefore notice and opportunity for comment is not required by the Administrative Procedures Act. Nevertheless, the agency is providing an opportunity to comment. Appropriate changes warranted by the comments will be incorporated in the permanent final rules.

The agency also notes and expressly finds there is good cause for proceeding directly to an interim final rule. As noted above, the need for this amendment was identified by the agency as a result of its evaluation of the recently submitted pre-model year fuel economy reports. Those reports were submitted to the agency last month. If manufacturers are to have a meaningful opportunity to take advantage of this change, it must be

adopted now. Typical production runs for 1982 light trucks of major domestic manufacturers end in June 1982. That is only about four months away. If the rule were not adopted and made effective until after a comment period and the issuance of another Federal Register, little or no time would remain for the manufacturers to take advantage of the additional flexibility being provided through the combined standard. Extensive comment has already been solicited and obtained on the concept of an optional combined standard for the immediately following model years. Applying the concept to model year 1982 does not appear to raise any issues not considered in that rulemaking. For these reasons and because this amendment relieves a restriction, the agency finds good cause also for making the amendment effective upon publication in the Federal Register.

The petitions and plans regulation also is being made effective immediately. The agency finds good cause for doing so since it will facilitate the submission of any requests for relief.

The agency has considered the impacts of this rule and determined that it is neither major within the meaning of E.O. 12291 nor significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency anticipates that any manufacturer wishing to petition or submit a plan will not have to make any special effort to obtain the necessary information. The manufacturer will likely have already obtained the information for its own purposes. Further, the agency expects few petitions and plans to be submitted. In the 15 months since the 1980 Act was adopted, there has been only one petition. The combined standard requires virtually the same level of average fuel economy as do the existing standards. NHTSA has, however, prepared a regulatory evaluation and placed it in the docket. Copies of the evaluation may be obtained by contacting the Docket Section at the address provided at the beginning of this notice.

The agency has also considered these actions under the Regulatory Flexibility Act. Since notice and comment is not required on them, a regulatory flexibility analysis is not required. Even if the Flexibility Act were applicable, the agency notes that it would certify that there are no significant impacts of the petitions and plans regulation on any small entities. Petitions and plans will be rarely submitted small organizations and governmental units. Further, few, if any, of the manufacturers that might

submit a petition or plan qualify as small businesses. Similarly, even if the issuance of a combined standard were subject to the Flexibility Act, the agency would certify that an analysis is not required because few, if any, of the light truck manufacturers are small businesses.

Finally, the agency has reviewed these actions under the National Environmental Policy Act and determined that they will not have any significant impact on the human environment.

Interested persons are invited to submit comments on this notice. 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 information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which that purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage.

In addition, the commenter, or in the case of a corporation, a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

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.

For the reasons set forth in the preamble, Chapter V of Title 49, Code of Federal Regulations, is amended as set forth below.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002 and 2003); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

1. Part 526 is added to 49 CFR Chapter V to read as follows:

PART 526—PETITIONS AND PLANS FOR RELIEF UNDER THE AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Sec.

- 526.1 General provisions.
- 526.1 U.S. production by foreign manufacturer.
- 526.3 Transfer of vehicle from foreign to U.S. production.
- 526.4 Adjustment of fuel economy standards for 4-wheel drive light trucks.
- 526.5 Earning offsetting monetary credits in future model years.

Authority: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002 and 2003); delegation of authority at 49 CFR 1.50.

§ 526.1 General provisions.

(a) Applicability. These regulations apply to petitions and plans submitted under the Automobile Fuel Efficiency Act of 1980, Pub. L. 96-425, as codified in Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001 *et seq.*

(b) Address. Each petition and plan submitted under the Automobile Fuel Efficiency Act of 1980 must be addressed to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington D.C. 20590.

(c) Authority and scope of relief. Each petition or plan must specify the specific

provision of the Act under which relief is being sought. The petition or plan must also specify the model years for which relief is being sought.

§ 526.2 U.S. production by foreign manufacturer.

Each petition filed under section 4(a) of the Act must contain the following information:

(a) For each model type (as defined by the Environmental Protection Agency in 40 CFR Part 600) planned by the petitioner to be sold in the United States (regardless of place of manufacture), and for each model year beginning with the year before the first one for which relief is sought by the petition through the last year covered by the petition, the following information based on the petitioner's current product plan and the assumption that the petition will be granted:

(1) A description of the model type, including car line designation, engine displacement and type, transmission type, and average fuel economy;

(2) U.S. sales projected for the model type;

(3) The average percentage of the cost to the manufacturer of the model type which is attributable to value added in the United States or Canada, determined in accordance with 40 CFR 600.511-80, and the total manufacturing cost per vehicle.

(4) In the case of model types not offered for sale in the United States before the first year for which relief is sought in the petition or other model types for which expansions in production capacity are planned during the years covered by the petition, information (including any marketing surveys) indicating from where the additional sales will be captured. If sales are projected to be captured from U.S. manufacturers, the petition must provide an estimate of the employment impact on those manufacturers of the lost sales and the gain in employment for the petitioner and its U.S. suppliers.

(b) The total number of persons employed in the United States by the petitioner, excluding non-motor vehicle industry related employees, for each model year covered by the petition and for the model year immediately prior to those years.

(c) A description of how the petitioner's responses to paragraphs (a) and (b) of this section would differ if the petition were denied.

§ 526.3 Transfer of vehicle from foreign to U.S. production.

Each plan submitted under section

4(b) of the Automotive Fuel Efficiency Act of 1980 must contain the following information:

(a) For each model year for which relief is sought in the plan and for each model type of automobile sought to be included by the submitter in its domestic fleet under the plan (i.e., those with 50 to 75 percent U.S. value added), provide the following information:

(1) A description of the model type, including engine type and displacement, transmission class, car line designation, and fuel economy;

(2) The projected U.S. sales of the model type;

(3) The average total manufacturing cost per vehicle for the model type;

(4) The percentage of the cost to the manufacturer attributable to value added in the United States or Canada for the model type;

(b) For each year covered by the plan, a list of individual product actions (e.g., change from imported engine to domestically manufactured engine) which will increase the domestic content of the affected vehicles. For each action, provide the model year in which the action will take effect, a description of the nature of the action, and the percentage change in domestic content resulting from the action.

§ 526.4 Adjustment of fuel economy standards for 4-wheel drive light trucks.

Each petition submitted under section 5 of the Automotive Fuel Efficiency Act of 1980 must contain the following information:

(a) For each configuration (as defined by the Environmental Protection Agency in 40 CFR Part 600) of 4-wheel drive light trucks to be manufactured by the petitioner and for each model year from the year in which the petition is filed to the year for which relief is sought:

(1) Model designation and type (e.g., K-15 pickup);

(2) Test weight;

(3) Gross vehicle weight rating;

(4) Engine displacement, cylinder configuration and engine type.

(5) Transmission type;

(6) Fuel economy;

(7) Projected sales;

(8) Rear axle ratio; and

(9) N/V ratio.

(b) A list and full description of each planned product action (e.g., new transmission, addition of improved tires) which will affect the average fuel economy of the petitioner's 4-wheel drive light trucks beginning with the current model year and ending with the model year for which relief is sought.

(c) An indication of which configurations specified under paragraph (a) of this section are affected by each product action specified under paragraph (b) of this section.

(d) The fuel economy effect of each product action specified under paragraph (b) of this section per affected vehicle.

(e) The petitioner's actual or projected average fuel economy for 4-wheel drive light trucks subject to fuel economy standards for the model year for which relief is sought, the three preceding model years and the three following model years. For model years 1979 and 1982-85, also provide actual or projected fuel economies for the combined fleet of 2-wheel drive and 4-wheel drive light trucks, and the number of vehicles in the combined fleet. For those same five model years, provide the number of vehicles in the combined fleet which are subject to a fuel economy standard for 4-wheel drive light trucks.

(f) The actions which the petitioner would undertake to comply with the fuel economy standard for 4-wheel drive light trucks in the model year for which relief is sought and which the petitioner believes would result in severe economic impacts.

(g) The economic effects (such as reduction in employment or plant closings) which would result from undertaking the actions specified under paragraph (f) of this section. Provide information to support the conclusion that these impacts would result from attempted compliance. If reductions in employment or plant closings are projected, identify the plants which may be affected and the number of employees at each plant which are involved in the production of 4-wheel drive light trucks.

§ 526.5 Earning offsetting monetary credits in future model years.

Each plan submitted under section 6(b) of the Automotive Fuel Efficiency Act of 1980 must contain the following information:

(a) Projected average fuel economy and production levels for the class of automobiles which may fail to comply with a fuel economy standard and for any other classes of automobiles from which credits may be transferred, for the current model year and for each model year thereafter ending with the last year covered by the plan. For light truck credit transfers which may occur between different classes of light trucks, provide the information specified in section 526.4(e).

(b) A list and full description of each planned product action (e.g., new model, mix change) which will affect the average fuel economy of the class of automobiles subject to the credit earning plan, for each model year beginning with the current model year and ending with the last year covered by the credit earning plan.

(c) The portion of the petitioner's fleet affected by each product action (e.g., all K-cars with 6-cylinder engines) and the number of affected vehicles.

(d) The fuel economy effect of each product action specified under paragraph (b) of this section per affected vehicle.

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

§ 533.5 [Amended]

2. 49 CFR Part 533 is amended in § 533.5(a) by designating the table specifying standards for model years 1979-1982 as "Table I" and by designating the table specifying standards for model years 1983-1985 as "Table II".

3. 49 CFR Part 533 is amended by removing the model year 1982 standards from the first table (Table I) in section 533.5(a) and by revising the second table (Table II) to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE II

Model year	Combined standard		2-wheel drive light trucks		4-wheel drive light trucks	
	Cap- tive imports	Oth- ers	Cap- tive imports	Oth- ers	Cap- tive imports	Oth- ers
1982	17.5	17.5	18.0	18.0	16.0	16.0
1983	19.0	19.0	19.5	19.5	17.5	17.5
1984	20.0	20.0	20.3	20.3	18.5	18.5
1985	21.0	21.0	21.6	21.6	19.0	19.0

§ 533.5 [Amended]

3. The lead-in to § 533.5(d) of Title 49 of the Code of Federal Regulations is amended by revising it to read as follows:

* * * * *

(d) For model years 1982-85, each manufacturer may: * * *

[FR Doc. 82-4086 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 76-06, Notice 12 and Docket No. 1-18, Notice 22]

Federal Motor Vehicle Safety Standards; Speedometers and Odometers; Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes Standard No. 127, *Speedometers and Odometers*. This action is based on the agency's conclusion that such a standard is unlikely to yield any significant safety benefits. Revocation of the standard will result in cost savings for manufacturers and consumers.

DATES: The revocation is effective on March 25, 1982. Petitions for reconsideration must be received by March 22, 1982.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers and be submitted to the Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket Room hours: 8:00 a.m.-4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. John Carson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-2720.

SUPPLEMENTARY INFORMATION: On October 22, 1981 (46 FR 51789), the agency proposed revoking Standard No. 127, *Speedometers and Odometers* (49 CFR 571.127). After evaluating all of the comments submitted on the proposal, the agency has decided to revoke the standard. Significant comments to the docket are addressed below.

Preemption

General Motors and Renault raised the issue of what effect the revocation of Standard No. 127 would have on the ability of states to adopt their own safety laws on speedometers and odometers. GM requested the agency to declare that speedometers and odometers not be subject to regulation by the States because the agency has determined that only Federal regulation of the subject is appropriate.

The legislative history of the National Traffic and Motor Vehicle Safety Act

shows that one goal of the Act is to establish a uniform national safety program that applies to all vehicles before they are first sold to consumers. Congress directed that the agency establish and maintain Federal safety standards on significant safety problems. The Senate Report on the Act stated that the agency is to issue safety standards for those "vehicle characteristics that have a significant bearing on safety" (S. Rep. No. 1301, 89th Cong., 2d Sess. 6 (1966)).

In the case of Standard No. 127, the agency recognizes that there is a nexus between safety and having a speedometer and odometer. Based on available data, however, the agency has determined that the current requirements are not yielding and cannot be expected to yield significant safety benefits.

In revoking this standard, NHTSA intends that other levels of government be preempted from establishing similar requirements. The agency believes that regulation of speedometers and odometers is not appropriate at this time at any level based on the absence of data indicating regulatory methodologies exist which would in fact yield significant safety benefits. Contrary regulatory decisions at other levels of government would negate the agency's exercise of discretion and undermine the Congressional goal of uniform national standards.

Further, refraining from regulation will facilitate experimentation by the manufacturers in providing more effective ways of improving speedometer and odometer performance and thus possibly providing significant safety benefits. Manufacturers indicated in their comments that they voluntarily intend to continue meeting many of the speedometer requirements. They also indicated that they would continue to provide anti-tampering odometer features that they voluntarily adopted prior to implementation of the standard. During this rulemaking, some manufacturers, such as GM, have indicated that they will continue their odometer development programs. GM said it may install additional cost-effective anti-tampering features. In addition, the technology of odometers is rapidly advancing as manufacturers begin developing electronic odometers.

Because the agency continues to recognize the safety nexus in the area of speedometer and odometer regulation, NHTSA will continue to monitor manufacturer development programs and the effectiveness of anti-tampering features voluntarily adopted by manufacturers. If speedometer and

odometer features are developed that provide a significant safety benefit, the agency will consider whether a Federal safety standard would be appropriate and necessary under the Safety Act. Exercise of the agency's authority in this fashion will allow the market place to function freely to develop new, more effective designs.

Speedometer Requirements

Most of the commenters supported the agency's proposal to delete the speedometer requirements of the standard because of their apparent lack of significant safety benefits. Those requirements provided that each speedometer be graduated in miles per hour and kilometers per hour, have the numeral "55" highlighted on the miles per hour scale and indicate a maximum speed on the scale of not more than 85 mph or 140 km/h.

All of the vehicle manufacturers commenting on the proposal indicated that they would voluntarily continue to provide some of the features formerly required by the standard. American Motors, Chrysler, Ford, General Motors, Mack, Renault, Subaru, and Volvo White Truck Corporation said they would maintain a maximum scale reading of 85 mph or less. Honda said it would modify its speedometers to show the maximum speed capabilities of its vehicles. Many of the vehicle manufacturers, such as Ford, General Motors and Honda, said that they also would continue to provide speedometers graduated in both miles and kilometers per hour.

American Motors, Ford, Mack, Renault, Subaru, and Volvo White said they would also continue to highlight the "55" mph position on the speedometer scale. General Motors said it would continue to highlight "55" on its speedometers with analog scales; however, it may not continue to include the numeral "55" on all speedometer scales. Honda said it would drop the highlighting. Chrysler and Volkswagen did not indicate what action they would take on highlighting the 55 mile per hour position.

Subaru supported the retention of the requirement to limit the maximum speed shown on the speedometer scale to 85 miles per hour, arguing that it would help minimize the temptation for young drivers to drive at excessive speeds. Similar arguments were raised by the Center for Auto Safety (CFAS).

Subaru also supported retaining the requirement that the numeral "55" be highlighted on the speedometer scale, arguing that it reminded drivers of the national speed limit. Again, similar arguments were raised by CFAS. Private

individuals submitting comments on the maximum speed, dual scale calibrations and highlighting issues split equally between those supporting the revocation and those opposing it.

The agency has concluded that the limitation on the maximum speed shown on the speedometer scale is unnecessary. The limitation was, at best, only a psychological deterrent. Consumers are voluntarily placing far more effective limits on maximum speed by the shift to vehicles with four cylinder engines. In addition, most manufacturers limited the maximum speed shown on their speedometer scales before the standard went into effect and have indicated that they will continue to do so in the absence of a Federal standard.

The highlighting of the numeral "55" was intended to provide an easily visible reminder as to whether the national speed limit was being exceeded. The agency does not have any data, nor was any provided in the comments, indicating that the reminder has been effective.

The requirement that the speedometer scale be calibrated in kilometers and miles per hour no longer serves a safety purpose since the Federal Highway Administration has dropped its plans to add metric values to roadside signs.

Odometer Requirements

Most of the commenters favored the revocation of the odometer requirements. Those requirements specified that, as of September 1, 1982, odometers must indicate when they have advanced or have been advanced beyond a reading of either 89,999 or 99,000 miles or kilometers. In addition, the odometer must have been designed so as to either prevent reversal or provide an indication that they have been reversed. Finally, replacement odometers would have to be differentiated from original equipment odometers so that new replacement odometers with low distance readings cannot be substituted for original equipment odometers with high mileage readings.

Vehicle manufacturers unanimously supported revocation of the odometer requirements. Most of the comments from individual citizens favored retaining the odometer requirements. However, the principal reason mentioned for supporting the requirement was to prevent consumer fraud rather than to promote safety. The State of Wisconsin and the CFAS also opposed the revocation.

Wisconsin and CFAS argued that the mileage of the vehicle is an important indication of its safe operating

condition. CFAS said that, for example, if an odometer reads 2,000 miles, instead of the actual mileage of 30,000, a consumer will not check the brake lining on the vehicle. Wisconsin argued that many used vehicles are maintained with minimal costs and may not be given the check-up needed to detect impending or existing vehicle equipment failures. CFAS also repeated the agency's rationale for originally adopting the odometer standard by arguing that an altered odometer might cause a purchaser to fail to check his or her vehicle adequately, forego preventive maintenance or be unwilling to make necessary repairs.

Wisconsin also noted that in the statement of purpose (section 401) for the odometer disclosure provisions of the Motor Vehicle Information and Cost Savings Act, Congress said that an accurate odometer can assist a purchaser in determining a vehicle's safety.

The purpose of the Cost Savings Act is to provide purchasers with legal remedies to pursue against persons who tamper with odometers. The Act neither authorizes the issuance of equipment standards to accomplish that purpose nor does it govern the issuance of safety standards.

The agency can issue and maintain a safety standard only under the National Traffic and Motor Vehicle Safety Act and only if it can demonstrate that the standard meets the need for motor vehicle safety by yielding significant safety benefits. As already noted, the legislative history of the Act shows that the agency is to concentrate on standards addressing significant safety problems. The agency has never disputed that mileage is a factor that may influence some drivers to take preventive maintenance measures. The primary issue is whether other factors, such as vehicle appearance and performance, play a more important role in influencing drivers regarding vehicle systems that have a direct relationship to safety.

The Tri-Level Study of the Causes of Accidents, discussed in the notice proposing to revoke the standard, indicates that of all the vehicle-related causes of accidents, there were four predominant categories of problems. Those categories are (1) brake system problems, (2) tire and wheel problems, (3) steering system problems, and (4) communication system problems (problems with lights, signals, glazed surfaces, etc.). All of those categories involve components which must be periodically replaced or serviced regardless of mileage. Deterioration in

the performance, such as brakes pulling to one side, or in appearance, such as low tire tread depth, are readily apparent to the driver and should do more to alert the driver to potential safety-related problems than does the mileage of the vehicle. Thus, the findings of the Tri-Level study support the agency's conclusion that the role of mileage and thus the odometer in alerting drivers to potential safety problems is apparently not crucial, while the role of appearance and performance is significant.

Effects of Revocation

The agency has evaluated the economic and other effects of this final rule and determined that the rule is neither major as defined by Executive Order 12291 nor significant as defined by the Department of Transportation's regulatory policies and procedures. A final regulatory evaluation of the effects of the final rule has been prepared and placed in the public docket. Copies of the regulatory evaluation are available in the Docket Section at the address given at the beginning of this notice.

Effects on Speedometers

Revocation of Standard No. 127's requirements for speedometers will have little, if any, effect on safety. As the comments submitted by the vehicle manufacturers demonstrated, vehicles had speedometers long before the standard went into effect and will continue to have them even after the standard has been revoked. In addition, manufacturers indicated that they will voluntarily continue to equip their speedometers with most of the features formerly required by the standard.

The potential safety effect of the standard's speedometer requirement for highlighting the numeral "55" is unquantifiable. The requirement for calibration of the speedometer scale in mph and km/h is no longer necessary since the Federal Highway Administration has dropped its proposal to add metric distances on roadside highway signs.

The agency's 1976 regulatory evaluation on Standard No. 127 projected that the requirement that the limitation on the maximum speed shown on the speedometer scale would be five percent effective in reducing accidents involving young drivers. The projected effectiveness was based on the assumption that the 85 mph maximum speed indication would be a psychological deterrent to high speed driving. However, the agency has no data indicating that the speedometer scale limitation is effective to any extent in reducing the tendency to drive too

fast and in reducing the resultant accidents and injuries. Also, the commenters provided no data indicating that the limitation had any actual effect.

The agency expects little or no economic effect from the revocation of the speedometer requirements on consumers, vehicle manufacturers or speedometer manufacturers. As mentioned previously, vehicle manufacturers intend to retain most of the features previously installed in response to the standard. The costs of those features are minimal.

Effects on Odometers

As discussed above, revocation of the anti-tampering requirements for odometers should have little effect on vehicle safety. Revocation of the odometer requirement should produce a small consumer saving resulting from the use of less expensive odometers. All of the vehicle manufacturers indicated that they would not install odometers meeting the full anti-tampering requirements in the absence of a standard. Manufacturers, such as Chrysler, Ford, and General Motors, indicated that they would continue to provide odometers equipped with anti-tampering equipment that the manufacturers voluntarily installed prior to the standard. In addition, manufacturers have indicated that they will continue their odometer development programs. General Motors, for example, said it will consider equipping its vehicles with additional anti-tampering features if cost-effective methods are developed.

The agency is concerned that based upon its review of the facts and record, the actual positive benefits (i.e., the prevention or inhibition of actual odometer tampering as a result of the relatively slight but expensive changes which would be required by the rule) would be minimal. Because of the uncertainties regarding the effectiveness of the odometer requirements in preventing tampering, the agency is unable to estimate the extent to which the odometer provisions would prevent tampering and thus decrease the amount of any economic injury suffered by consumers.

On the other hand, revocation of the odometer requirements could result in more tampering than might otherwise have occurred with respect to odometers of used vehicles built after September 1, 1982. The amount of any potential increase will, however, be reduced by any further development and voluntary installation of new anti-tampering features by vehicle manufacturers. Increased tampering which does occur would cause an increase in the amount

of economic injury to consumers as a result of their overpaying for used vehicles with lowered odometer readings. Such economic harm, however, if any, is unrelated to the agency's safety mission and can be redressed in other forums as well. NHTSA is separately exploring alternative methods of addressing the problem of odometer tampering.

Revocation of the odometer requirements will provide economic benefits both for vehicle manufacturers, in a savings of capital expenditures necessary to comply with the provisions and in variable cost savings, and for all consumers purchasing such cars. The potential consumer cost savings are estimated to be approximately \$12,000,000 annually.

Standard No. 101

Revocation of Standard No. 127 necessitates a minor amendment to Standard No. 101, *Controls and Displays*. Standard No. 101 requires speedometers to be identified by the words "MPH and Km/h." Since speedometers are no longer required to be graduated in miles and kilometers per hour, the agency is modifying the requirement of Standard No. 101. Speedometers must be identified by the abbreviation "MPH" unless the speedometer is graduated in both miles per hour and kilometers per hour, in which case the identification phrase will be "MPH and Km/h." GM noted that the commonly accepted abbreviation for kilometer per hour is "km/h" rather than "Km/h." Because the difference between a capital or lower case "k" is insignificant, the agency will allow the use of either version.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Based on that evaluation, the Administrator certifies that the revocation of Standard No. 127 will not have a significant effect on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Few, if any, of the speedometer or odometer manufacturers are small businesses as defined in the Regulatory Flexibility Act. Small organizations and governmental jurisdictions which purchase fleets of motor vehicles would probably not be significantly affected by the revocation of the standard. As already discussed, the speedometer provisions have little safety value and impose little cost. Since these entities typically buy new vehicles, they are not

subject to the problems of odometer tampering.

National Environmental Policy Act

The agency has also analyzed this action for the purposes of the National Environmental Policy Act. The agency has determined that revocation of the standard will not have any significant effect on the human environment.

Effective Date

The agency proposed that the revocation become effective upon publication of the final rule in the *Federal Register*. Ford and Volkswagen both urged that agency to publish a final rule before the end of January to avoid the unnecessary expenditure of funds. Ford said that if the rule is not revoked before then, it will have to spend additional capital funds at a rate of \$25,000 per week. Volkswagen did not provide a specific estimate of its expenditures.

Volvo White objected to the revocation becoming effective on publication. It said that most of its vehicles are manufactured in two or more stages and must be accompanied by a chassis cab certification label and incomplete vehicle document that is presented to the final stage manufacturer. Volvo White said that if the standard is revoked on the date of publication of the final rule, some of its vehicles will have pre-printed certification labels and documents which would incorrectly certify that the vehicles are in compliance with Standard No. 127.

Volvo White requested the agency either to retain a portion of the current standard by requiring speedometers to have dual calibrations and display a maximum speed of 85 miles per hour; or permit manufacturers to certify to nonexistent safety standards; or revoke the standard effective on September 1, 1982.

As previously discussed, the agency has decided not to retain any of the speedometer requirements because of their limited safety benefits. Setting a September 1, 1982, effective date could result in manufacturers' unnecessarily spending funds to continue complying with the speedometer requirements which the agency has found have limited safety benefits. Allowing manufacturers to certify to non-existent standards is not appropriate, since purchasers would interpret the manufacturer's certification to mean that the vehicle actually complied with the standard even though it is no longer in effect.

To account for the problems faced by manufacturers of two-stage vehicles and

to avoid the unnecessary expenditure of funds by manufacturers, the agency has decided to make the revocation effective in 35 days. This will allow two-stage manufacturers to make the changes to their certification labels and incomplete vehicle documents to delete the certification to Standard No. 127; the cost of those changes should be minor. The agency therefore finds, for good cause shown, that an early effective date for the revocation of the standard is in the public interest since it will avoid the unnecessary expenditure by manufacturers on requirements that have no significant safety benefits.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, the following amendments are made in Part 571 of Title 49 of the Code of Federal Regulations:

§ 571.127 [Removed]

1. Section 571.127 is removed.

§ 571.101-80 [Amended]

2. In Table 2 of 571.101-80, the identifying word or abbreviation for the speedometer display (row 8, column 3) is revised to read: "MPH *."

3. A footnote 6 is added to Table 2 of § 571.101-80 to read:

* If the speedometer is graduated in miles per hour and in kilometers per hour, the identifying words or abbreviation shall be "MPH and km/h" in any combination of upper or lower case letters.
(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on January 6, 1982.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-4084 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 81-14; Notice 1]

Federal Motor Vehicle Safety Standards; Matter Incorporated by Reference

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Motor Vehicle Safety Standards issued by NHTSA incorporate by reference a number of standards and test procedures adopted by voluntary standards associations, such as the American Society for Testing and Materials. Part 571.5 of the agency's regulations is the procedural rule that incorporates all of the

materials found in the agency's safety standards. This notice amends the regulation to specify that the Director of the Federal Register has approved the agency's incorporations by reference and to announce that all the materials are available for inspection and copying at both the agency and the Office of the Federal Register.

DATES: This amendment is effective March 22, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen Oesch, Office of Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2992).

SUPPLEMENTARY INFORMATION: The Federal Motor Vehicle Safety Standards issued by the agency incorporate by reference a number of standards and test procedures adopted by voluntary standards associations, such as the American Society for Testing and Materials and the Society of Automotive Engineers. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the *Federal Register* and thus has the force and effect of law. The agency only uses incorporation by reference when the referenced material is of a detailed, technical nature and would unnecessarily add to the volume of matter printed in the *Federal Register*. In all instances, the material incorporated by reference is easily available to the public for inspection and copying.

In accordance with section 552(a) of the Administrative Procedure Act (5 U.S.C. 552(a)) and 1 CFR Part 51, the Director of the Federal Register must review and approve all incorporations by reference before they are effective. On March 28, 1979 (44 FR 18630), the Office of the Federal Register (OFR) established new procedures that agencies must follow to maintain approval from the Director of the Federal Register for the incorporation of materials by reference in the Code of Federal Regulations (CFR). Each agency is required to submit annually to the Director of the Federal Register a list identifying all material which the agency has incorporated by reference in the CFR. Part of the OFR's review of the list is a check of the incorporating language in the regulatory text to confirm that it meets OFR's drafting requirements (1 CFR Part 51). NHTSA is making several editorial changes in 49 CFR Part 571.5 of its regulations, which is the provision that incorporates by reference all of the material cited in the agency's safety standards, to conform to OFR's drafting requirements.

This notice amends Part 571.5 to add language stating that the Director of the Federal Register has approved all of the incorporations by reference. In addition, the agency is amending Part 571.5 to state that any proposed changes to material incorporated by reference will be published in the Federal Register. When the agency has incorporated material by reference, it has always specified the precise version (i.e., date, edition, etc.) of the material being incorporated by reference. Subsequent versions of material incorporated by reference are not automatically adopted. The agency has always proposed any change to any incorporated material in the Federal Register. Part 571.5 also is amended to state that all of the materials incorporated by reference are available for inspection and copying both at the agency and at the Federal Register.

The agency has determined that this procedural amendment is not a major rule within the meaning of Executive Order 12291. Likewise, it is not a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. The amendments made by this notice do not impose any substantive requirements or restrictions on the public. They merely make minor modifications in the agency's incorporation by reference procedure. Since the amendments concern a procedural matter, the agency is not required by the Administrative Procedure Act to provide notice and opportunity to comment on them. Because of this, the amendments are also not covered by the requirements of the Regulatory Flexibility Act. Since these procedural amendments are so minor and technical, the agency does not believe that any useful purpose would be served by voluntarily providing any opportunity to comment on them.

In addition these minor amendments are of such limited scope that clearly they do not significantly affect the quality of the human environment and therefore NHTSA is not required by the National Environmental Policy Act or the agency's regulations to prepare an environmental impact statement or environmental assessment.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, the following amendments are made to Title 49, Chapter V, § 571.5 of the Code of Federal Regulations:

§ 571.5 [Amended]

1. Section 571.5(a) is revised to read as follows:

(a) *Incorporation.* There are hereby incorporated, by reference, into this part, all materials referred to in any standard in Subpart B of this part that are not set forth in full in the standard. These materials are thereby made part of this regulation. The Director of the Federal Register has approved the materials incorporated by reference. For materials subject to change, only the specific version approved by the Director of the Federal Register and specified in the standard are incorporated. A notice of any change in these materials will be published in the Federal Register. As a convenience to the reader, the materials incorporated by reference are listed in the Finding Aid Table found at the end of this volume of the Code of Federal Regulations.

* * * * *

2. A new paragraph (b)(5) is added to § 571.5 to read as follows:

* * * * *

(b) * * *

(5) All of the above materials, as well as any other materials incorporated by reference, are available for inspection and copying at the Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. The materials are also available for inspection and copying at the Office of the Federal Register, 1100 L Street, NW, Washington, D.C.

3. The undesignated paragraph following paragraph (b)(4) of § 571.5 is removed.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-4081 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 74-14; Notice 24]

Federal Motor Vehicle Safety Standards; Improvement of Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; partial response to petitions for reconsideration; delay of effective date.

SUMMARY: The purpose of this notice is to delay for one year the effective date

of the comfort and convenience requirements for seat belts in Safety Standard No. 208, *Occupant Crash Protection*. Standard No. 208 was amended January 8, 1981, to promote the installation of more comfortable and convenient belts by specifying additional performance requirements for both manual and automatic seat belts installed in motor vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less. Petitions for reconsideration of these new performance requirements were received from seven vehicle manufacturers.

The agency has determined that the recent rescission of the automatic restraint requirements of Standard 208 has made it necessary to review the comfort and convenience requirements in their entirety. The changed circumstances have made it difficult to respond to the substantive issues raised in the petitions for reconsideration at this time. Since the requirements are currently scheduled to become effective September 1, 1982, the agency has concluded that it is necessary to extend the effective date until September 1, 1983, to give the agency sufficient time to re-evaluate these requirements.

ADDRESS: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

DATES: The new effective date for the existing comfort and convenience requirements published January 8, 1981 at 46 FR 2064 is September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nelson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: On January 8, 1981, Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), was amended to specify performance requirements to promote the comfort and convenience of both manual and automatic safety belts installed in vehicles with a GVWR of 10,000 pounds or less (46 FR 2064). Type 2 manual belts (lap and shoulder combination belts) installed in front seating positions in passenger cars were excepted from these additional performance requirements since it was assumed such belts would be phased out in passenger cars as the automatic restraint requirements of Standard No. 208 became effective.

Seven petitions for reconsideration of the January 8, 1981 amendment were received from vehicle manufacturers.

These petitions requested that the requirements be revoked entirely, or that at least various modifications be made and that the effective date be delayed.

Since the receipt of these petitions for reconsideration, the agency has revoked the automatic restraint requirements of the standard (46 FR 53419, October 29, 1981). This rescission alters the circumstances which must be considered in determining appropriate requirements for seat belt comfort and convenience. Therefore, it is difficult for the agency to respond to the substantive issues raised in the petitions for reconsideration at the current time. Many of the issues that were raised are no longer pertinent and many of the rationales discussed by the agency when the requirements were first established must be re-evaluated. Therefore, the agency has determined that the comfort and convenience requirements should be reviewed in their entirety.

In light of these conclusions, the agency has decided that it is necessary to delay the effective date of the current comfort and convenience requirements for at least a year (from September 1, 1982, to September 1, 1983). This will give the agency sufficient time to re-evaluate the requirements and the petitions for reconsideration in light of the changed circumstances. Further, manufacturers should not be required to comply with the requirements by September 1, 1982, since they may be altered substantially.

The agency intends to respond to the substantive issues raised in the petitions for reconsideration at a later date. Moreover, the agency is considering additional changes to the comfort and convenience requirements which would encourage and ensure maximum possible technical improvements and enhancements are included in future seat belt designs.

The NHTSA has considered the economic and other impacts of this one-year delay in effective date and determined that the rule is neither a major rule within the meaning of Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory procedures. A regulatory evaluation concerning the one-year delay has been placed in the public docket. This evaluation supplements the regulatory evaluation which was prepared when the regulation was issued in January 1981.

The agency has also analyzed the delay for purposes of the National Environmental Policy Act and has determined that it will not have a

significant impact on the quality of the human environment.

No regulatory flexibility analysis has been prepared on this final rule since the proposal underlying this final rule and the January 8, 1981 final rule was issued before the effective date of the Regulatory Flexibility Act.

In consideration of the foregoing, the effective date of the comfort and convenience requirements of 49 CFR 571.208 that were issued January 8, 1981 (46 FR 2064) is hereby delayed from September 1, 1982, to September 1, 1983. (Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-4062 Filed 2-11-82; 4:52 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 75-03; Notice 7]

Motor Vehicle Safety Standards; Bus Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA) DOT.

ACTION: Final rule.

SUMMARY: This notice makes permanent an interim final rule that modified the agency's school bus emergency exit standard. The interim final rule, which was issued in February 1979, was implemented immediately to increase the availability of passenger vans for use as small school buses at reasonable costs. The interim rule slightly altered several emergency exit requirements in a manner that made it easier to mass produce small buses without significantly affecting the level of safety achieved by those vehicles. Concurrent with the issuance of the interim final rule, the agency solicited comments on the amendments to the standard. This notice responds to the comments and makes the interim rule permanent.

EFFECTIVE DATE: Since this notice makes permanent an existing interim final rule, it is effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20950 (202-426-2264).

SUPPLEMENTARY INFORMATION: On February 8, 1979, the agency published an interim final rule and a proposal (44 FR 7961) to modify the school bus emergency exit safety standard, Standard No. 217, *Bus Window*

Retention and Release. In that notice, the agency made effective immediately some modifications to the school bus emergency exit standard to increase the supply of reasonably priced vehicles suitable for school bus conversion. Among the changes implemented by the interim final rule were a slight decrease in the size of rear emergency exits for vehicles (typically passenger vans) with gross vehicle weight ratings (GVWR) less than 10,000 pounds, and increased flexibility in the location requirements for release mechanisms on the emergency exits of small school buses. The agency concluded at the time the interim rule was issued that the level of safety achieved by small buses would not be diminished by these changes and that the changes would allow more small buses to be mass produced, thereby lowering their prices. The agency also asked in the interim final rule for comments on the advisability of these changes.

In response to the agency's request, Ford, Chrysler, the Center for Auto Safety, and the California Highway Patrol (CHP) submitted comments. The two manufacturers, Ford and Chrysler, both supported the agency's action. The Center and the CHP opposed the action.

The Center and the CHP both argued that the rear emergency exit in small school buses (passenger vans which have GVWR's less than 10,000 pounds and are used as school buses) should not be reduced in size. The Center stated that the exit should be broad enough for two students to exit simultaneously in case of an emergency. The CHP stressed that reducing the size of the exit would make it too small to permit the exiting of children in wheelchairs.

With respect to the argument that the size of the rear exit should allow room to exit students two abreast, the agency stated in the proposal that this argument, while valid for larger school buses, is not meritorious for school vehicles with GVWR's less than 10,000 pounds. Larger school buses frequently transport 60 or more school children. Accordingly, rapid evacuation of those vehicles in an emergency requires that the students be able to exit two abreast. In order to accomplish this, the agency has required that some space be provided behind the rearmost seat in these buses so that students exiting through the narrow center aisles will have room at the exits to get out two abreast.

In small school buses where the number of students carried frequently is 16 or less, the need for exiting two abreast to achieve rapid evacuation is

significantly reduced. In recognition of this factor, the agency has never required bus manufacturers to provide space behind the rear seat of small buses that would allow students to exit two abreast. As a result, the rear seats of small buses are frequently quite near or are against the rear bus wall. Students exiting down a bus aisle, which is normally around 12 inches in width, reach an exit where no space is provided to exit two abreast. Accordingly, any requirement that an exit in small buses be large enough to facilitate exiting two abreast would not accomplish that goal. Small bus manufacturers would need to redesign their bus seat plans in some fashion to provide space behind the rear seat in order to allow exiting two abreast. Such a redesign would significantly decrease the available seating in small buses. Given the fact that evacuating small buses has not been a safety problem, the agency concludes that the costs resulting from the reduced vehicle seating that would be required to accomplish the Center's objectives would far outweigh the benefits. Accordingly, the agency concludes that a broader rear exit is not needed in small school buses.

The CHP objected to the same requirement stating that the new exit door would be too narrow for wheelchairs. The CHP further stated that California has always required wider exits so that wheelchairs can be used in the vehicles.

The agency's new exit requirement is a minimum size requirement for standard school buses. In special instances in which larger exits are desired, such as in buses for carrying the handicapped, the States may require that their buses have such exits. The agency deems that approach to be preferable to its requiring larger exits in all vehicles. The situation with respect to rear door size is analogous to that involving seat back height. The agency requires a minimum seat back height. New York mandates a seat back height greater than the Federal specification. The NHTSA has no objection to the New York requirement and will not object to requirements by other States for wider rear emergency exits. The agency also notes that buses designed for the handicapped constitute a small portion of all buses and usually are equipped with special doors and larger aisles.

The Center also objected to the agency's interpretation that the parallelepiped device used for measuring rear door size could be lifted up to 1-inch to overcome small

protrusions near the floor. The agency issued an interpretation permitting this at the time of the implementation of the standard. This interpretation simply reflects real-world conditions. Many doors in vehicles have small door sills or other minor protrusions that sometimes serve necessary functions in the proper operation of the door. These minor protrusions play no significant role in the ability of students to exit from a vehicle in an emergency. Therefore, the agency will not reconsider its interpretation.

The Center objected to the agency's removal of exit release mechanism location and force application requirements for small school buses. The Center agreed that the existing requirements are more appropriate for larger buses, but it insisted that the agency should develop another set of location requirements for smaller buses instead of abandoning the requirements entirely.

The agency is sympathetic to the Center's concerns about this issue. The location of the release mechanism for small school buses in an easily accessible location is important for the rapid evacuation of these vehicles in an emergency. However, the mere setting of location requirements would not ensure that the release mechanisms would be accessible. Due to the limited space in the rear of small buses and the variability of design in those areas, the agency could not readily specify a location which would provide the necessary accessibility. The agency believes that allowing manufacturers the option of locating the release mechanism in any easily accessible location on or near the exit will be more beneficial to achieving the intended safety results than any rigid inflexible location requirement. NHTSA anticipates that product liability concerns and the agency's authority to declare inaccessible release mechanisms to be safety-related defects will suffice to induce the manufacturers to select accessible locations. The agency will closely monitor the location and accessibility of the release mechanisms and, if necessary, use both its defects and rulemaking authority to take corrective action.

Finally, the Center objected to the fact that the agency permitted pull-type release mechanisms. The Center stated that release mechanism standardization is helpful in assuring the safe evacuation of vehicles.

While the agency agrees that standardization has value in this instance, there are competing ways for achieving standardization in the case of

small school buses. One way is to require that small school buses have releases that operate with an upward motion as in larger school buses. Another way is to permit small school buses (which, as noted before, are passenger vans) to have the same pull-type releases that are found in other vans and some cars. The agency doesn't believe that either basis for standardization is clearly superior from a safety standpoint to the other. Further, permitting the use of the pull-type releases will enable the manufacturers to achieve cost savings. Accordingly, the agency declines to adopt the Center's recommendation.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In accordance with the foregoing, the interim final amendments made in Title 49 of the Code of Federal Regulations, § 571.217, *Bus Window Retention and Release*, are made permanent without change as set forth below:

1. Section S 5.3.3 has the first sentence revised to read:

S 5.3.3 When tested under the conditions of § 6, both before and after the window retention test required by S 5.1, each school bus emergency door shall allow manual release of the door by a single person, from both inside and outside the bus passenger compartment, using a force application that conforms to paragraphs (a) through (c) except a school bus with a GVWR less than 10,000 pounds does not have to conform to paragraph (a).

2. Section S 5.3.3 paragraph (b) is amended by the addition of the following at the end of the paragraph:

Buses with GVWR less than 10,000 pounds shall provide interior release mechanisms that operate by either an upward or pull-type motion. The pull-type motion shall be used only when the release mechanism is recessed in such a manner that the handle, lever, or other activating device does not protrude beyond the rim of the recessed receptacle.

3. Section S 5.4.2.2 is revised by changing the phrase "24 inches wide" to read "22 inches wide".

Since this notice makes permanent an existing amendment, it is effective immediately. The agency has reviewed the amendment in accordance with E.O. 12291 and concludes that it is not major. Further the agency concludes that the rule is not significant under the Department of Transportation's regulatory procedures. In fact, by permitting these changes, more buses can be mass produced, which may result

in a small decrease in the cost of complying with the standard. Since the economic impact of this rule is minimal, a regulatory evaluation is not required for this amendment.

The agency has also considered the effect of this rule in relation to the Regulatory Flexibility Act and certifies that it would not have a significant economic impact on a substantial number of small entities. The only economic impact might be a reduction in bus prices. There would similarly be no significant impact on a substantial number of small government jurisdictions and small organizations.

Finally the agency has analyzed this rule for purposes of the National Environmental Policy Act and has determined that it would have no significant impact on the human environment.

The principal authors of this notice are Robert Williams of the Crashworthiness Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 202, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50)

Issued on February 10, 1982.

Diane K. Steed,

Acting Administrator.

[FR Doc. 82-4083 Filed 2-11-82; 4:52 pm]

BILLING CODE 4910-59-M

49 CFR Part 575

[Docket NO. 79-02; Notice 5]

Consumer Information Regulations

AGENCY: National Highway Traffic Safety Administration DOT.

ACTION: Final rule.

SUMMARY: This notice amends the Consumer Information Regulations to permit amendment of previously submitted motor vehicle performance information at any time up to 30 days prior to new model introduction. This amendment is intended to reduce regulatory burdens on industry by allowing greater flexibility in the implementation of pre-introduction product changes.

EFFECTIVE DATE: This amendment is effective June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Zaidman, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: *Paperwork Reduction Act*—Information collection requirements contained in this

regulation (49 CFR § 575.6) 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 #2127-0049. The Consumer Information Regulations (49 CFR Part 575) require that manufacturers of motor vehicles and tires provide prospective purchasers and first purchasers with information on the performance of their products in the areas of vehicle stopping ability (49 CFR 575.101), vehicle tire reserve load (49 CFR 575.102), truck camper loading (49 CFR 575.103), and uniform tire quality grading (49 CFR 575.104). In addition to the requirements that information be furnished directly to consumers, manufacturers are required to submit information to the National Highway Traffic Safety Administration (NHTSA) prior to the introduction of new vehicle models and tire lines or modification of existing lines. This advance submission requirement is intended to permit the agency to compile the information supplied by various manufacturers in a comparative format for distribution to consumers.

As originally issued, and presently in force, the regulation requires that all information be submitted to NHTSA at least 30 days prior to the date on which the information is made available to prospective purchasers (49 CFR 575.6(d)). The regulation requires that information must be made available to prospective purchasers not later than the day on which the manufacturer first authorizes the subject product to be put on public display and sold to consumers (49 CFR 575.6(c)).

To enable NHTSA to compile the information in a comparative booklet for distribution early enough in the model year to be useful to most consumers, the agency amended the regulations to require that motor vehicle manufacturers submit information at least 90 days in advance of new model introduction (45 FR 47152; July 14, 1980). The 30-day period was retained for post-introduction vehicle changes and for tire quality grading information. The amendment was originally scheduled to take effect June 1, 1981, but the effective date was postponed until June 1, 1982 (46 FR 29269; June 1, 1981), to allow consideration of a petition from Ford Motor Company requesting greater flexibility in the requirement.

Ford contended that the 90-day advance submission requirement could create hardships for manufacturers when last minute pre-introduction product changes, resulting from component supply difficulties or other factors, affect the performance characteristics covered by Part 575. In

such a situation, a manufacturer could be forced to delay introduction of a vehicle model until a new 90-day advance notice period had been completed. To avoid this result, Ford recommended that manufacturers be permitted to amend initial pre-introduction submissions at any time prior to 30 days before model introduction. NHTSA responded with a notice of proposed rulemaking to permit such revisions in the event of unforeseeable pre-introduction modifications in vehicle design or equipment (46 FR 40541; August 10, 1981; Docket 79-02; Notice 4). This proposal was among the deregulatory measures discussed in the Administration's notice of intent on measures to aid the auto industry.

NHTSA received comments from seven motor vehicle manufacturers and importers in response to the notice of proposed rulemaking. All commenters agreed that the proposed amendment would be an improvement over the established 90-day requirement, in that greater flexibility would be provided in the introduction of necessary product changes. As noted by Ford, the amendment would facilitate implementation of product development and marketing schedules, while still providing information adequate for NHTSA's purposes. NHTSA agrees and has determined that the proposed amendment should be adopted with one modification.

General Motors and Volkswagen of America, Inc. commented that limiting changes in performance information to those resulting from "unforeseeable" product changes is inappropriate. Volkswagen argued that only the manufacturer can adequately judge whether product changes are unforeseeable, and that agency attempts to enforce such a requirement could lead to undesirable consequences. Moreover, a manufacturer acting in good faith could be faced with a dilemma if the manufacturer is unable to conclude that a needed product change was unforeseeable, although in fact it had not been anticipated in a particular instance. (Docket 79-02, Notice 4, No. 004). General Motors argued that cost factors alone are a sufficient incentive to manufacturers to avoid last minute product changes and therefore no foreseeability standard is necessary to insure that changes are made in good faith. General Motors suggested that if any qualifier is thought necessary, "unforeseen" or "unanticipated" would be preferable. (Docket 79-02, Notice 4, No. 007).

NHTSA continues to believe that some provision is necessary to assure that only good faith product changes form the basis for modifications of pre-introduction submissions. However, NHTSA does not wish to inhibit product changes which the agency may believe could have been foreseen, but honestly were not. To avoid this result, the agency has concluded that "unforeseen" rather than "unforeseeable" is a more appropriate description of the types of product changes which would justify amendments of pre-introduction consumer information submissions.

Volkswagen and General Motors also commented that the 90-day advance submission requirement is unnecessary and that the original 30-day period should be retained. Volkswagen contended that the agency could not use the manufacturers' submissions until 30 days prior to model introduction in any case because the data would be subject to change. Volkswagen also suggested that manufacturers could circumvent the 90-day requirement by making minimal performance claims in their initial submissions and amending the information at a later date. General Motors commented that the further in advance information is submitted, the less accurate it will be, and that the successful publication of the Environmental Protection Agency's fuel economy guide establishes the feasibility of publishing comparative information with a brief advance submission period.

NHTSA's past experience indicates that 30 days is inadequate for this agency to compile, publish and distribute a useful comparative booklet. Moreover, any design or equipment related inaccuracies inherent in a 90-day advance submission can be corrected under the amendment adopted in this notice. While it is true that the agency could not publish and distribute the information until the period for amendment of initial submissions expired, the agency could compile the information and begin the publishing process, incorporating any necessary changes prior to printing. Comments submitted by Yamaha Motor Corporation, U.S.A. (Docket 79-02, Notice 4, No. 001), suggest that the number of required changes will be small. Finally, the type of abuse noted by Volkswagen would be precluded under the amended regulation because the type of revision described would not have been necessitated by unforeseen product changes.

Commenters also suggested rescinding the advance submission requirement completely or rescinding

the stopping distance and tire reserve load provisions. Still other commenters recommended that the agency reassess the costs and benefits of the Consumer Information Regulations as a whole. The rationale for these recommendations centered on the alleged lack of consumer interest in the information and the limited amount of information provided under the program.

As noted by commenters, NHTSA has proposed rescission of the requirement that auto manufacturers provide tire reserve load information to the public and the agency (46 FR 47100; September 24, 1981). However, in conjunction with the Administration's efforts to ease regulatory burdens on the auto industry, the agency wishes to maintain a functioning consumer information program as a possible substitute for mandatory safety regulations. As part of the agency's ongoing program to identify and eliminate unnecessary regulatory burdens, NHTSA plans to review the benefits of and need for the Consumer Information Regulations as a component of the agency's total regulatory program. If this review indicates that the consumer information program is not useful and cost-beneficial, the future of the regulation will be addressed in a later rulemaking proceeding.

NHTSA has evaluated this relieving of a restriction and found that its effect will be to provide minor cost savings for motor vehicle manufacturers. Accordingly, the agency has determined that the action is not a major rule within the meaning of Executive Order 12291 and is not significant for purposes of Department of Transportation policies and procedures for internal review of regulatory actions. The agency has further determined that the cost savings are so minimal as to not warrant preparation of a regulatory evaluation under the procedures. The agency certifies pursuant to the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities because the cost savings will be modest and few, if any, motor vehicle manufacturers can be considered small entities within the meaning of the statute. Finally, the agency has concluded that the environmental consequences of the proposed change will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

In order to coincide with the effective date of the 90-day advance submission requirement, this amendment is effective June 1, 1982.

PART 575—CONSUMER INFORMATION REGULATIONS

§ 575.6 [Amended]

In consideration of the foregoing, 49 CFR 575.6(d) is amended:

1. By designating the first sentence as paragraph (d)(1)(i) and adding "Except as provided in paragraph (d)(1)(ii) of this section," to the beginning of the sentence.

2. By addition of a new paragraph designator "(2)" before the second sentence of paragraph (d).

3. By addition of a new paragraph (d)(1)(ii) to read as follows:

* * *

(d) * * *

(1) * * *

(ii) Where an unforeseen pre-introduction modification in vehicle design or equipment results in a change in vehicle performance for a characteristic included in Subpart B of this part, a manufacturer of motor vehicles may revise information previously furnished under paragraph (d)(1)(i) of this section by submission to the Administrator of 10 copies of revised information reflecting the performance changes, at least 30 days before information on the subject vehicles is first provided to prospective purchasers pursuant to paragraph (c) of this section.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on: February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-4085 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Car Service Order; Burlington Northern Railroad Company and Fort Worth and Denver Railway Co. and Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Seventh Revised Service Order No. 1495.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes the Burlington Northern and Fort Worth and Denver to provide interim service over the Chicago, Rock Island and Pacific

Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., February 15, 1982, and continuing in effect until 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840, 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: February 10, 1982.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96-254, (RITEA), the Commission is authorizing Burlington Northern Railroad Company (BN) and Fort Worth and Denver Railway Company (FWD) to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits BN and FWD to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Appendix A, of the previous order, is revised by deleting the following:

Item 1. B. Mossville, Illinois to Peoria, Illinois, including the Keller Branch.

C. Phillipsburg, Kansas to Caruso, Kansas.

BN's request to limit its operations, granted herein, is effective at 12:01 a.m., February 15, 1982, and permits time for a phased transition of service at both locations. The remaining authorities are relettered accordingly.

It is the opinion of the Commission that an emergency exists requiring that the BN and FWD, as indicated in the attached appendix, be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1495 Car Service Order No. 1495.

(a) *Burlington Northern Inc. and Fort Worth and Denver Railway Company authorized to use tracks and/or facilities of the Chicago, Rock Island*

and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).

Burlington Northern Inc. (BN) and Fort Worth and Denver Railway Company (FWD) are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the BN and FWD to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the BN and FWD; or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least thirty (30) days notice to the Railroad Service Board and affected shippers.

(e) BN and FWD, as authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of operations over the RI lines authorized in paragraph (a), BN and FWD shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by BN and FWD over tracks previously

operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, the interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, the carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 15, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96-254)

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland,

Bernard Caillard, and John H. O'Brien, J.
Warren McFarland not participating.

James H. Bayne,
Acting Secretary.

**Appendix A—RI Lines Authorized To Be
Operated by Interim Operator**

**1. Burlington Northern Railroad Company
(BN):**

A. Burlington, Iowa (milepost 0 to milepost
2.06).

* B. At Okeene, Oklahoma.

* C. At Lawton, Oklahoma.

**2. Fort Worth and Denver Railway
Company (FWD):**

A. From Amarillo to Bushland, Texas,
including terminal trackage at Amarillo, and
approximately three (3) miles northerly along
the old Liberal Line.

B. North Fort Worth, Texas (milepost 603.0
to 611.4).

* Changed.

[FR Doc. 82-4315 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 47, No. 33

Thursday, February 18, 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.

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[EDR-436A; Economic Regulations Docket 39932]

Denied Boarding Compensation Rules; Comprehensive Review; Extension of Comment Period

AGENCY: Civil Aeronautics Board.

ACTION: Extension of comment period.

SUMMARY: The CAB is extending for 2 weeks the period to file comments and reply comments in its rulemaking proceeding concerning oversales and denied boarding compensation. The Aviation Consumer Action Project requested a 30-day extension because more time is needed to evaluate the proposed changes.

DATES: Comments: March 8, 1982. Reply Comments: March 23, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In EDR-436, 46 FR 62285, December 23, 1981, the Board proposed either to eliminate or to significantly amend its oversales and denied boarding compensation rules as part of its examination of consumer protection rules prior to sunset. Interested persons were invited to file comments by February 22, 1982, and reply comments by March 9, 1982.

On February 5, 1982, the Aviation Consumer Action Project requested the Board to extend the deadline for comments and reply comments for 30 days. ACAP stated that because of the large number of important public policy and economic issues raised, both ACAP and other commenters needed additional time to evaluate the proposal and to consult with outside parties as to its merits.

The Board recognizes the importance and complexity of the issues involved. Although the issues raised in the

oversales rulemaking should be addressed as soon as possible in order to provide a smooth transition to deregulation, we want interested persons to have sufficient time to prepare their comments. Because a short delay will not cause significant harm, a 2-week extension for submission of both comments and reply comments will be granted.

Accordingly, good cause is found to extend the time for preparation of comments and reply comments. Under authority delegated by the Board in 14 CFR 385.20(d), the time for filing comments and reply comments is extended to March 8, 1982, and March 23, 1982, respectively.

(Secs. 204, 403, 411, and 1002 of Pub. L. 85-726, as amended; 72 Stat. 743, 758, 769, 788; 49 U.S.C. 1324, 1373, 1381, 1482)

By the Civil Aeronautics Board.
Richard B. Dyson,
Associate General Counsel, Rules & Legislation.

[FR Doc. 82-4362 Filed 2-17-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Reg. Nos. 4 and 16]

Experiment To Improve the Hearing Process by Having SSA Represented at the Hearing

AGENCY: Social Security Administration, HHS.

ACTION: Notice of reinstatement of NPRM.

SUMMARY: SSA is reconsidering its earlier proposal to experiment with SSA representation at a limited number of social security disability hearings. The plans for this experiment were published as a Notice of Proposed Rulemaking (NPRM) on January 11, 1980 (45 FR 2345). Public hearings regarding the experiment were conducted at four sites during February 1980. The NPRM was later withdrawn by a notice published on July 14, 1980 (45 FR 47162).

We are hereby notifying the public that the NPRM noted above is reinstated. We will provide the public with a 30-day comment period following publication of this notice. We will

consider all comments which were received on the January 1980 proposed regulations and any additional comments in deciding whether to publish a final regulation. For more information about the experiment, the reader is referred to the NPRM and subsequent withdrawal notice cited above.

DATE: We will consider additional comments about the experiment if these comments are received by March 22, 1982.

ADDRESS: Send your written comments to: Executive Secretariat, Office of Hearings and Appeals, Room 408 Braedon Building, P.O. Box 2518, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Joy Loving, Director, Division of Program Development, Office of Hearings and Appeals, (703) 235-8524.

SUPPLEMENTARY INFORMATION: The January 1980 proposed regulations for the SSA representative experiment elicited many written comments from claimants, claimant representatives and other interested parties. In addition, a number of individuals and organizations presented testimony at four public hearings which were held at various sites in February 1980.

Briefly, the regulations proposed that in a limited number of disability cases under title II and title XVI of the Social Security Act, SSA would be represented at the hearing when the claimant was represented in order to present SSA's views on the case. In addition, the SSA representative would prepare the record for hearing. Many commenters opposed the concept of SSA representation and partly for this reason SSA published its notice withdrawing the proposed rules.

In the July 1980 withdrawal notice, we cited the adverse public reaction and SSA's own interest in making improvements at lower levels of the adjudicatory process as the reasons for withdrawing the proposed rules. SSA has since undertaken the Disability Appeals Reform Experiments (DARE) to test alternative methods for improving the quality of State agency disability determinations.

Since publication of our proposed rules and subsequent withdrawal notice, SSA has reexamined the premises of the SSA representative experiment. It is increasingly clear that despite any improvements that might be made at the

lower levels of adjudication, the differences between decisions made at the hearing level and the determinations made at the lower levels present a serious problem. These differences have been criticized by Members of Congress and other interested observers in recent years. Because of this growing concern about the quality and consistency of hearing decisions, we believe it is important to give serious consideration to reviving the hearing experiment in the use of SSA representatives. We have also concluded that many of the commenters opposed to the experiment are not aware of its experimental intent, but instead appear to criticize it more as a permanent change in policy than as a limited experiment of very limited duration. Thus, we believe that many of the comments on the January 1980 proposed rules do not offer compelling reasons for not proceeding with a small scale, limited experiment in the use of SSA representatives.

For these reasons, then, we are considering the publication of regulations to enable the experiment to proceed. We have evaluated the comments received and if we publish final regulations they will reflect our consideration of the comments offered in response to the proposed rules. Since all earlier comments are being considered, it is not necessary for members of the public to resubmit comments submitted in the past. However, any additional comments will be considered if received on or before March 22, 1982.

The NPRM has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major rule. Therefore, a regulatory impact analysis is not required.

We certify that the NPRM does not have a significant economic impact on small entities because the rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

The NPRM imposes no reporting or recordkeeping requirements requiring OMB clearance.

Accordingly, the public is hereby advised that SSA is reinstating the January 1980 proposed rules regarding the SSA Representative Experiment. We may publish final regulations based on the proposed regulations in the near future. Any forthcoming final rules will take into consideration all comments received on the proposed rules, including testimony from the public hearings held in February 1980, as well as any additional comments received on or before March 18, 1982.

Dated: January 8, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: February 4, 1982.

Richard S. Schweiker,

Secretary, Department of Health and Human Services.

[FR Doc. 82-4480 Filed 2-17-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPA 17]

Receipt of Proposed Program Amendment From Oklahoma, Continuation of Proceedings Under 30 CFR 733.12 and Schedule for Public Comment Period and Hearing

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

ACTION: Proposed rule.

SUMMARY: On January 22, 1982, the State of Oklahoma submitted to OSM a proposed amendment to the Oklahoma State regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of a new set of State rules intended to replace those rules rescinded by the Oklahoma Legislature on February 12, 1981.

This notice describes the nature of Oklahoma's proposed amendment, sets forth information concerning public participation in the Director's determination whether the amendment is adequate to comply with statutory and regulatory requirements of SMCRA and 30 CFR Chapter VII and requests comments on the proposed program amendment. This notice also reopens the public comment period to allow interested persons to submit additional information concerning the status of the Oklahoma program in accordance with the proceedings begun by OSM under 30 CFR 733.12 announced in the Federal Register on October 30, 1981 (46 FR 53695-53697).

DATES: A public hearing will be held on the proposed amendment on March 16, 1982, at the address listed below under "Addresses" from 1:00 p.m. to 4:00 p.m. C.S.T., or until all comments have been heard. Written comments must be received on or before 4:00 p.m. C.S.T. on March 19, 1982, at the address shown below under "Addresses."

Written comments may be submitted to the State Director at the address

shown below under "Addresses" at any time prior to the close of the public comment period (4:00 p.m. C.S.T., March 19, 1982). Written comments will also be accepted by the State Director at the public hearing. Comments received after the close of the public comment period will not necessarily be considered in the Director's approval decision on the proposed amendment or findings on the status of the Oklahoma program.

ADDRESSES: The public hearing will be held at: Holiday Inn, 800 South 32nd, Muskogee, Oklahoma 74401.

Written comments should be sent to: Mr. Robert Markey, State Director, Oklahoma State Office, Office of Surface Mining—Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103.

Copies of the full text of the Oklahoma program, all written comments, and the proposed amendment are available for inspection during regular business hours at:

Office of Surface Mining Reclamation and Enforcement, Oklahoma State Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103.

Oklahoma Department of Mines, 4040 North Lincoln, Suite 107, Oklahoma City, Oklahoma 73105.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240.

Each requestor may receive from the State Director, free of charge, one copy of the proposed amendment to the Oklahoma program.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Markey, State Director, Oklahoma State Office, Office of Surface Mining—Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103, Telephone (918) 581-7927.

SUPPLEMENTARY INFORMATION: At the public hearing, all persons wishing to comment on the proposed amendment will have the opportunity to do so.

Persons who wish to make arrangements to comment at a specific time at the hearing may contact Robert Markey at the OSM Oklahoma State Office or by phone at (918) 581-7927. In addition, the State Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1). Individual testimony at the hearing will be limited to 15 minutes. For good cause, the hearing officer has the discretion to extend this time limit. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. The public hearing will continue until all

persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

In addition to the public hearing, representatives of OSM will be available to meet between now and March 23, 1982, at the request of the public to receive the public's advice and recommendations concerning the adequacy of the proposed amendment. Persons wishing to meet with representatives of OSM during this period may place such a request with Robert Markey, State Director, Telephone (918) 581-7927 at the State Director's Office above. Meetings may be scheduled between 9:00 a.m. and noon and 1:00 p.m. and 4:00 p.m., Monday through Friday, excluding holidays at the State Director's Office.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the *Federal Register* (44 FR 54444-54445) governing contacts between the Department of the Interior and both State officials and members of the public.

Background of the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved Oklahoma's State regulatory program to control surface coal mining and reclamation operations (46 FR 4902-4910). Part of the approved program consisted of a body of State regulations needed for program implementation. The Oklahoma Legislature rescinded the State's regulations on February 12, 1981. Furthermore, a January 9, 1981, court injunction barring Oklahoma from enforcing its program and ordering the State to continue the interim regulatory program established by Section 502 of SMCRA and 30 CFR Chapter VII, Subchapter B, was lifted on July 20, 1981. The injunction resulted from a challenge to the State's program regulations, but was mooted as a result of the action of the Oklahoma Legislature.

On October 8, 1981, the Director, OSM, gave notice under the provisions of 30 CFR 733.12 that OSM had reason to believe that Oklahoma might not be able to implement, administer, maintain or enforce its approved program (46 FR 49846-49847). OSM held as informal conference with Oklahoma officials, a public hearing and a public comment period in an effort to obtain information on the status of the Oklahoma program (See 46 FR 49846-49847, October 8, 1981, and 46 FR 53695-53697, October 30, 1981). Transcripts of the informal conference (OK-323) and the public

hearing (OK-333) and copies of written material and exhibits submitted through the end of the public comment period (November 27, 1981) have been placed in the Administrative Record and are available at the locations listed above under "Addresses."

On December 11, 1981, the Oklahoma Department of Mines submitted to OSM a set of emergency regulations (OK-355). The emergency regulations became effective on December 14, 1981, under an emergency rulemaking provision of the Oklahoma Administrative Procedures Act.

On January 22, 1982, the Oklahoma Department of Mines submitted a set of new permanent regulations to OSM as an amendment to the Oklahoma program (OK-356).

Summary of the Proposed Amendment

The regulations submitted by Oklahoma as a State program amendment establish criteria and procedures relating to:

- (1) Permit requirements and performance standards for coal exploration and surface coal mining and reclamation operations (including underground mining operations).
- (2) Inspection and enforcement procedures.
- (3) Procedures for the designation of lands as unsuitable for mining.
- (4) Bonding requirements.
- (5) Performance standards for special categories of mining.
- (6) Conflict of interest prohibitions for State employees.

Criteria for Approval of State Program Amendments

A complete listing of the requirements which the Oklahoma State program must be able to meet can be found at 30 CFR 732.15. That section establishes the criteria for approval or disapproval of State programs. The procedures governing the approval or disapproval of amendments to State programs are contained in 30 CFR 732.17, as amended January 23, 1981 (45 FR 7909 *et seq.*). The provisions of 30 CFR 732.17(h)(9) state that the applicable criteria for approval or disapproval of State programs set forth in 30 CFR 732.15 shall be utilized by the Director, OSM, in approving or disapproving State program amendments.

Details on Public Participation

The public comment period and public hearing being announced today invite interested persons to provide OSM information related to the adequacy of Oklahoma's new permanent regulations. Specifically, OSM is seeking information to be used in determining whether the proposed amendment to the Oklahoma program meets the requirements of

SMCRA and the Federal rules contained in 30 CFR Chapter VII.

At the same time, OSM is reopening the public comment period for the proceedings the Director initiated under 30 CFR 733.12. As discussed earlier in this notice under the section entitled "Background on the Oklahoma Program," the Director invoked the procedures of 30 CFR 733.12, including a public comment period and public hearing, in an effort to determine the status of Oklahoma's program.

The Director's October 30, 1981, notice (46 FR 53695-53697), stated that subsequent to the public hearing and review of all available information, the Director would publish his findings on the status of the Oklahoma program. However, because Oklahoma submitted the proposed amendments before the Director completed his findings, OSM has decided to reopen the comment period to allow the proposed amendment, and public comments on the proposed amendment, to be considered in the Director's findings. Accordingly, OSM is requesting public comment on the proposed amendment for purposes of the Director's findings on the status of the Oklahoma program to be made in accordance with the provisions of 30 CFR 733.12(e), in addition to seeking public comment for the purposes of 30 CFR 732.17, as discussed above.

Other Information

If the Director decides to approve the amendment to the Oklahoma program, his approval will consist of an amendment to the Federal rules contained in 30 CFR Part 936. That Part is reserved for the codification of decisions related to the State of Oklahoma.

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 regarding all actions taken to approve or conditionally approve State regulatory programs, actions, or amendments. Therefore, this proposed program amendment is 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 proposed rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 11, 1982.

J. R. Harris,
Director, Office of Surface Mining
Reclamation and Enforcement.

[FR Doc. 82-4357 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

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. M.S.T. on March 19, 1982, 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 March 16, 1982. 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 March 5, 1982. If no person has contacted Mr. Hagen by this date to express an interest to participate 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 1 p.m. and 5 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, State Director, Office of Surface Mining Reclamation and Enforcement, New Mexico State Office, 219 Central N.W., 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 State 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, Interior South Building, Room 5315, 1100 L Street, N.W., 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, N.W., 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 its 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 opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Utah program, including the resubmission, did, with minor exceptions, meet the requirements of SMCRA, and 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, 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 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 correct deficiencies "a"-"e" by December 1, 1981, and deficiencies "f"-"i" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f," "g," and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant the State's request.

Utah recently requested a second extension of the deadline for the State to meet conditions "f" and "h" until January 1, 1983. A proposed rule to extend the time allowed the State to meet those conditions will be published in the Federal Register.

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"-"e," "g," and "i"-"l." A description of the provisions submitted by the State and of the conditions they are intended to satisfy is provided below.

Condition (a) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully enacted statutes which delete the condition in Section 40-10-10(d) UCA of the Utah CMRA which limits the Small Operator Assistance Program to receipt of funding from OSM, to be consistent with Section 507(c) of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which shows the words "contingent upon receipt of funding from the Federal Office of Surface Mining" deleted from Section 40-10-10(d)(3).

Condition (b) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully enacted statutes revising the dates for certain determinations to be consistent with the dates of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which shows the following changes:

(1) The date for the establishment of the "grandfathering" date of alluvial valley floors under Section 40-10-11(2)(e)(ii) UCA/Section 510(b)(5)(B) of SMCRA is changed to read "in the year preceding August 3, 1977. . ."

(2) The dates for prime farmland permit application requirements under Section 40-10-11(4) UCA/Section 510(d)(2) of SMCRA is changed to read "August 3, 1977."

(3) The date for the establishment of valid existing rights in Section 40-10-24(4) UCA/Section 522(e) of SMCRA is changed to read "August 3, 1977."

(4) The date for the determination of substantial legal and financial commitments in Section 40-10-24(1)(3) UCA/Section 522(a)(6) of SMCRA is changed to read "January 1, 1977."

Condition (c) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully executed statutes correcting errors in Sections 40-10-17(2)(j)(ii)(B) UCA and 40-10-16(4) UCA to be consistent with Sections 515(b)(10)(B)(ii) and 519(d) of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which makes corrections to these sections.

Condition (d) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully executed statutes revising the jurisdiction of the Utah courts such that a suit against the United States cannot be conducted in a State court but only in a Federal court under Section 40-10-21 UCA of the Utah CMRA, to be consistent with Section 520 of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which deletes the words "United States" from Section 40-10-21(1)(a) of UCA.

Condition (e) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully enacted statutes recognizing "private" mineral estates under Section 40-10-11(f) UCA to be consistent with Section 510(b)(6) of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which shows the word "private" substituted for "State" in Section 40-10-11(2)(f).

Condition (g) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations adopting a sediment pond exemption provision in UMC 817.42(a)(3) consistent with 30 CFR 817.42(a)(ii)(A).

In response to this condition, the State has submitted the following amended sections UMC 817.42(a)(3)(i) and 817.42(a)(3)(ii)(A)(B):

817.42(a)(3)(i): The person who conducts the underground coal mining activities demonstrates, by the use of alternative sediment control measures, that the drainage will:

(A) Either meet all applicable State and Federal effluent limitation standards, or

(B) Not degrade the quality of receiving waters.

817.42(a)(3)(ii)(A): There shall be no mixture of undisturbed drainage with a discharge from the underground workings.

(B) Any mixing of disturbed area drainage with a discharge from underground mine workings shall:

(1) Be passed through approved treatment facilities, as necessary, and

(2) Meet all applicable State and Federal effluent limitation standards, where it leaves the permit area.

Condition (i) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations adopting well transfer liability provisions in UMC 817.53(c) consistent with 30 CFR 817.53(c).

In response to this condition, the State has submitted the following amended sections UMC 817.53(c) and SMC 816.53(c): (c) Upon an approved transfer of a well, the transferor shall be secondarily responsible to the regulatory authority for the transferee's obligations under subparagraphs (b)(2) and (b)(3) of this section until final release of the bond or other equivalent guaranty required by Subchapter J for the area in which the well is located. Any legal liability of the transferor for damage to persons or property from the well shall be determined in accordance with applicable law.

Condition (j) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations providing for surface owner protection from the potential effects of subsidence in UMC 817.124(b)(1) and (3) consistent with 30 CFR 817.124(b)(1) and (3).

In response to this condition, the State has submitted the following amended section UMC 817.124(b):

(b) Each person who conducts underground mining which results in subsidence that causes material damage or reduces the value or reasonable foreseeable use of the surface lands shall, with respect to each surface area affected by subsidence—

(1) Restore, rehabilitate, or remove and replace each damaged structure, feature or value, promptly after the damage is suffered, to the condition it would be in if no subsidence had occurred and restore the land to a condition capable of supporting reasonable foreseeable uses it was capable of supporting before subsidence;

(2) Purchase the damaged structure or feature for its fair market, pre-subsidence value and shall promptly after subsidence occurs, to the extent technologically and economically feasible, restore the land surface to a

condition capable and appropriate of supporting the purchased structure, and other foreseeable uses it was capable of supporting before mining. Nothing in this paragraph shall be deemed to grant or authorize an exercise of the power of condemnation or the right of eminent domain by any person engaged in underground mining activities; or

(3) Compensate the owner of any surface structure in the full amount of the diminution in value resulting from subsidence, by purchase prior to mining of a noncancellable premium prepaid insurance policy or other means approved by the Division as assuring before mining begins that payments will occur; indemnify every person owning an interest in the surface for all damages suffered as a result of the subsidence; and, to the extent technologically and economically feasible, fully restore the land to a condition capable of maintaining reasonably foreseeable uses which it could support before subsidence.

Condition (k) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a).

In response to this condition, the State has submitted the following amended section UMC 817.101(c):

(c) The following materials shall be prevented from being placed in the downslope of a steep slope as defined in UMC 700.5, except that nothing in this section shall prohibit the placement of material in road and portal pad embankments located on the downslope, so long as the material used and the embankment design comply with the applicable requirements of UMC 817.150-817.180 and the material is moved and placed in a controlled manner.

(1) Spoil;

(2) Waste materials including waste mineral matter;

(3) Debris, including that from clearing and grubbing of land road construction or portal pad construction, and;

(4) Abandoned or disabled equipment. Nothing in this subsection (c) prohibits placement of the following materials on steep slopes in accordance with provisions of other performance standards.

Condition (1) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations which allow monitoring as a subsidence

control measure in UMC 784.20(c)(3)(v) consistent with 30 CFR 784.20(c)(3)(v).

In response to this condition, the State has submitted the following amended section UMC 784.20(b)(3)(v):

(v) Monitoring, if any, to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage.

The provisions submitted by the State are available for public review at the addresses listed above. The Secretary seeks comment on whether the provisions submitted correct the deficiencies. If the program amendments are approved, the conditions specified in 30 CFR 944.11(a)-(e), (g), and (i)-(l) will be removed.

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.

Dated: February 9, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-4358 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 944

[SPA 34]

Permanent State Regulatory Program of Utah

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for Utah to meet conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Also being considered is the removal of conditions of approval on Utah's program if OSM determines any are moot as a result of revised Federal standards for State program approval.

DATE: Comments must be received by March 22, 1982 at the address below, no later than 5:00 p.m.

ADDRESS: Written comments must be mailed to: Office of Surface Mining, Administrative Record Office (SPA 34), Room 5315 L, 1951 Constitution Avenue NW., Washington, D.C. 20240.

Comments may be hand carried to: Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. or Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. 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 the time required for changes to be adopted under State procedures or legislative schedules.

The Utah program was conditionally approved on January 21, 1981 (46 FR 5899-5915). In that document the Secretary published a schedule for the State to meet each of the 12 conditions on the State program. That schedule called for Utah to submit provisions to satisfy conditions "a"-"e" by December 1, 1981, and provisions to meet condition "f"-"l" by July 1, 1981.

Since the Secretary's conditional approval of the Utah program OSM has proposed several revisions to the Federal permanent program rules which served as the standard for approval of Utah's program. Because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension of time to meet. Utah requested that the deadline for the State to meet conditions "f," "g," and "h" be extended until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant Utah's request. On June 29, 1981, the State submitted provisions intended to satisfy conditions "a"-"e," "g," and "i"-"l." These provisions are currently being reviewed by OSM. The public will be provided an opportunity to review and comment on the materials submitted by the State under separate rulemaking. This notice is for the purpose of addressing the State's request for a second extension that would establish a new deadline for the State to meet conditions "f" and "h". The State offered as its reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. Some of these amendments may directly affect Utah's satisfaction of the two conditions. In accordance with the State's request, OSM is proposing that the deadline for the State to meet those two conditions be extended until January 1, 1983.

OSM is considering alternatives to a January 1, 1983, deadline for the State to meet those conditions. Other options to be considered will be based on OSM's reexamination of the two conditions in light of several factors.

1. The first is the promulgation of revisions of the Federal regulations at 30 CFR 730-732 which govern the standards for approval of State programs. The revised standards which were published October 28, 1981 (46 FR 53376-53384), allow States to adopt alternatives to the Federal regulations, provided they are "no less effective than" the Federal rules in meeting the purposes of the Act.

If the Agency determines that the provisions which are the subject of conditions "f" and "h" are approvable under the revised standard, it will remove the conditions. This notice will be the only notice of proposed rulemaking if OSM decides to remove

either one or both of the conditions. Therefore, the Secretary wishes to make clear that this notice invites comment not only on the State's request for an extension of the deadline to meet the two conditions but also on the Agency's proposal to remove one or both of the conditions if judged to be moot in light of the revised standard of State program approval.

2. In making a final decision on the State's request for an extension, OSM will also consider the revisions to the Federal permanent program regulations that have been or will be proposed, but have not yet been finalized. OSM will reexamine both of the conditions to determine whether revisions to the Federal rules are likely to have a bearing on changes the State is required to make to satisfy the conditions.

The Secretary requests comments not only on the proposed January 1, 1983, deadline but on the other options which have been discussed in this notice including the proposal to remove one or both of the conditions if deemed unnecessary as a result of the modified standard for State program approval.

I have determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. I have further certified that the proposed rules will not have a significant economic effect on a substantial number of small entities as the rules are essentially a timing change with no direct or indirect impact on small entities.

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exemption from Section 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 proposed extension.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Text of Proposed Amendment

PART 944—UTAH

§ 944.11 [Amended]

30 CFR 944.11 (f) and (h) are proposed to be amended by substituting January 1, 1983, for January 1, 1982, each time it appears.

[FR Doc. 82-4342 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2049-3]

Approval and Promulgation of Implementation Plans; Arizona; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 30, 1981 (46 FR 58098), a notice of proposed rulemaking was published concerning the sulfur oxides control strategy and regulations for existing nonferrous smelters in the State of Arizona. In response to extension requests from the Inspiration Consolidated Copper Company and the Environmental Defense Fund, the public comment period is being extended to February 28, 1982.

DATE: Comments are due on or before February 28, 1982.

ADDRESSES: Comments should be submitted to: Chuck Seeley, Chief, Compliance Section (A-1-3), Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105, ATTN: Larry Bowerman (415) 974-8213.

Dated: February 3, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-4325 Filed 2-17-82; 8:45 am]

BILLING CODE 5560-38-M

40 CFR Part 52

[A-9-FRL-2026-5]

Approval and Promulgation of Implementation Plans; Clark County Health District Air Pollution Control Regulations; State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Parts C and D of the Clean Air Act requires states to revise their State Implementation Plan (SIP) to include an acceptable program for preconstruction review of new and modified major stationary sources. The Clark County Health District (CCHD) adopted New Source Review (NSR) and Prevention of Significant Deterioration (PSD) regulations to satisfy these requirements. These regulations were officially submitted to EPA by the Governor of Nevada as a revision to the SIP on November 17, 1981. In this notice,

EPA is proposing to approve these revised regulations.

The EPA invites public comments on whether these regulations should be approved, disapproved or conditionally approved, especially with respect to the requirements of Parts C and D of the Clean Air Act.

DATE: Comments may be submitted until March 22, 1982.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Stationary Source Section, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105.

Copies of the revisions and EPA's associated evaluation report are contained in document file NAP-NV-04-NSR/PSD, and are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations: Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City, NV 89710; Clark County Health District, 625 Shadow Land, Las Vegas, NV 89106; Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Wallace Woo, Chief, Stationary Source Section, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9 (415) 556-8063.

SUPPLEMENTARY INFORMATION:

Background

PSD—Part C (Section 160 to 169) of the Clean Air Act contains requirements for the Prevention of Significant Deterioration (PSD) in areas which are designated either attainment or unclassified for the criteria (Section 109) pollutants. The PSD requirements apply to these attainment pollutants as well as the non-criteria pollutants (regulated under the Sections 111 and 112 of the Act), (Las Vegas Valley is currently designated as attainment for SO₂ and NO_x; the remainder of Clark County is attainment or unclassified for all the criteria pollutants). Part C also contains a classification system for designating areas as either Class I, II or III. The class of an area determines what incremental increases in ambient pollutant concentrations are allowed for the area. Preconstruction requirements for new or modified major stationary sources locating in attainment or unclassified areas are all outlined in Part C.

The detailed requirements for a PSD program are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality". Presently, EPA is administering the PSD program in Clark County under the federal regulation 40 CFR 52.21, "Prevention of Significant Deterioration of Air Quality". When PSD regulations for Clark County are approved, the federal regulation 40 CFR 52.21 will be rescinded as applicable for Clark County and the PSD program will be administered by the CCHD.

The primary requirements for a PSD program include: (1) The application of "Best Available Control Technology" (BACT) to new or modified major stationary sources; (2) A requirement that the applicant demonstrate that the increased emissions in the area affected by the new or modified source will not violate any National Ambient Air Quality Standard (NAAQS) or the applicable air quality increment; (3) Administrative procedures to handle sources impacting Class I areas, and (4) Procedures for redesignating the PSD classification of an area.

NSR—Section 110 and Part D (Section 173) of the Clean Air Act specify requirements for a permit program for new or modified major stationary sources constructing in areas which are designated as nonattainment. Las Vegas Valley is currently designated as nonattainment for total suspended particulates (TSP), ozone (major new or modified sources of volatile organic compounds are considered major for ozone) and carbon monoxide. The detailed requirements for an NSR program are contained in 40 CFR 51.18, "Review of New Sources and Modifications".

The primary requirements for an NSR program include: (1) A requirement that the applicant certify state-wide compliance with applicable air pollution regulations for other sources owned or controlled by the applicant, (2) A requirement for the application of control technology which is consistent with the "Lowest Achievable Emission Rate" (LAER) to the new or modified equipment; and (3) A requirement for a reduction in emissions from existing air pollution sources such that there is a net air quality benefit and "Reasonable Further Progress" (RFP) toward attainment of the standards. This last requirement may be met by either establishing a growth increment as part of a nonattainment area plan (Section 172) or by requiring the new source to obtain sufficient offsetting emission reductions from existing air pollution sources.

On April 14, 1981 EPA published a notice of final rulemaking (46 FR 21756)

approving revisions to Clark County's NSR rules on the basis of EPA's NSR regulations in effect at the time the revisions were submitted.

Revisions to NSR and PSD Requirements—On May 13, 1980 [45 FR 31307] and August 7, 1980 [45 FR 52676] EPA published major amendments to its NSR and PSD regulations. Included were amendments to 40 CFR 51.24, 40 CFR 52.21, and 40 CFR 51.18. These amendments were in response to the changes mandated by the "Alabama Power" court decision, 13 ERC 1993. Clark County is required to adopt PSD rules and amend their NSR rules to meet the new May 13 and August 7, 1980 criteria.

Description of Regulations

In response to the revised NSR and PSD criteria published by the EPA on May 13 and August 7, 1980, the CCHD drafted revisions to their air quality regulations and held a public hearing to consider their adoption on July 23, 1981. In response to the public comments, these draft revisions were amended on August 13, 1981 and then adopted by the District Board of Health on August 27, 1981. These revisions were officially submitted to EPA by the Governor as revision to the SIP on November 17, 1981.

Included in the changes to the CCHD's regulations that were submitted on November 17, 1981, were revisions, additions and deletions to the following sections of their existing NSR regulations (which were previously approved by EPA):

Section 1—Definitions, 1.7, 1.13, 1.14, 1.15, 1.32, 1.48, 1.50, 1.52, 1.57, 1.67, 1.72, 1.90 and the addition of the following unnumbered definitions: "Emission Unit", "Criteria Pollutant", "Non-Criteria Pollutant", "Baseline Area", "Begin Actual Construction", "Building, Structure, Facility, or Installation", "Particulate Precursor", "Secondary Emissions", and "Significant".

Section 15—Source Registration, 15.5; Preconstruction Review for New and Modified Sources, 15.6, 15.6.1, 15.6.1.1, 15.6.1.2 (deleted), 15.6.1.6, 15.6.2, 15.6.2.1 (deleted), 15.6.2.2, 15.6.2.3, 15.6.2.4, 15.6.2.5, 15.6.3, 15.6.3.1, 15.6.3.2 to 15.6.3.5 (added), 15.6.6, 15.7, 15.11, 15.12; Prevention of Significant Deterioration, 15.13 (added); Preconstruction Review Requirements for New or Modified Sources in Areas Exceeding Air Quality Standards ("Offset" Rules), 15.14.1, 15.14.1.2, 15.14.1.3 (added), 15.14.3.1, 15.14.3.2, 15.14.4, 15.14.4.1, 15.14.4.3, 15.14.4.3.3 (added), 15.14.4.3.4 (added), 15.14.4.3.5 (added) and 15.14.4.4 (deleted).

EPA's evaluation of the NSR and PSD regulations considers the acceptability of CCHD's entire set of NSR and PSD regulations. In addition to the proposed regulations listed above, EPA has also considered those unamended portions of Sections 1 and 15 (except 1.79 and 1.94) submitted on July 24 and September 18, 1979. These sections were approved by EPA on April 14, 1981 [46 FR 21758].

Evaluation

EPA has evaluated the regulations listed above to determine whether they satisfy all of the criteria for an acceptable NSR and PSD program. EPA believes that the CCHD regulations will: (1) Require the necessary preconstruction review of sources which would be subject to the federal guidelines, (2) require BACT, and air quality protection in a manner consistent with EPA's PSD criteria (40 CFR 51.24) and (3) require certification of statewide compliance, application of LAER, and offsets in a manner consistent with EPA's NSR criteria (40 CFR 51.18). In addition, the CCHD regulations contain adequate guidelines and procedures for the administration and enforcement of the NSR and PSD programs. A detailed discussion and evaluation of the CCHD regulations is contained in EPA's Evaluation Report (available at the locations listed in the ADDRESSES section of this notice).

Proposed Action

EPA proposes to approve under Section 110 and Parts C and D of the Clean Air Act, the CCHD rules which were submitted on November 17, 1981 (See **Description of Regulations** section). EPA believes that the regulations are consistent with Sections 110, 160 to 169 and 173 of the Clean Air Act, 40 CFR 51.18, and 40 CFR 51.24 and should therefore be approved for inclusion in the SIP. In addition, EPA proposes to rescind 40 CFR 52.1485, "Significant deterioration of air quality" as it applies to Clark County, which incorporated the Federal PSD regulations, 40 CFR 52.21, into the applicable SIP for the State of Nevada.

The Administrator has certified (46 FR 8709) that this action will not have a significant economic impact on a substantial number of small entities.

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

(Secs. 110, 129, 160 to 169, 171 to 173 and 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470 to 7479, 7501 to 7503, and 7601(a))

Dated: December 22, 1981.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-4311 Filed 2-17-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

Medicare Program; Reduction in the Number of Providers Dealing Directly With HCFA

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to modify Medicare regulations concerning the option available to Medicare providers to elect to receive payment directly from HCFA, rather than through an intermediary, for covered services furnished to beneficiaries. The regulations would clarify that HCFA may contract with any organization for the purpose of making payments to providers that have not elected to receive payment through an intermediary.

DATE: To assure consideration, comments should be mailed by March 5, 1981.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309—G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 793, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPO-28-P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309—G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Norman Fairhurst, (301) 594-9498.

SUPPLEMENTARY INFORMATION:

I. Background

In the Medicare program, the Secretary is responsible for making payment to a provider of services (such as a hospital or skilled nursing facility) for the covered services it furnishes to Medicare beneficiaries, either through a fiscal intermediary acting on HCFA's behalf or by HCFA directly. The current Medicare regulations give providers the option of selecting an intermediary subject to the consent of both HCFA and the intermediary (Section 1816 of the Social Security Act and 42 CFR 421.103) or of dealing directly with HCFA (42 CFR 421.103). About 720 hospitals and skilled nursing facilities (SNFs), out of the approximately 12,800 providers that currently participate in the program, receive payment directly from HCFA. In addition, 144 comprehensive health clinics and 371 home health agencies (HHAs) also receive direct payment from HCFA.

A. Reduction in the Number of Providers Dealing Directly With HCFA

Section 1874 of the Social Security Act gives the Secretary the authority to perform directly or by contract, as he or she deems necessary, any of his or her functions under Medicare. Under that authority, we are proposing to contract out the functions of making payment determinations, disbursing payments, and related activities with respect to providers that are currently serviced directly by HCFA. Thus, we would require some hospitals, SNFs, and hospital-affiliated home health agencies that currently deal directly with HCFA to deal instead with contractors that already are under contract with HCFA to perform fiscal intermediary functions. This would be carried out in a phased manner in order to assure an orderly transition with no disruption in cash flow to providers.

The decision to use the Secretary's authority to contract out his responsibility for servicing providers is based on considerations that indicate that this would result in the more effective and efficient administration of the Medicare program at this time. HCFA's Office of Direct Reimbursement (ODR), the component that handles the claims from direct dealing providers, receives and processes approximately 2,300,000 hospital and SNF claims per year. ODR's operations represent a significant portion of HCFA's internal operating budget. During FY 1982, the resources available to HCFA to maintain its internal operations have been reduced. Therefore, it is essential that these limited resources be used as effectively as possible.

For the reasons set forth below, we believe that the costs to the Federal government for the activities connected with servicing providers directly have been higher than they would have been if the provider had been receiving payment through a contractor. Moreover, utilization of the alternative of contracting out the servicing of providers would enable HCFA to focus its internal operating resources on the overall management of the Medicare and Medicaid programs nationally. Therefore, we are proposing to have contractors service hospitals, SNFs and hospital-affiliated HHAs that have been serviced by ODR.

The reduction in ODR's workload would increase our ability to control costs and administer the program more efficiently for the following reasons:

1. It would be more efficient to have a contractor use its accountants to conduct cost report audits than for HCFA to locate and contract with accounting firms, as is now the case. We intend to contract with existing Medicare fiscal intermediaries, whose accountants are specialists in Medicare principles of provider reimbursement. Reducing ODR functions would also permit a more consistent application of coverage and reimbursement rules by auditors in those cases where all providers in an area have the same intermediary or intermediaries.

2. Contracting out the servicing of these providers to existing intermediaries would enhance our ability to identify aberrant service and utilization practices of providers, as well as fraud and abuse, because more locally consistent guidelines would be utilized.

3. Bill processing would be improved for those providers that would be serviced by contractors. First, providers and beneficiaries would have easier access to the intermediary to resolve difficulties. Second, query systems by which providers gather eligibility data for beneficiaries would be the same for most providers. Some providers that deal directly with HCFA funnel their inquiries to HCFA through Social Security Administration district offices. This is an inefficient process that imposes an extra workload on the district offices. Last, coverage decisions and reconsideration determinations would be more consistent among providers.

4. We estimate that there would be an immediate reduction in operating costs to the Federal government by contracting out the servicing of providers currently being serviced by ODR.

5. Also, there would be more effective coordination between Medicaid and Medicare. Contracting with intermediaries would make it easier to achieve consistency concerning coverage decisions especially in cases when an individual is both a Medicare and Medicaid beneficiary. At present, an intermediary, a Medicaid State agency and ODR (which as the Federal "intermediary" must maintain a national perspective) are often involved in this process. Under our proposal, ODR would be eliminated from this processing in many cases.

B. Effect on Providers

These regulations would affect hospitals, SNFs, and hospital-affiliated home health agencies only. Freestanding home health agencies have been reassigned to designated regional intermediaries under section 930(o) of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), which added section 1816(e)(4) to the Act. Affected providers under this proposal would start sending claims to their intermediaries after the effective date of the final regulations.

No change is being made to the right of a provider to elect to deal with an existing fiscal intermediary of its choice. See 42 CFR 421.104-421.106 for the process involved. A hospital, SNF, or hospital-affiliated HHA that currently deals with ODR may still exercise its right to elect to deal with a fiscal intermediary (subject to the approval of the intermediary and HCFA).

HCFA will send a notice to each affected provider, requesting a preference. Thereafter, a provider would still be able to elect to deal with an existing fiscal intermediary of its choice, under the usual rules, procedures, timetables, and limitations.

At this time, it is not our intention to eliminate all direct-dealing hospitals and SNFs from ODR's workload. For example, we do not now expect to eliminate New York City and New York State hospitals, Federal hospitals, and hospitals and SNFs in Puerto Rico from the ODR workload. However, we may do so in the future.

Affected providers would be notified, individually, by mail of procedures to follow in the change-over to an intermediary. We would arrange for an orderly transition of service from ODR to the contractors.

II. Provisions of the Regulation

We are amending 42 CFR Part 421 to clarify the application of section 1874 of the Act to providers that chose not to nominate or elect fiscal intermediaries. The amendments would clarify HCFA's authority to contract with intermediaries

or other organizations to make payments to those providers that do not elect to exercise the option to deal with an intermediary. We propose to add a paragraph to § 421.103 to state that HCFA may, as it determines it to be appropriate, contract with any organization (including an intermediary with which HCFA has previously entered into an agreement under 42 CFR 421.105) to make payments to any provider or group of providers. The amendments would preserve the option now available to providers of choosing to receive payment through intermediaries, but would modify the providers' option to deal directly with HCFA.

We propose to add a paragraph (c) to § 421.1, Basis and scope, to clarify that the Part does not apply to HHAs that must receive payment for covered services from designated regional intermediaries under section 1816(e)(4) of the Act. Section 930(o) of the 1980 Reconciliation Act added section 1861(e)(4) to the Act, to require all freestanding HHAs to be serviced by regional intermediaries.

We propose also to make technical changes to § 421.104, Nominations for intermediary, as well as to § 421.105, Notification of action on nomination, to reflect the manner in which a provider's option may be exercised. In addition, we would change the title of § 421.106 and the text of § 421.106(a) to delete specific references to direct payment.

We would also reference section 1874 of the Act in § 421.1 and update the entire authority citation.

III. Impact Analyses

A. Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291.

That is, the proposed regulations would 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 import markets.

Although we expect some Federal savings to result from these regulations, the impact of these regulations would be primarily one of improved program effectiveness.

B. Regulatory Flexibility Act

Section 603(a) of Pub. L. 96-354 (the Regulatory Flexibility Act of 1980) requires that a Federal agency prepare, and make available to the public, an initial regulatory flexibility analysis (IRFA) when it publishes a proposed rule that would have a significant economic impact on a substantial number of small businesses or other small entities.

Some providers may be defined as small businesses, but these regulations would not adversely affect a significant number, with respect to economic impact under the Regulatory Flexibility Act.

IV. 15-Day Comment Period

We are providing 15 days for the public to comment on these proposed regulations because of budgetary implications, and the efficiency and economics to be realized under this proposal. Further, we are immediately furnishing a copy of this proposal to each potentially affected provider now being serviced by ODR, as well as to all Medicare intermediaries.

Because of the large number of comments we often receive on notices of proposed rulemaking, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments received and will respond to them in the preamble to that rule.

V. List of Subjects in 45 CFR Part 421¹

Administrative practice and procedure
Contracts (Agreements)
Courts
Health care
Health facilities
Health maintenance organizations (HMO)
Health professions
Information (Disclosure)
Lawyer
Medicare
Professional Standards Review Organizations (PSRO)
Reporting requirements
42 CFR Part 421, is amended as set forth below.

PART 421—INTERMEDIARIES AND CARRIERS

1. The authority citation for Part 421 is revised to read as follows:

¹ The Health Care Financing Administration is providing this list in compliance with 1 CFR 18.20. That regulation requires agencies to include a list of index terms for each CFR part affected in Rules and Proposed Rules documents published in the Federal Register beginning April 1, 1982.

Authority: Secs. 1102, 1815, 1816, 1842, 1861(u), 1871, 1874 and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b-1.

2. In the Table of Contents for Subpart B, the title of § 421.106 is revised to read as follows:

Subpart B—Intermediaries

421.106 Change to another organization for payment of services.

3. Section 421.1 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c). As revised, § 421.1 reads as follows:

§ 421.1 Basis and scope.

(a) This part is based on sections 1815, 1816, 1842 and 1874 of the Social Security Act and 42 U.S.C. 1395b-1 (experimental authority).

(b) The provisions of this part apply to agreements with Part A (Hospital Insurance) intermediaries and contracts with Part B (Supplementary Medical Insurance) carriers. They specify criteria and standards to be used in selecting intermediaries and evaluating their performance; in assigning or reassigning a provider or providers to particular intermediaries, and in designating regional or national intermediaries for certain classes of providers and for dealing with providers that do not nominate or elect to receive payment from a fiscal intermediary. The provisions set forth the opportunity for a hearing for intermediaries and carriers affected by certain adverse actions. The adversely affected intermediaries may request a judicial review of hearings decisions on (1) assignment or reassignment of a provider or providers or (2) designation of an intermediary or intermediaries to serve a class of providers.

(c) The provisions of this part do not apply to home health agencies that must receive payments for covered services from designated regional intermediaries under section 1816(e)(4) of the Act.

4. Section 421.103 is revised as follows:

§ 421.103 Option available to providers.

(a) Subject to the provisions of paragraph (b) of this section, a provider may elect to receive payment for covered services furnished to Medicare beneficiaries:

- (1) Directly from HCFA or
- (2) Through an intermediary, when both HCFA and the intermediary consent.

(b) Whenever HCFA determines it

appropriate, it may contract with any organization (including an intermediary with whom HCFA has previously entered into an agreement under § 421.105 and § 421.110) for the purpose of making payments to any provider that does not elect to receive payment from an intermediary.

5. Section 421.104 is amended by revising the introductory language of paragraph (b), by revising paragraph (b)(2), and by adding a new paragraph (b)(3) as follows:

§ 421.104 Nominations for intermediary.

(b) Action by nonmembers or nonconcurring members. Providers that nonconcur in their association's nomination, or are not members of an association, may:

(2) Elect to receive payments from a fiscal intermediary with which HCFA already has an agreement, if HCFA and the intermediary agree to it (see § 421.106); or

(3) Elect to receive payment from HCFA as provided in § 421.103.

6. Section 421.105 is amended by revising paragraph (b) as follows:

§ 421.105 Notification of action on nomination.

(b) Any member of a group or association having more than one nominated intermediary approved by HCFA to act on its behalf shall withdraw its nomination from all but one or exercise the option provided in § 421.103(a), subject to § 421.103(b) to receive payment directly from HCFA.

7. Section 421.106 is amended by revising the title and paragraph (a) as follows:

§ 421.106 Change to another organization for payment of services.

(a) Any provider may request to change the organization from which it receives payments for covered services under § 421.103 by:

- (1) Giving HCFA written notice of its desire at least 120 days before the end of its current fiscal year; and
- (2) Concurrently giving written notice to its intermediary.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Insurance)

Dated: February 4, 1982.

Carolyne K. Davis,
Administrator, Health Care Financing
Administration.

Approved: February 9, 1982.

Richard S. Schweiker,
Secretary.

[FR Doc. 82-4379 Filed 2-17-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 42

[CGD 79-153]

Freeboards; Load Line Regulations; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on load line regulations that appeared on page 5266 in the *Federal Register* of Thursday, February 4, 1982, (47 FR 5266). This action is necessary because the Inter-Governmental Maritime Consultative Organization (IMCO) Resolution A.320(IX), referenced as an appendix to the proposed rule, was inadvertently left out of the document published.

FOR FURTHER INFORMATION CONTACT: Mr. William Cleary, Office of Merchant Marine Safety (G-MMT-5/12), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-2187.

Dated: February 10, 1982.

A. D. Utara,
Commander, U.S. Coast Guard Regulations
Officer.

Note.—This action publishes the IMCO Resolution A.320(IX) referenced in the proposed rule published February 4, 1982.

Resolution A.320(IX)—Regulation Equivalent to Regulation 27 of the International Convention on Load Lines, 1966

Adopted: November 12, 1975.

The Assembly, noting Article 16(i) of the IMCO Convention concerning the functions of the Assembly,

Bearing in mind Article 8 of the International Convention on Load Lines, 1966, concerning Equivalents,

Recalling that it adopted in Resolution A.172(ES.IV) the Recommendation for Uniform Application and Interpretation of Regulation 27 of the International Convention of Load Lines, 1966,

Recognizing the need for improvement in the text of Regulation 27 of the

Convention, having regard to provisions of the Recommendation (Annex to Resolution A.172(ES.IV)) and experience gained in applying that Regulation,

Having considered the proposed Regulation equivalent to Regulation 27 of the International Convention on Load Lines, 1966, approved by the Maritime Safety Committee at its thirty-second session,

Adopts the text of the regulation which is at Annex to this Resolution as equivalent to Regulation 27 of the International Convention on Load Lines, 1966, which supersedes the Recommendation annexed to Resolution A.172(ES.IV),

Recommends governments concerned to accept the application of the Regulation as being equivalent to Regulation 27 of the International Convention on Load Lines, 1966,

Requests the Maritime Safety Committee to continue its consideration of improvements to the International Convention on Load Lines, 1966, including Regulation 27 thereof.

Types of Ships

(1) For the purposes of freeboard computation, ships shall be divided into Type "A" and Type "B".

Type "A" Ships

(2) A Type "A" ship is one which:
(a) Is designed to carry only liquid cargoes in bulk;

(b) Has a high integrity of the exposed deck with only small access openings to cargo compartments, closed by watertight gasketed covers of steel or equivalent material; and

(c) Has low permeability of loaded cargo compartments.

(3) A Type "A" ship, if over 150 metres (492 feet) in length to which a freeboard less than Type "B" has been assigned, when loaded to its summer load waterline, shall be able to withstand the flooding of any compartment or compartments, with an assumed permeability 0.95, consequent upon the damage assumptions specified in paragraph (12) of this Regulation, and shall remain afloat in a satisfactory condition of equilibrium as specified in paragraph (13) of this Regulation. In such a ship, if over 225 metres (738 feet) in length, the machinery space shall be treated as a floodable compartment, but with a permeability of 0.85.

(4) A Type "A" ship shall be assigned a freeboard not less than that based on Table A of Regulation 28.

Type "B" Ships

(5) All ships which do not come within the provisions regarding Type "A" ships in paragraph (2) and (3) of this

Regulation shall be considered as Type "B" ships.

(6) Type "B" ships, which in position 1 have hatchways fitted with hatchcovers which comply with the requirements of

Regulation 15, other than paragraph (7), shall be assigned freeboards based upon the values given in Table B of Regulation 28, increased by the values given in the following table:

FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" SHIPS, FOR SHIPS WITH HATCH COVERS NOT COMPLYING WITH REGULATION 15(7) OR 16

Length of ship (metres)	Freeboard increase (millimetres)	Length of ship (metres)	Freeboard increase (millimetres)	Length of ship (metres)	Freeboard increase (millimetres)
108	50	139	175	170	290
109	52	140	181	171	292
110	55	141	186	172	294
111	57	142	191	173	297
112	59	143	196	174	299
113	62	144	201	175	301
114	64	145	206	176	304
115	68	146	210	177	306
116	70	147	215	178	308
117	73	148	219	179	311
118	76	149	224	180	313
119	80	150	228	181	315
120	84	151	232	182	318
121	87	152	236	183	320
122	91	153	240	184	322
123	95	154	244	185	325
124	99	155	247	186	327
125	103	156	251	187	329
126	108	157	254	188	332
127	112	158	258	189	334
128	116	159	261	190	336
129	121	160	264	191	339
130	126	161	267	192	341
131	131	162	270	193	343
132	136	163	273	194	346
133	142	164	275	195	348
134	147	165	278	196	350
135	153	166	280	197	353
136	159	167	283	198	355
137	164	168	285	199	357
138	170	169	287	200	358

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation. Ships above 200 metres in length shall be dealt with by the Administration.

¹ 108 and below.

FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" SHIPS, FOR SHIPS WITH HATCH COVERS NOT COMPLYING WITH REGULATION 15(7) OR 16

Length of ship (feet)	Freeboard increase (inches)	Length of ship (feet)	Freeboard increase (inches)
350	2.0	510	9.6
360	2.3	520	10.0
370	2.6	530	10.4
380	2.9	540	10.7
390	3.3	550	11.0
400	3.7	560	11.4
410	4.2	570	11.8
420	4.7	580	12.1
430	5.2	590	12.5
440	5.8	600	12.8
450	6.4	610	12.1
460	7.0	620	13.4
470	7.6	630	13.6
480	8.2	640	13.9
490	8.7	650	14.1
500	9.2	660	14.3

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.

Ships above 660 feet in length shall be dealt with by the Administration.

¹ 350 and below.

(7) Type "B" ships, which in position 1 have hatchways fitted with hatchcovers complying with the requirements of Regulations 15(7) or 16, shall, except as provided in paragraphs (8) to (13) inclusive of this Regulation, be assigned freeboards based on Table B of Regulation 28.

(8) Any Type "B" ship of over 100 metres (328 feet) in length may be assigned freeboards less than those required under paragraph (7) of this Regulation, provided that, in relation to the amount of reduction granted, the Administration is satisfied that:

(a) The measures provided for the protection of the crew are adequate;

(b) The freeing arrangements are adequate;

(c) The covers in positions 1 and 2 comply with the provisions of Regulation 16 and have adequate strength, special care being given to their sealing and securing arrangements; and

(d) The ship, when loaded to its summer load waterline, shall be able to withstand the flooding of any compartment or compartments, with an assumed permeability of 0.95, consequent upon the damage assumptions specified in paragraph (12) of this Regulation, and shall remain afloat in a satisfactory condition of equilibrium as specified in paragraph (13) of this Regulation. In such a ship, if over 225 metres (738 feet) in length, the machinery space shall be treated as

floodable compartment, but with a permeability of 0.85.

(9) In calculating the freeboards for Type "B" ships which comply with the requirements of paragraphs (8), (11), (12) and (13) of this Regulation, the values from Table B of Regulation 28 shall not be reduced by more than 60 percent of the difference between the "B" and "A" tabular values for the appropriate ship lengths.

(10)(a) The reduction in tabular freeboard allowed under paragraph (9) of this Regulation may be increased up to the total difference between the values in Table A and those in Table B of Regulation 28 on condition that the ship complies with the requirements of:

(i) Regulation 26 other than paragraph (4) as if it were a Type "A" ship;

(ii) Paragraphs (8), (11) and (13) of this Regulation; and

(iii) Paragraph (12) of this Regulation, provided that throughout the length of the ship any one transverse bulkhead will be assumed to be damaged, such that two adjacent fore and aft compartments shall be flooded simultaneously, except that such damage will not apply to the boundary bulkheads of a machinery space.

(b) In such a ship, if over 225 metres (738 feet) in length, the machinery space shall be treated as a floodable compartment, but with a permeability of 0.85.

Initial Condition of Loading.

(11) The initial condition of loading before flooding shall be determined as follows:

(a) The ship is loaded to its summer load water line in an imaginary even keel.

(b) When calculating the vertical centre of gravity, the following principles apply:

(i) Homogeneous cargo is carried.
(ii) All cargo compartments, except those referred to under (iii) of this sub-paragraph but including compartments intended to be partially filled, shall be considered fully loaded except that in the case of fluid cargoes each compartment shall be treated as 98 per cent full.

(iii) If the ship is intended to operate at its summer load water line with empty compartments, such compartments shall be considered empty provided the height of the centre of gravity so calculated is not less than as calculated under sub-paragraph (ii) of this paragraph.

(iv) Fifty per cent of the individual total capacity of all tanks and spaces fitted to contain consumable liquids and stores is allowed for. It shall be assumed that for each type of liquid, at least one

transverse pair or a single centre line tank has maximum free surface, and the tank or combination of tanks to be taken into account shall be those where the effect of free surfaces is the greatest; in each tank the centre of gravity of the contents shall be taken at the centre of volume of the tank. The remaining tanks shall be assumed either completely empty or completely filled, and the distribution of consumable liquids between these tanks shall be effected so as to obtain the greatest possible height above the keel for the centre of gravity.

(v) At an angle of heel of not more than 5 degrees in each compartment containing liquids, as prescribed in (ii) of this sub-paragraph except that in the case of compartment containing consumable fluids, as prescribed in (iv) of this sub-paragraph of this paragraph, the maximum free surface shall be taken into account.

Alternatively, the actual free surface effects may be used, provided the methods of calculation are acceptable to the Administration.

(vi) Weights shall be calculated on the basis of the following values for specific gravities:

salt water.....	1.025
fresh water.....	1.000
oil fuel.....	0.950
diesel oil.....	0.900
lubricating oil.....	0.900

Damage Assumptions

(12) The following principles regarding the character of the assumed damage apply:

(a) The vertical extent of damage in all cases is assumed to be from the base line upwards without limit.

(b) The transverse extent of damage is equal to B/5 or 11.5 metres (37.7 feet), whichever is the lesser, measured inboard from the side of the ship perpendicularly to the centre line at the level of the summer load water line.

(c) If damage of a lesser extent than specified in sub-paragraphs (a) and (b) of this paragraph results in a more severe condition, such lesser extent shall be assumed.

(d) Except where otherwise required by paragraph (10)(a) the flooding shall be confined to a single compartment between adjacent transverse bulkheads provided the inner longitudinal boundary of the compartment is not in a position within the transverse extent of assumed damage. Transverse boundary bulkheads of wing tanks, which do not extend over the full breadth of the ship shall be assumed not to be damaged, provided they extend beyond the transverse extent of assumed damage prescribed in sub-paragraph (b) of this paragraph.

If in a transverse bulkhead there are steps or recesses of not more than 3.05 metres (10 feet) in length located within the transverse extent of assumed damage as defined in sub-paragraph (b) of this paragraph, such transverse bulkhead may be considered intact and the adjacent compartment may be floodable singly. If, however, within the transverse extent of assumed damage there is a step or recess of more than 3.05 metres (10 feet) in length in a transverse bulkhead, the two compartments adjacent to this bulkhead shall be considered as flooded. The step formed by the after peak bulkhead and the after peak tank top shall not be regarded as a step for the purpose of this Regulation.

(e) Where a main transverse bulkhead is located within the transverse extent of assumed damage and is stepped in way of a double bottom or side tank by more than 3.05 metres (10 feet), the double bottom or side tanks adjacent to the stepped portion of the main transverse bulkhead shall be considered as flooded simultaneously. If this side tank has openings into one or several holds, such as grain feeding holes, such hold or holds shall be considered as flooded simultaneously. Similarly in a ship designed for the carriage of fluid cargoes, if a side tank has openings into adjacent compartments, such adjacent compartments shall be considered as empty and flooded simultaneously. This provision is applicable even where such openings are fitted with closing appliances, except in the case of sluice valves fitted in bulkheads between tanks and where the valves are controlled from the deck. Manhole covers with closely-spaced belts are considered equivalent to the unpierced bulkhead except in the case of openings in topside tanks making the topside tanks common to the holds.

(f) Where the flooding of any two adjacent fore and aft compartments is envisaged main transverse watertight bulkheads shall be spaced at least $1/3L^{2/3}$ or 14.5 metres (0.495L^{2/3} or 47.6 feet), whichever is the lesser, in order to be considered effective. Where transverse bulkheads are spaced at a lesser distance, one or more of these bulkheads shall be assumed as non-existent in order to achieve the minimum spacing between bulkheads.

Condition of Equilibrium

(13) The condition of equilibrium after flooding shall be regarded as satisfactory provided:

(a) The final water line after flooding, taking into account sinkage, heel, and trim, is below the lower edge of any

opening through which progressive flooding may take place. Such openings shall include air pipes, ventilators and openings which are closed by means of weathertight doors (even if they comply with Regulation 12) or hatch covers (even if they comply with Regulation 16 or Regulation 19(4)), and may exclude those openings closed by means of manhole covers and flush scuttles (which comply with Regulation 18), cargo hatch covers of the type described in Regulation 27(2), hinged watertight doors in an approved position which are secured closed while at sea and so logged, remotely operated sliding watertight doors, and side scuttles of the non-opening type (which comply with Regulation 23).

(b) If pipes, ducts or tunnels are situated within the assumed extent of damage penetration as defined in paragraph 12(b) of this Regulation, arrangements are to be made so that progressive flooding cannot thereby extend to compartments other than those assumed to be floodable in the calculation for each case of damage.

(c) The angle of heel due to unsymmetrical flooding does not exceed 15 degrees. If no part of the deck is immersed, an angle of heel of up to 17 degrees may be accepted.

(d) The metacentric height in the flooded condition is positive.

(e) When any part of the deck outside the compartment assumed flooded in a particular case of damage is immersed, or in any case where the margin of stability in the flooded condition may be considered doubtful, the residual stability is to be investigated. It may be regarded as sufficient if the righting lever curve has a minimum range of 20 degrees beyond the position of equilibrium with a maximum righting lever of at least 0.1 metre (4 inches) within this range. The area under the righting lever curve within this range shall be not less than 0.0175 metre-radians (0.689 inch-radians). The Administration shall give consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability.

(f) The Administration is satisfied that the stability is sufficient during intermediate stages of flooding.

Ships without means of Propulsion

(14) A lighter, barge, or other ship without independent means of propulsion shall be assigned a freeboard in accordance with the provisions of these regulations. Barges which meet the requirements of paragraphs (2) and (3)

of this Regulation may be assigned Type "A" freeboards:

(a) The Administration should especially consider the stability of barges with cargo on the weather deck. Deck cargo can only be carried on barges to which the ordinary Type "B" freeboard is assigned.

(b) However, in the case of barges which are unmanned, the requirements of Regulations 25, 26(2) and (3), and 39 shall not apply.

(c) Such unmanned barges which have on the freeboard deck only small access openings closed by watertight gasketed covers of steel or equivalent material may be assigned a freeboard 25 per cent less than those calculated in accordance with these Regulations.

[FR Doc. 82-4057 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-64; RM-4014]

FM Broadcast Station in Lakeview, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 292A to Lakeview, Michigan, as its first FM assignment, in response to a petition filed by Daniel L. Pettengill.

DATES: Comments must be filed on or before March 22, 1982, and reply comments must be filed on or before April 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 8, 1982.

In the matter an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lakeview, Michigan); BC Docket No. 82-64, RM-4014; notice of proposed rule making.

1. A petition for rule making was filed by Daniel L. Pettengill ("petitioner"), proposing the assignment of Channel 292A to Lakeview, Michigan, as that community's first FM assignment. Petitioner states that he will apply for authority to construct and operate on Channel 292A, if assigned.

2. Lakeview (population 1,139),¹ in Montcalm County (population 47,555) is located approximately 216 kilometers (135 miles) northwest of Detroit, Michigan. It is without local broadcast service.

3. In support of his proposal, petitioner states that the economy of Lakeview is primarily based on agriculture, with tourism adding to its economic vitality. Local retail trade and support units to the automobile industry are also said to enhance Lakeview's economy. Petitioner further states that although the community is served by a local weekly newspaper, the proposed assignment could serve the community needs and interests by providing 24-hour coverage of news, current weather information, job opening information, local events and sports.

4. Since Lakeview is within 420 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 292A to Lakeview, Michigan, requires coordination with the Canadian Government.

5. In view of an apparent need for a first FM channel assignment at Lakeview, the Commission believes it appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Rules) with regard to Lakeview, Michigan, as follows:

City	Channel No.	
	Present	Proposed
Lakeview, Michigan		292A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend sections 73.202(b), 73.504 and 73.606(b)*

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

of the Commission's Rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division,
Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

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

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be

considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4304 Filed 2-17-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST-3, Notice No. 3]

Track Safety Standards; Miscellaneous Proposed Amendments

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the Track Safety Standards. The

proposed amendments would revise and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before March 22, 1982. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on March 16, 1982. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before March 10, 1982.

ADDRESSES: Written Comments: Written comments should identify the docket number and the notice number and should be submitted in triplicate to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 7321A of the Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(2) Public Hearing: A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Persons desiring to make an oral statement at the hearing should notify the Docket Clerk by telephone (202-426-2761) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Edward R. English, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-9252.

Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

I. Background

During 1978 the FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. The inquiry and the hearings related to the Track Safety Standards portion of the regulatory program were announced in the May 8, September 25 and October 4, 1978 issues of the *Federal Register* (43 FR 19696, 43 FR 43339, and 43 FR 45905).

Based on those hearings, research findings, technical innovations, available accident data and seven years experience with the existing standards, the FRA proposed extensive changes to the standards. The NPRM containing these changes was published in the *Federal Register* on September 9, 1979 (44 FR 52104). The proposal generated considerable controversy. After analyzing the comments in response to this proposal, the FRA concluded that it was not possible to develop an appropriate final rule on the basis of that NPRM. Accordingly, the FRA published a notice withdrawing that NPRM. This withdrawal notice was published on June 25, 1981 in the *Federal Register* (46 FR 32898).

Since withdrawing the original proposal, the FRA has been reviewing the comments received in order to develop a new proposal. The FRA has concluded that many of the controversial features of the prior NPRM, including the imposition of "strict liability" for non-compliance with the standards, imposition of speed limitations based upon weight of rail and elimination of the differential for speeds of passenger trains, require long term study and analysis. However, some of the initial proposals do not require such lengthy review and the FRA has decided to address these proposals in this NPRM.

In selecting the areas for change that are reflected in this proposal, the FRA has had the benefit of joint letters submitted by the Association of American Railroads (AAR) and the Railway Labor Executives Association (RLEA). The joint AAR/RLEA letters were delivered to FRA on November 6, 1981 and December 18, 1981 and copies have been included in the public docket in this proceeding. The docket, including those letters, is available for inspection during regular business hours in Room 7321A of the Nassif Building.

After reviewing the joint AAR/RLEA letters, which indicate that AAR and RLEA agree that specific portions of these standards need to be changed, the FRA has decided to use the AAR/RLEA letters as the basis for proposing the

technical revisions and updating of the existing standards that are contained in this NPRM. In their joint letters, the AAR and RLEA provided specific regulatory language that they agreed would be an appropriate substitute for existing provisions of several sections of the standards and identified thirteen provisions that should be entirely deleted.

The FRA appreciates the assistance of the AAR and RLEA in focusing attention on those provisions that they believe are in need of revision and in furnishing specific regulatory language expressing their agreement on the revisions required.

II. DISCUSSION OF PROPOSAL

A. Objectives of the Proposed Track Safety Standards

In October of 1971, the initial FRA Track Safety Standards were issued (36 FR 20336) in response to the congressional mandate of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*). The original standards were based on the safety practices of the rail industry at that time, available track-related data, and public comments and testimony. The goal of these initial standards was to establish "minimum requirements for safety," rather than to include all "preferred or recommended practices from an economic and engineering standpoint." The standards were not intended as the last word on track safety conditions, but as an evolving set of safety requirements: " * * * the standards * * * will be continually reviewed and revised by FRA in light of technical innovations, the results of the FRA research and development program, and experience under these standards," 36 FR 20336.

The approach taken when the initial standards were introduced was used in developing the amendments proposed in this notice. FRA seeks to set forth the minimum necessary requirements for safe track rather than a comprehensive list of all potentially hazardous conditions. The railroads, not FRA will remain directly responsible for finding and correcting all unsafe track conditions. The proposal is not a major overhaul of the standards; instead, it is intended to refine in a limited manner the existing requirements.

The limited nature of this proposal is best illustrated by the fact that the FRA is proposing to modify nine substantive provisions and to delete another group of provisions that have no demonstrable effect on track safety.

B. Section-by-Section Analysis

§ 213.3 Application

The existing § 213.3 extends application of 49 CFR Part 213 (Track Safety Standards) to all standard gage track in the general system of transportation with the exception of trackage located inside an installation that is not part of the general system, and track that is used exclusively for rapid transit, commuter or other short haul passenger service in a metropolitan or suburban area.

The changes proposed in the previous NPRM sought to clarify application of the Track Safety Standards in several ways: (1) By resolving ambiguity concerning the phrase "general railroad system of transportation" in paragraph (a); (2) by eliminating the exclusion of track used exclusively for rapid transit, commuter or other short haul passenger service in paragraph (b)(2); and (3) by eliminating the provisions of paragraph (c) which indicate when various subparts went into effect.

In light of the comments received, the FRA has decided to propose a more limited change to this section. The new proposal would only eliminate paragraph (c) of the existing regulation and add a new paragraph (b)(3) to this section.

The new paragraph (b)(3) would exempt certain track from the minimum requirements for Class 1 track if that track meets the parameters established in proposed § 213.4.

§ 213.4 Excepted Track

In this section the FRA is proposing to permit certain yard and low density branch lines to be excepted from the application of the standards.

The purpose of this exception is to address an important reality that has plagued the administration of the current standards. There are many track segments, particularly on low density branch lines, that are used only for the transportation of cargo at low speeds. FRA believes that these segments are generally on comparatively level terrain and pass through areas where it is highly unlikely that a derailment would endanger persons along the railroad right-of-way. Moreover, the risk of injury to train crew members in a derailment in these circumstances is remote. Consequently, only property would be seriously endangered by derailments on excepted track segments.

In formulating the language for this section, the FRA has reviewed the prior NPRM, the comments received in response to that NPRM and the regulatory language suggested jointly by

the AAR and RLEA. To be eligible for the excepted status under this proposal, the track segment would have to be located more than 30 feet from any adjacent track where trains could operate simultaneously at speeds in excess of 10 miles per hour and could not be situated on a bridge, bridge approach or public street if cars containing hazardous materials are to be hauled. The eligible track would have to be identified by the railroad and be subjected to specific operational constraints. The operational constraints would preclude the operation of revenue passenger trains; limit the speed of all trains; and restrict the volume of hazardous materials moved over that track. Additionally, the railroads would have to continue inspecting these segments to monitor their condition.

§ 213.5 Responsibility of Track Owners

The FRA proposes to revise only the provisions of paragraph (a) of § 213.5. That paragraph currently requires that any track owner who knows or has notice that a segment of track does not comply with the standards must either halt operations or immediately bring the track into compliance. The immediate compliance language of this section has been viewed by some parties as requiring immediate restoration or renewal of the track to eliminate the particular defective condition even though other sections permit alternate remedial actions.

The FRA proposes to revise this paragraph to provide a clear regulatory link between this section and other provisions of the standards, such as § 213.9 and § 213.113, which permit remedial actions that do not constitute either restoration or renewal. The FRA believes that this proposed cross referencing will more clearly express the intent of the regulation.

§ 213.9 Class of Track: Operating Speed Limits

The current provisions of § 213.9(b) require that any track which does not comply with all of the requirements for its intended class must be reclassified to the next lower class of track for which it does meet all of the requirements. Additionally, if a segment of track does meet at least Class 1 requirements, operations may not continue unless restoration work is immediately instituted under the provisions of § 213.11.

The requirement to immediately institute restoration work under the supervision provisions of § 213.11 has proven to be too inflexible a response to deteriorated track. Therefore, the FRA

proposes to revise the language of this section to permit railroads to have some additional flexibility in resolving defective conditions while maintaining vital rail service over that track.

The proposed change would require that a qualified person inspect the defective condition to determine whether trains can continue to operate safely over that track segment. If necessary, that person would impose appropriate safety restrictions. To assure that defective track conditions are corrected in a reasonable time, the FRA proposes to limit the time that operations may be conducted over the defective condition to a period of not more than 30 days.

The proposed change will permit a railroad to utilize more effectively its limited resources and to perform track work in a more systematic fashion. It is based on FRA's experience in granting temporary waivers of compliance and comments received in response to the prior NPRM indicating that the inflexibility of the existing standards frequently hinder or impair the performance of planned maintenance activities.

§ 213.11 Restoration or Renewal of Track Under Traffic Condition

Only a minor modification is proposed in § 213.11. Section 213.11 currently provides that if track, which does not comply with these standards, continues to handle traffic while it is being restored or renewed, it must be under the continuous supervision of a person designated to perform this function. Because of past misunderstanding by some railroads as to what constitutes "continuous supervision," the FRA proposes to add language to explain the concept of "continuous supervision." The purpose of this change is to express more clearly the original intent of this section that a qualified person must be present and continuously observe and supervise work on track that is being restored or renewed and does not comply fully with the requirements of the Track Safety Standards. The added language explicitly states that, if the work is being performed over a large work area, it will not be necessary that the qualified person be in personal observation of each phase or segment of the work being performed.

§ 213.53 Gage

The current provisions of § 213.53(b) specify the minimum and maximum distance between the heads of the rails. The minimum distance is uniform for all tracks and the maximum distance varies by Class of track and by the existence of curvature in the track.

In responding to the prior NPRM, the commenters urged that the FRA give consideration to increasing the gage requirements because the existing regulations fail to adequately take into consideration factors such as manufacturers' allowable tolerances found in rail base dimensions, tie plate shoulders and tie plate spike holes and the slight gage widening attributed to normal rail wear.

After further review, the FRA has decided to propose revisions to portions of these specifications to more accurately reflect needed safety tolerances. The proposal would permit additional distances from those currently specified for tangent track in Class 1 through 6 and additional distances from those currently specified for curved track in Classes 1, 3 and 6. These proposed changes should alleviate problems of manufacturing tolerances and normal rail wear that can produce non-compliance with these standards without creating an unsafe condition.

§ 213.109 Crossties

The current provisions of § 213.109 identify the conditions that render a crosstie defective and specify the number and location of crossties without defective conditions that must be present to support each Class of track. The FRA proposes to reword, restructure and revise this section. Proposed § 213.109 would eliminate the reference to timber materials for crossties and redefine what constitutes a crosstie that is without defective conditions. The revision also proposes to alter the positioning of such crossties at joint locations. Additionally, the proposal would delete the existing prohibition in paragraph (e) against using interlaced crossties because that constraint is not necessary from a safety standpoint.

§ 213.113 Defective Rails

The current provisions of § 213.113 identify a variety of rail defects and prescribe specific remedial actions to be taken once a railroad has learned of the defect. The FRA proposes to alter the provisions of this section in two ways.

The proposal would modify some of the specific remedial action requirements of the existing section to permit the track owner some additional flexibility in determining the necessary remedial action to be taken until the defective rail is replaced. The proposal would also delete § 213.113(b) and (c)(12-14) which concern minor rail surface imperfections.

In developing the existing standards, the FRA was faced with the absence of reliable data that would permit reasonable predictions about the growth of a rail flaw from the point of detectability to the point of in-service failure. The FRA responded to this situation by placing stringent operational constraints on movements over known defects. This approach placed a premium on removing a rail from service so as to eliminate operational limitations.

An unanticipated consequence of FRA's approach has been that railroads now limit or defer rail flaw inspection activities in order to avoid the stringent operational constraints imposed by this section. To the degree that this section fosters an "ignorance is bliss" mentality, the FRA is defeating the effort to improve rail safety. Consequently, the FRA has been reviewing its conceptual approach to this section.

As part of that review, FRA ascertained the status of the research work concerning the predictability of rail flaw growth, that has been conducted since the formulation of this section. Unfortunately, the many variables, such as temperature fluctuations, axle loadings, total tonnage, train speed and general maintenance practices, have impeded the development of predictable general patterns of defect growth. As a result, the FRA is not able to revise this section to prescribe specific remedial actions tailored to effectively encompass the wide spectrum of predictable growth patterns to ensure removal of defective rail prior to in-service failure.

The FRA also examined the available accident data to identify instances where a railroad continued operations over known rail flaw defects to the point where an in-service failure caused a derailment. Only one known instance has been identified in which a railroad experienced a derailment by operating over a known defect for which the appropriate remedial action was not taken. This accident data strongly indicates that once a rail flaw has been detected the railroads take effective remedial action to prevent an in-service failure and resulting derailment.

Based on this accident data, the absence of research data to revise the remedial action requirements with concise tailored provisions and the current discouragement or more extensive rail flaw inspections, the FRA has decided to revise this section to permit the railroads some additional flexibility in prescribing the remedial action that must be taken once a rail flaw defect has been identified. The FRA believes that this proposal will

permit the railroads to more effectively use their resources and will provide the necessary incentive to increase the use of rail flaw detection inspections.

§ 213.127 Rail Fastenings

Changes to this section are being proposed in recognition of the increased use of rail fastening other than spikes. The proposed language would change the caption of existing § 213.127 from "Track Spikes" to "Rail Fastenings." The proposed § 213.127 also attempts to structure this provision in terms of a performance standard by focusing on the major functioning of rail fastenings which is to effectively restrain lateral rail movement. This proposal replaces the existing provision that focuses on the number of rail spikes rather than the ability of those devices to provide restraint.

The remaining proposed revisions are described below and all involve deletions from the existing standards. These deletions basically follow the proposed deletions contained in the prior NPRM because FRA did not receive adverse comment in response to the prior proposal to delete these provisions. The FRA believes that these deletions will not have any adverse safety impact and will remove at least one burdensome recordkeeping requirement.

§ 213.61 Curve Data for Classes 4 through 6 Track

Under current § 213.61, a railroad is required to maintain records on curve data for track Classes 4 through 6. It is proposed to delete § 213.61 because it is primarily a recordkeeping requirement that has no direct bearing on track safety. Moreover, between 1975 and 1977, FRA inspectors noted only 13 deviations from this section—less than 5 defects per year. This deletion would reduce paperwork and related costs for the railroads.

§ 213.105 Ballast and Disturbed Track

It is proposed to delete § 213.105 because its provisions concerning the condition of ballast in disturbed track are not sufficiently specific to provide meaningful guidance to railroad personnel and are virtually unenforceable. In the three year period from 1975 through 1977, FRA filed only one defect under this section. Research has not established specific, measurable guidelines for determining when "ballast is sufficiently compacted" in disturbed track. This section may be re-established in the future as a result of further research and additional reliable data.

§ 213.117 Rail End Batter

The existing § 213.117 prescribes limits on the amount of "batter" (damage or disfiguration) that rail ends may sustain. When the ends of adjoining rails are vertically or laterally mismatched, they may be damaged by the battering and pounding they receive from the wheels of passing equipment. The proposed changes would delete § 213.117 in its entirety because its provisions are maintenance rather than safety standards. FRA recognizes that if rail end batter is left uncorrected, it may eventually lead to broken and/or cracked angle bars, defective rails, and deteriorated surface conditions. However, each of these hazardous conditions is addressed elsewhere in the standards. FRA plans to conduct further research on the effect of rail tread mismatch and rail end batter on rail life and wheel damage. This research may lead to establishing safety requirements in this area.

§ 213.115 Rail Anchoring

FRA proposes to delete § 213.125 concerning use of rail anchors. While rail anchors are in important aspect of lateral track stability, the existing rule is virtually unenforceable because of the vagueness of the term "effectively controlled." It is recognized that if longitudinal rail movement is permitted to exist, conditions may develop that lead to either track buckling or pull-aparts, both of which can and do cause train accidents. Therefore, FRA is conducting research in this area in order to more thoroughly understand track structure. This section may be re-established when research results identify specific, measurable requirements for safe operations.

§ 213.129 Track Shims and Planks Used in Shimming

FRA proposes to delete §§ 213.129 and 213.131 that address the use of track shims and planks, which are pieces of wood that are placed between the base of the rail and the top of a tie. They are particularly useful to restore track to the required geometric threshold after it has been displaced by frost heaves and ground thaws. As long as the requirements of the other sections of this part, such as § 213.63, are met, the maintenance method used to achieve this result is immaterial from the standpoint of safety. Furthermore, there is no evidence that shims or planks have ever been the sole cause of a derailment or other train accident.

§ 213.109 Continuous Welded Rail

Current § 213.119 provides that continuous welded rail must be installed at or adjusted for a rail temperature range that should not result in forces that will produce lateral displacement of the track or the pulling apart of rail ends or welds. It also provides that after installation, continuous welded rail should not be disturbed at rail temperatures higher than its installation or adjusted temperature. FRA proposes to delete this section in its entirety because it is so general in nature that it provides little guidance to railroads and is difficult to enforce. From 1975 through 1978, a total of only 14 defects were reported by FRA inspectors and 1 violation was filed under this section. While the importance of controlling thermal stresses within continuous welded rail has long been recognized, research has not advanced to the point where specific safety requirements can be established. Continuing research may produce reliable data in this area in the future.

§ 213.123 Tie Plates

FRA proposes to delete § 213.123(b) which prohibits the shoulders of tie plates from being under the base of rail. While this prohibition reflects good maintenance practice, it is not necessary for safe operations. While a tie plate shoulder under the base of rail may in time result in a broken base rail, FRA feels that this subject is adequately addressed in § 213.113.

Track Appliances and Track-Related Devices

It is proposed that a portion of Subpart E, Track Appliances and Track-Related Devices, be deleted. These appliances and devices do not have a significant impact on track safety. A review of the accident history for the four years from 1975 through 1978 revealed a total of only 12 accidents involving track appliances and devices, all of which occurred at speeds of 10 miles per hour or less, and none of which resulted in a death or personal injury. The FRA proposes to retain the existing provisions of section 205(a) concerning derails.

III. Regulatory Impact

This proposal has been evaluated in accordance with existing regulatory policies including Executive Order 12291 issued on February 17, 1981 (46 FR 1391). The proposal primarily contains technical revisions to the existing standards.

In general, the revision will serve to reduce the economic burdens of the

existing regulation by exempting some track from full compliance with these standards. Additionally, a reduction in recordkeeping burdens and their associated costs may produce some savings. The FRA has not been able to quantify these economic impacts because it is not clear how extensively the railroads can utilize these changes.

Because the proposal is primarily technically oriented, the FRA has concluded that the proposal will not constitute a major rule under the terms of Executive Order 12291 or a significant rule under DOT's regulatory policies and procedures. The FRA will review this determination in the light of any comments received in response to this proposal prior to issuance of a final rule.

The proposal will only have a direct economic impact on railroads and its primary impact will be on large railroads which own hundreds of miles of track. The proposal does not place any new requirements or burdens on the public and to some extent it is deregulatory in nature. The proposal will not have a significant economic impact on any small entity. Based on these facts, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1164, September 19, 1980).

Additionally, the proposal has also been reviewed in light of the FRA procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA," 42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.113.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve diverse factors, including environmental controversy; and availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of track requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed revision of

Part 213, Track Safety Standards, does not constitute a major FRA action requiring an environmental assessment.

Participation in This Proceeding**Written Comments and Hearing**

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring receipt of their communications to be acknowledged should attach a stamped pre-addressed postcard to the first page of each communication. Communications received before March 22, 1982 will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on March 16, 1982 in Washington, D.C. at 10:00 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and will be a matter of public record. Any persons who wish to make an oral statement at the hearing should notify the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (Phone 202-426-2761), before March 10, 1982.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

Secs. 202 and 208 of the Federal Railroad Safety Act of 1970, as amended, 49 U.S.C. 431 and 437; Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n))

Issued in Washington, D.C. on February 11, 1982.

Robert W. Blanchette,
Administrator.

PART 213—TRACK SAFETY STANDARDS

In consideration of the foregoing, the FRA proposes the following:

1. To revise § 213.3 to read as follows:

§ 213.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all standard gage track in the general railroad system of transportation.

(b) This part does not apply to track—
(1) Located inside an installation which is not part of the general railroad system of transportation;

(2) Used exclusively for rapid transit, commuter or other short-haul passenger service in a metropolitan or suburban area; or

(3) Designated as excepted track under the provisions of § 213.4.

2. To add a new § 213.4 to read as follows:

§ 213.4 Excepted track.

A track owner may designate a segment of track as excepted track provided that:

(a) The segment is identified in the timetable, special instructions, general order or other appropriate records which are available for inspection during regular business hours;

(b) The identified segment is not located within 30 feet of an adjacent track which can be subjected to simultaneous use at speeds in excess of 10 miles per hour;

(c) The identified segment is inspected in accordance with § 213.233(c) at the frequency specified for Class 1 track;

(d) The identified segment of track is not located on a bridge including the track approaching the bridge for 100 feet on either side, public street or highway if railroad cars containing commodities, required to be placarded by the Hazardous Materials Regulations (49 CFR Part 172), are moved over that track; and

(e) The railroad conducts operations on the identified segment under the following conditions:

- (1) No train shall be operated at speeds in excess of 10 miles per hour;
- (2) No revenue passenger train shall be operated; and
- (3) No freight train shall be operated that contains more than 5 cars required to be placarded by Hazardous Materials Regulations (49 CFR Part 172).

3. To amend § 213.5 by revising paragraph (a) to read as follows:

§ 213.5 Responsibility of track owners.

(a) Any owner of track to which this part applies who knows or has notice that the track does not comply with the requirements of this part, shall—

- (1) Bring the track into compliance;
- (2) Halt operations over that track; or
- (3) Operate under authority of a person designated under § 213.7(a)(1)(i) subject to conditions set forth in §§ 213.4, 213.9, 213.11, 213.33, 213.37, and 213.113.

4. To amend § 213.9 by revising paragraph (b) to read as follows:

§ 213.9 Class of track: Operating speed limits.

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the next lowest class of track for which it does meet all of the requirements of this part. However, if the segment of track does not at least meet the requirements for Class 1 track, operations may continue, for a period of not more than thirty days without bringing the track into compliance, under the authority of a person designated under § 213.7(a)(1)(i) after that person determines that operations may safely continue and subject to any limiting conditions specified by such person.

5. To revise § 213.11 to read as follows:

§ 213.11 Restoration or renewal of track under traffic conditions.

If, during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work on the track must be under the continuous supervision of a person designated under § 213.7(a)(1)(i). The term "continuous supervision" as used in this section means the physical presence of the appropriate person at a job site. However, since the work may be performed over a large area, it is not necessary that each phase of the work be done under the visual supervision of such person.

6. To amend § 213.53 by revising paragraph (b) to read as follows:

§ 213.53 Gage.

(b) Gage must be within the limits prescribed in the following table:

Class of track	The gage must be at least	But not more than
1.....	4' 8"	4' 10"
2 and 3.....	4' 8"	4' 9 3/4"
4 and 5.....	4' 8"	4' 9 1/2"
6.....	4' 8"	4' 9 1/4"

7. To revise § 213.109 to read as follows:

§ 213.109 Crossties.

(a) Crossties shall be made of a material to which rail can be securely fastened.

(b) Each 39 foot segment of track shall have:

(1) A sufficient number of crossties which in combination provide effective support that will:

(i) Hold gage within the limits prescribed in § 213.53(b);

(ii) Maintain surface within the limits prescribed in § 213.63; and

(iii) Maintain alignment within the limits prescribed in § 213.55.

(2) The minimum number and type of crossties specified in paragraph (c); and

(3) At least one crosstie of the type of specified in paragraph (c) which is located at a joint location as specified in paragraph (d).

(c) Class 1 track shall have 5 crossties, Classes 2 and 3 track shall have 8 crossties, Classes 4 and 5 track shall have 12 crossties and Class 6 track shall have 14 crossties which are not:

(1) Broken through;

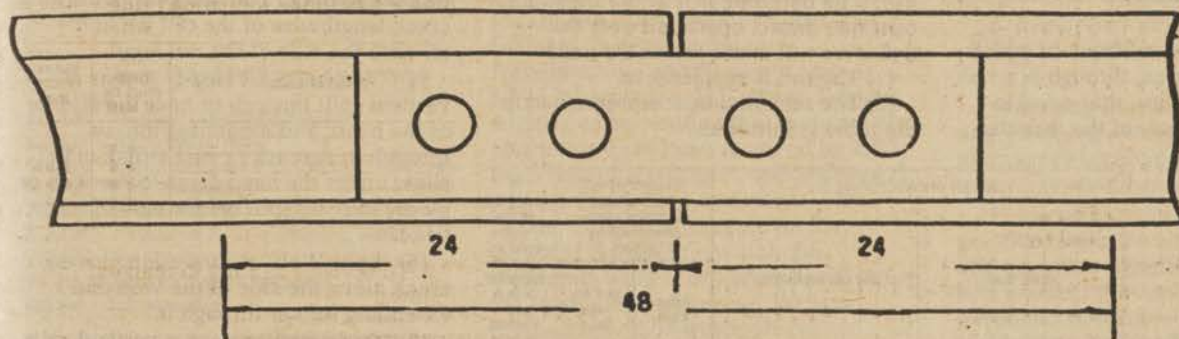
(2) Split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners;

(3) So deteriorated that the tie plate or base of rail can move laterally more than 1/2 inch relative to the crossties; or

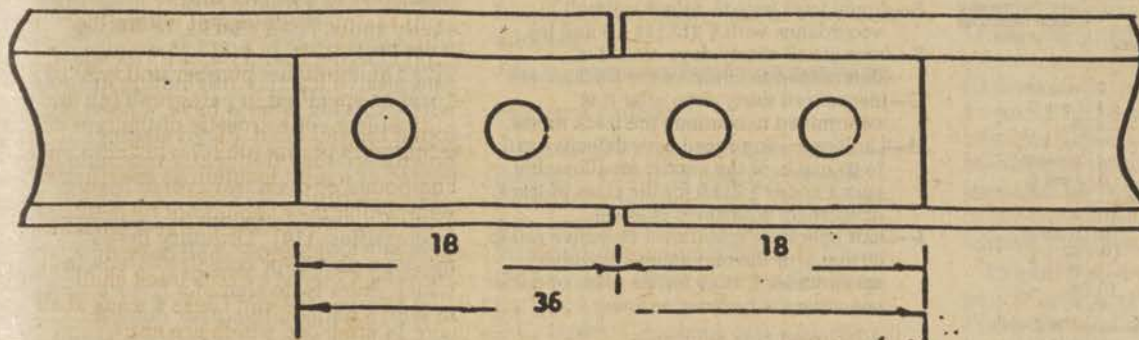
(4) Cut by the tie plate through more than 40 percent of a tie's thickness.

(d) Class 1 and Class 2 track shall have one crosstie whose centerline is within 24 inches of the rail joint location and Classes 3 through 6 track shall have one crosstie whose centerline is within 18 inches of the rail joint location. The relative position of these ties is described in the following table.

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Classes 1 and 2

Each rail joint in Classes 1 and 2 track shall be supported by a least one crosstie specified in paragraph (c) whose centerline is within the 48" shown above.

Classes 3 through 6

Each rail joint in Classes 3 through 6 shall be supported by at least one crosstie specified in paragraph (c) whose centerline is within the 36" shown above.

8. To revise § 213.113 to read as follows:

§ 213.113 Defective rails.

(a) When an owner of track to which this part applies learns, through inspection or otherwise, that a rail in that track contains any of the defects

listed in the following table, a person designated under § 213.7 shall determine whether or not the track may continue in use. If he determines that the track may continue in use, operation over the defective rail is not permitted until—

- (1) The rail is replaced; or
- (2) The remedial action prescribed in the table is initiated:

Defect	Length of defect (inch)		Percent of rail head cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Transverse fissure			20	20	B.
			100	100	B.
Compound fissure			20	20	A.
			100	100	B.
Detail fracture			20	20	A.
Engine burn fracture			100	100	C.
Defective weld					D.
					A or E and H.

	Length of defect (inch)		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	
Horizontal	0	2	H and F.
split head	2	4	I and G.
Vertical	4		B.
split head	(1)	(1)	A.
Split web	0	1/2	H and F.
Piped rail	1/2	3	I and G.
Head web separation	3		B.
	(1)	(1)	A.
Bolt hole	0	1/2	H and F.
crack	1 1/2		G.
	(1)	(1)	B.
Broken	0	6	E.
base	6		A or E and I.
Ordinary break			A or E.
Damaged rail			C.

¹ (Break out in rail head).

Remedial Action

Note:

- A—Assign person designated under § 213.7 to visually supervise each operation over defective rail.
- B—Limit operating speed over defective rail to that authorized by a person designated under § 213.7(a)(1)(i).
- C—Apply joint bars bolted only through the outermost holes to defect within 20 days after it is determined to continue the track in use. In the case of classes 3 through 6 track, limit operating speed over defective rail to 30 m.p.h. until angle bars are applied.
- D—Apply joint bars bolted only through the outermost holes to defect within 10 days after it is determined to continue the track in use. Limit operating speed over defective rail to that authorized by a person designated under § 213.7(a)(1)(i) until angle bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the

class of track concerned, whichever is lower.

E—Apply joint bars to defect and bolt in accordance with § 213.121 (d) and (e).

F—Inspect rail ninety days after it is determined to continue the track in use.

G—Inspect rail thirty days after it is determined to continue the track in use.

H—Limit operating speed over defective rail to 60 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

I—Limit operating speed over defective rail to 30 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

(b) As used this section—

(1) "Transverse Fissure" means a progressive crosswise fracture starting from a crystalline center or nucleus inside the head from which it spreads outward as a smooth, bright, or dark, round or oval surface substantially at a right angle to the length of the rail. The distinguishing features of a transverse fissure from other types of fractures or defects are the crystalline center or nucleus and the nearly smooth surface of the development which surrounds it.

(2) "Compound Fissure" means a progressive fracture originating in a horizontal split head which turns up or down in the head of the rail as a smooth, bright, or dark surface progressing until substantially at a right angle to the length of the rail. Compound fissures require examination of both faces of the fracture to locate the horizontal split head from which they originate.

(3) "Horizontal Split Head" means a horizontal progressive defect originating inside of the rail head, usually one-quarter inch or more below the running

surface and progressing horizontally in all directions, and generally accompanied by a flat spot on the running surface. The defect appears as a crack lengthwise of the rail when it reaches the side of the rail head.

(4) "Vertical Split Head" means a vertical split through or near the middle of the head, and extending into or through it. A crack or rust streak may show under the head close to the web or pieces may be split off the side of the head.

(5) "Split Web" means a lengthwise crack along the side of the web and extending into or through it.

(6) "Piped Rail" means a vertical split in a rail, usually in the web, due to failure of the shrinkage cavity in the ingot to unite in rolling.

(7) "Broken Base" means any break in the base of a rail.

(8) "Detail Fracture" means a progressive fracture originating at or near the surface of the rail head. These fractures should not be confused with transverse fissures, compound fissures, or other defects which have internal origins. Detail fractures may arise from shelly spots, head checks, or flaking.

(9) "Engine Burn Fracture" means a progressive fracture originating in spots where driving wheels have slipped on top of the rail head. In developing downward they frequently resemble the compound or even transverse fissure with which they should not be confused or classified. (10) "Ordinary Break" means a partial or complete break in which there is no sign of a fissure, and in which none of the other defects described in this paragraph are found.

(11) "Damaged Rail" means any rail broken or injured by wrecks, broken, flat, or unbalanced wheels, slipping, or similar causes.

9. To revise § 213.127 to read as follows:

§ 213.127 Rail fastenings.

Each 39 foot segment of rail shall have a sufficient number of fastenings which, in the determination of a qualified Federal or state track inspector, effectively maintain gage within the limits prescribed in § 213.53(b). The term "qualified state track inspector" as used in this section means a track inspector who meets the qualification requirements of 49 CFR 212.75.

§ 213.123 [Amended]

10. To amend § 213.123 *Tie Plates* by removing paragraph (b) in its entirety.

§ 213.205 [Amended]

11. To amend § 213.205 *Deroils* by removing paragraph (b) in its entirety.

§§ 213.61, 213.105, 213.117, 213.119, 213.125, 213.129, 213.131 and 213.207
[Removed]

12. To remove the following sections in their entirety:

Sec.

213.61 *Curve data for Classes 4 through 6 track;*

213.105 *Ballast; disturbed track;*

213.117 *Rail end batter;*

213.119 *Continuous welded rail;*

213.125 *Rail anchoring;*

213.129 *Track shims;*

213.131 *Planks used in shimming; and*

213.207 *Switch heaters.*

[FR Doc. 82-4297 Filed 2-17-82; 6:45 am]

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49 CFR Part 232

[Docket No. PB-6, Notice No. 1]

Railroad Power Brakes and Drawbars; Miscellaneous Proposed Amendments

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the rules pertaining to railroad power brakes. The proposed amendments would eliminate or modify certain costly and controversial rules no longer considered necessary for safety and clarify other provisions. The proposed changes are (1) modification of the interchange inspection, (2) extension of the 500 mile inspection to 1000 miles, (3) extension of the maximum permissible piston travel limit from 10 inches to 10½ inches, (4) elimination of the requirement for a single car test of brake equipment on a date of last test basis (IDT) and (5) revision of the initial terminal test requirements to ensure that the engineer has adequate notice that the test has been satisfactorily performed. This action is taken by FRA in an effort to reduce unnecessary and burdensome regulation and to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before March 22, 1982. Comments received after that date will be considered to the extent possible without incurring additional expense or delay. A 30-day comment period has been chosen instead of a 60-day period in light of the recent power brake safety inquiry and the fact that this proposed rule reflects a broad consensus for updating the power brake regulations.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on March 17, 1982. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before March 10, 1982, by phone or by mail.

ADDRESSES: (1) Written Comments:

Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 7321A of the Nassif Building at the above address.

(2) Public Hearing: A public hearing will be held in room 2230 of the Nassif Building. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202-426-8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, at the above address.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-0897. Principal Attorney: Michael E. Chase, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-8836.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Reform

On February 17, 1981, the President issued Executive Order 12291. In that Order, he established procedures applicable to all Executive agencies to improve existing and future regulations. The Order set a policy of reducing the burdens of existing and future regulations, increasing agency accountability for regulatory actions, providing for presidential oversight of the regulatory process, minimizing duplication and conflict of regulations, and ensuring well-reasoned regulations. To achieve the policy objective, the Order requires Agencies to adhere to the following requirements:

(1) Administrative decisions shall be based on adequate information concerning the need for and consequences of proposed government action;

(2) Regulatory action shall not be undertaken unless the potential benefits to society from the regulation outweigh the potential costs to society;

(3) Regulatory objectives shall be chosen to maximize the net benefits to society;

(4) Among alternative approaches to any given regulatory objective, the alternative involving the least net cost to society shall be chosen; and

(5) Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

In response to the regulatory policies exemplified in Executive Order 12291, DOT received from the public numerous recommendations for regulatory change. The power brake rule was identified in early 1981 by the Association of American Railroads (AAR) and by other interested persons as a prime candidate for revision. The AAR's statement of recommendations for change in FRA's safety regulations and in the statutes relating to rail safety, entitled "Federal Railroad Safety Statutes and Safety Regulations Must Be Reexamined," has been included in the docket. Also included in the docket is an analysis prepared by AAR at the request of FRA of the costs associated with certain current regulatory requirements.

In addition, a review of railroad power brake regulations was part of FRA's General Safety Inquiry conducted in 1978 and 1979. A two-day public hearing on railroad power brakes was held September 13 and 14, 1978. Information developed as part of the General Safety Inquiry was considered in the development of this notice, which proposes elimination or modification of five specific requirements in the current rule. Other possible changes to the current rule, which generally are technical in nature, will be considered at a later date when FRA proposes a general update and revision of 49 CFR Part 232.

Finally, the changes in this proposal are responsive to a joint recommendation by rail labor and rail management regarding possible regulatory changes. Their agreement is reflected in a letter to the FRA Administrator, dated November 6, 1981 and signed by J. R. (Jim) Snyder, Chairman, Safety Committee, Railway Labor Executives' Association and by William H. Dempsey, President and Chief Executive Officer, Association of

American Railroads. A copy of the letter is also in the docket.

The five requirements proposed for revision or elimination are the interchange inspection requirement (49 CFR 232.12(a)(3)), the maximum permissible piston travel limit for body mounted brakes (49 CFR 232.11(c)), the 500 mile intermediate inspection (49 CFR 232.12(b)), the single car test requirement (49 CFR 232.17), and the initial terminal test requirements. The changes are proposed to reduce unnecessary and burdensome regulation and improve FRA's safety regulatory program.

Background on the Train Air Brake System and the Individual Car Air Brake System

The train air brake system is complex and sensitive. A simplified and summarized understanding of its operation is useful in analyzing the impact of the proposed regulatory changes. Conceptually, the train air brake system has three major parts—(1) A signal sender, (2) a signal relay, and (3) a signal receiver/responder.

The *brake valve* on the locomotive is the signal sender. Operation of the valve permits air to be pumped into or released from the brake pipe. The pressure change resulting from the additional or reduced air supply in the brake pipe is the "signal".

The *brake pipe*, also known as the train air line, is the signal relay. It is the continuous air line running from the front of the train to the rear of the train. The continuity of the air line from car-to-car is accomplished by means of flexible air hoses. The brake pipe is closed (sealed) at the rear of the train and pressurized so that, apart from air leakage in the system, changes in the brake pipe pressure are made through operation of the brake valve on the locomotive.

When the engineer on a locomotive "sets the brakes", air is released from the brake pipe through the locomotive brake valve. This release of air reduces the pressure of the brake pipe (the signal), beginning at the front of the train. The pressure reduction moves down the brake pipe (propagates) to the rear of the train. Thus, the signal (pressure reduction) is relayed by the brake pipe to entire train. Similarly, when the brakes are released, the locomotive brake valve is positioned so that air is pumped into the brake pipe, sending a pressure increase through the brake pipe. A pressure reduction in the brake pipe rather than a pressure increase initiates a brake application. Thus, the train air brake system is said to be "failsafe". For example, if an air

hose bursts, the resulting loss of air pressure in the brake pipe will initiate a brake application.

The changes in the brake pipe pressure are received and interpreted by valves located on each car. These *signal receiving valves* initiate the application or release of the brakes on each individual car. The degree of braking effort is determined by the degree of the brake pipe pressure drop, generally described as a partial service reduction, a full service reduction, or an emergency application.

The individual car air brake system is also complex and varies from car-to-car depending upon the features of each car's brake system. An individual car air brake system has several major components: (1) A signal receiving/responding valve (actually a series of valves); (2) air reservoirs (auxiliary and emergency); (3) brake cylinder(s); (4) brake rigging; and (5) brake beam and shoes. When a brake application signal is received by the signal receiving valve, the valve causes air to be transferred from the air reservoir(s) to the brake cylinder. (Whether air is transferred from both reservoirs or only the auxiliary reservoir is a function of the degree of the brake pipe pressure reduction.) The pressure of the transferred air causes the piston in the brake cylinder to move. The piston pushes the brake rigging (a series of rods and levers designed to increase the braking ratio) which moves the brake beam. The brake beam pushes the brake shoe against the wheel causing the braking action. (Truck mounted brakes and certain other types of brakes operate somewhat differently; the differences are not pertinent to this analysis or the proposed changes to the rule.)

Although a pressure reduction in the brake pipe signals a brake application, stored air under pressure from the air reservoirs is necessary to actually apply the brakes to stop the train. The brake pipe, which is pressurized, supplies air to the car reservoirs. The process of filling the reservoirs on each of the cars in a train is called "charging the train". The train is charged before it is tested. It takes about six minutes to charge a single car if the car air reservoir are empty and the air pressure is being generated by an air compressor on a locomotive. However, numerous cars can be charged at the same time. Thus, a fifty car train can be charged in approximately twenty minutes.

There is a limit to the number of brake applications that can be made in a short period of time. This is true because each application reduces the air in the reservoirs, and some time must elapse

before the reservoirs are recharged. Thus, several brake applications in a short time interval can sharply reduce the braking effectiveness of the system.

Background on the Initial Terminal Road Train Air Brake Tests and the Road Train and Intermediate Terminal Train Air Brake Tests

The cornerstone of the test procedures involving power brakes is the initial terminal test. This test or inspection procedure is designed to ensure that the train air brake system and each individual car's air brake system are operating properly. Indeed, there is agreement by all knowledgeable groups, including rail labor and rail management, that a good initial terminal inspection is vital to the safe operation of trains. The effectiveness of this test is the basis for proposing to relax or eliminate other current requirements.

The test procedure is detailed in 49 CFR 232.12, and involves several different aspects. First, the train must be charged and the angle cocks (train line continuity) and cutout cocks (individual car brake system) properly positioned. The condition of the air hose must be checked and system leakage must be reduced to a minimum (49 CFR 232.12(c)). This aspect of the procedure ensures, among other things, that leakage from any single source in the train is not substantial. A large single source of leakage could send an unintended pressure reduction signal through the brake pipe or disrupt a desired signal from the brake valve.

Second, a brake pipe leakage test is made. After the system is charged to the prescribed minimum air pressure measured at the rear of the train, a 15 pound brake pipe service reduction is made in automatic brake operation. The brake valve is then closed (lapped), thus "sealing" the system. Leakage is determined by visual inspection of the brake pipe gauge for one minute. The gauge reflects changes in brake pipe (train line) pressure resulting from leakage (49 CFR 232.12(d)). Brake pipe leakage may not exceed five pounds per minute (49 CFR 232.12(e)).

The leakage test serves several safety functions. It ensures that the total brake pipe leakage is limited in amount and that signals will be transmitted (propagated) through the train line. It also provides evidence that the train is properly charged, i.e., that the air reservoirs on the individual cars are pressurized with air. This is true because leakage would be excessive (over five pounds per minute) if air were being taken from the brake pipe to charge individual car air reservoirs.

The third aspect of the initial terminal test requires a car-by-car inspection to determine that the brakes apply on each car and that the brake rigging does not bind or foul (49 CFR 232.12(d)). After a signal to release the brakes, it must be determined that the brakes actually release on each car. Thus, the condition of the brakes on each car must be observed, both from the standpoint of the mechanical operation (brake rigging) and from the standpoint of the operation of the valves that apply and release the brakes under normal braking (service reduction). Because the brakes must apply and release on every car in the train, including the last car, train line continuity is assured. Visually checking that the brakes release on each car prevents a train leaving an initial terminal with "stuck brakes."

Fourth, as part of the car-by-car inspection, the piston travel of each brake cylinder must be observed. In the case of body mounted brake cylinders with a 12-inch stroke, piston travel must be adjusted to nominally 7 inches if the piston travel is less than 7 inches or more than 9 inches (49 CFR 232.12(f)). The piston travel adjustment requirement prevents excessive piston travel resulting from brake shoe wear during the trip. The current maximum permissible piston travel for a brake cylinder with a 12 inch stroke is 10 inches. Thus, if the piston travel adjustments are made to cars that have piston travel in excess of 9 inches, each car in the train will have 1 to 3 inches of remaining piston travel before the current 10 inch maximum is reached.

The initial terminal test is a comprehensive and time-consuming procedure. It verifies the basic integrity of the train air line, the train brake system as a whole, and the basic functional capability of the individual air brake system on each car in the train. The initial terminal test is the critical test that ensures the effectiveness of the train air brake system. The other train brake air tests are essentially derivative and are designed to deal with specific events that potentially undermine the previously determined effectiveness of the train air system. These "events" are outlined and the test procedures briefly discussed in the next section.

Road Train and Intermediate Terminal Train Air Brake Tests

Many of the events that cause interruption to the brake pipe continuity are easily anticipated. First, a locomotive or group of locomotives (locomotive consist) may be detached from a train for refueling or servicing and then returned. Section 232.13(b)

provides that the train brakes must be applied before the locomotive is uncoupled. After the locomotive is recoupled to the train and the angle cocks reopened, it must be known that air is being restored, as indicated by the caboose gauge, and that the brakes on the rear car are released.

These abbreviated procedures are appropriate to the limited nature of the interruption to the train air brake system. The critical concern resulting from the interruption is whether train line continuity is restored. Restoration of air at the rear of the train is evidence that there is continuity. The requirement that the brakes on the rear car release also assures that the signal to release sent by the locomotive brake valve has been received and implemented by the rear car of the train.

Since the cars in the train are not directly affected by this "event", no additional inspection of the train is warranted or required. Similar abbreviated procedures are followed where a locomotive or caboose is changed or where one or more consecutive cars are cut off from the rear end or the head end of train with the train otherwise remaining intact (49 CFR 232.13(c)).

Another specific "event" occurs when cars are added to a train enroute. When cars are added at a point other than a terminal, a leakage test is required. This assures that the added cars have not introduced leakage to the train air brake system which would impair its effectiveness. In addition, it must be known that the brakes apply and release on each added car and on the rear car of the train. This assures train line continuity, the absence of stuck brakes on the added cars, and the ability of the brakes on each added car to apply. Finally, it must be known that air is being restored at the end of the train (49 CFR 232.13(d)(1)).

Thus, something close to an initial terminal test is required for those cars added to a train. Even so, cars which have not been fully inspected as prescribed for an initial terminal test must be so inspected and tested at the next terminal where facilities are available. Hence, a thorough inspection of the brake rigging, piston travel, and air hoses is ultimately required for cars added enroute.

If the added cars are put into the train at a terminal where they have been previously charged and tested according to the initial terminal test procedures, these pretested cars can be added subject only to the requirement to set and release the brakes on the rear car and know that air is being restored at

the rear of the train. This requirement assures train line continuity. (There are different test procedures for transfer train and yard train movements not exceeding 20 miles. These limited movements are not pertinent to this analysis or the proposed changes.)

It is apparent from the analysis of these current air brake test requirements that mandating test procedures which reduplicate all or part of the initial terminal test should be based on objective events that interrupt or disturb the train air brake system. It is also apparent that the degree of reduplication should be based on the degree of interruption to the system. These premises, together with the preceding background information on the operation of the entire train air brake system, provide a basis of reevaluating the safety significance of the other required train test procedures.

Interchange Inspection

The interchange test (49 CFR 232.212(a)(3)) requires a complete reinspection of the train, utilizing the comprehensive initial terminal test procedures, at every interchange point. The "event" giving rise to the requirement is a change in ownership of the right of way, which has no direct impact on the integrity of the train air brake system or any individual car's air brake system. The test is required solely because of corporate boundaries and for historical reasons. In certain situations, joint trackage agreements have eliminated the basis for requirement, i.e., an interchange. Also, rail mergers have eliminated many other instances where interchange tests had previously been required. However, it is not uncommon for a train to receive an interchange test after a relatively short distance (less than 100 miles).

The revised rule provides that a solid block of cars may be removed from the head end or the rear end of the train, that motive power can be changed, that the caboose may be removed or changed, or that any combination of the preceding events may take place at interchange without giving rise to a requirement to repeat the initial terminal test procedures. However, these events will give rise to a requirement for the appropriate intermediate terminal air brake test. Changes in the train consist beyond those specified will give rise to the requirement for an initial terminal air brake test at interchange.

There is no logical or empirically demonstrable basis for the current interchange test as a necessary safety standard. Without the interchange test, any event occurring at interchange that

interrupts the brake pipe will automatically invoke the test procedure appropriate for the interruption. If cars are added or removed, if the locomotive is changed, or if the entire train is broken up, the remaining test requirements in Part 232 address the safety need. If no change in the makeup of the train is made, then no additional procedures are warranted. This last proposition is the basis for the current run-through train provisions in 49 CFR § 232.19, which permits a train to go through an interchange point without an interchange inspection under specified conditions. The key condition of those provisions is that no change in the makeup of the train is permitted other than the addition or removal of a block of cars.

The traditional rationale for the interchange inspection was that it allows the receiving carrier to determine whether the cars being received are in compliance with the applicable statutory and regulatory requirements. However, the carrier is in the best position to determine what steps, if any, it believes are necessary at each interchange point to identify non-complying cars. Under the Safety Appliance Acts, there is absolute liability against the carrier for moving any car with a power brake defect, unless it is being moved for repair under very narrowly prescribed conditions. Hence, elimination of the requirement for an interchange test would not prevent FRA safety enforcement activities.

However, in order to avoid confusion regarding what events disrupting the brake pipe give rise to which requirements for air brake inspections at interchange, FRA is not proposing to delete the current language about interchange tests. Rather, FRA is adding language specifying what changes in the train consist may be made without requiring an initial terminal air brake test at the interchange.

Piston Travel Requirements

Section 232.11(c) of the current rule provides that air brakes cannot be considered in effective condition when piston travel is in excess of 10 inches (for a 12 inch brake cylinder). Although the term "effective condition" is not defined in the rule, the concept behind the provision is that a maximum permissible piston travel limit, as determined in a static test such as the initial terminal test, is necessary to ensure that the brakes will apply effectively under operating (dynamic) conditions.

FRA has analyzed the 10-inch limit and has concluded that increasing the

limit to 10½ inches would not significantly diminish the braking effort and, thus, would not adversely affect safety.

FRA's analysis begins with a determination of the theoretical point at which the brakes cease to apply with sufficient force against the wheel under static conditions; it then considers the consequences of dynamic forces.

From a theoretical perspective, a brake cylinder with a 12-inch piston will remain fully effective until the piston is fully extended (12 inches). This is true because the brake cylinder pressure is relatively constant even as the piston is pushed out (less than 10% change in pressure from 7 inches to 12 inches of piston travel) and the leverage action of the brake rigging is likewise relatively constant for the full range of piston travel. (In fact, the brake will still apply after the piston is fully extended because of the resiliency of the brake rigging at the point the piston can travel no further.)

Piston travel, of course, can be measured by a person only when the car is not moving. Piston travel on a moving car is longer than on a stationary car and, thus, the static test piston travel limit needs to be less than the theoretical maximum of 12 inches. The longer piston travel results from the jostling that the brake rigging is subject to when the car is in the motion. Piston travel may also be affected by the curvature of the track and other factors. The degree of dynamic effect varies from car to car based on car condition, car design, and type of brakes. While there is no agreement on a single figure, FRA believes, based on the available research, that one-half inch is the approximate average amount of additional travel resulting from the dynamic effects.

There is also additional piston travel that results in an emergency application of the brakes because of the higher pressures involved. (Piston measurement is made during a service reduction at the initial terminal test.) The additional piston travel resulting from an emergency application is approximately ¾ inch. Hence, approximately ¾ inch of piston travel is "lost" due to the dynamic factor. This loss should be taken into account to ensure the full availability of the braking effort in an emergency brake application. It should be recognized, however, that the theoretical limit is based on the overall car fleet. For example, some individual cars that have 11 inches of piston travel during a static service brake application may not have the full additional braking effort in a dynamic emergency application. Hence,

FRA is only proposing an extension to 10½ inches. This limit provides full braking effectiveness even for the typical worst case situation for individual cars. It also provides a substantial margin of safety for the car fleet viewed as a whole.

The foregoing analysis of the piston travel issues applies to less than one third of the fleet of cars and the portion is declining. Approximately seventy percent of rail cars are equipped with either truck mounted brakes or automatic slack adjusters and all new cars with body mounted brakes are equipped with automatic slack adjusters. For cars with these components, the maximum piston travel limit is not a major issue. (It would have an occasional impact, for example, when the automatic slack adjuster is defective.) Indeed, the safety significance of the proposed 10½ inch limit appears to be totally inconsequential since piston travel must be adjusted at the initial terminal test. Since no car may leave an initial terminal with more than 9 inches of piston travel, it should be quite rare for a car to reach or even come close to the 10½ inch limit if the initial terminal test is properly made. FRA intends to strictly enforce the initial terminal test requirements relating to piston travel adjustment.

500 Mile Test

The 500 mile test is prescribed in 49 CFR 232.12(b). The test procedure requires a leakage test, an inspection of the brake rigging on each car, and an inspection to determine that brakes apply on each car. While less comprehensive than an initial terminal test, it is nevertheless a costly and time consuming procedure since the train must be traversed from end to end to inspect every car.

The "event" that gives rise to this test is train operation to a given mileage limit—500 miles. As an event, mileage is not *prima facie* a totally arbitrary inspection criterion as in a change in corporate boundaries. However, the passage of 500 miles does not signal any special impact on the train air brake system. What is necessary is an analysis of the impact of mileage generally on the effectiveness and integrity of the train air brake system and the reasonableness of the absolute mileage limit. What things happen as a result of mileage? What are the consequences, from a safety standpoint, of those things happening? What is special about 500 miles as an interval in relationship to those things? Will those things that are possible safety concerns

be identified and corrected at the 500 mile inspection?

There are four possible problem areas: (1) car valve failure; (2) brake rigging failure (binding); (3) excessive leakage; and (4) excessive piston travel. Joint FRA/AAR tests have indicated that the likelihood of an enroute car valve failure is minimal if the valve operated properly in applying and releasing the brakes at the initial terminal test. This is true of trips which are substantially longer than 500 miles. Moreover, the failure of the car valve will usually affect only the individual car. An occasional car with brakes that do not apply as a result of an enroute car valve failure is not a safety hazard since it is recognized that this does not significantly impair the train brake system.

The situation with brake rigging is somewhat similar. If brake rigging failure on a car affects only the application of the brakes on that car, as it usually does, then the problem is not major. The critical failure mode is dragging brake rigging that can result in a derailment. But as with the car valve, the possibility of brake rigging failure of any type is remote if a proper initial terminal test is made. Moreover, dragging brake rigging is discernable by wayside inspections and detectors and is not directly linked to the 500 mile inspection interval. There is no evidence, for example, that the likelihood of a brake rigging related derailment occurring on a 1000 mile trip without a 500 mile inspection is greater than the likelihood of a derailment on the same 1000 mile trip with a 500 mile inspection.

The third potential problem area, excessive air brake system leakage, does not argue for retention of the 500 mile test. This is true for several reasons. First, if the system has minimal leakage at the initial terminal test, there is no reason to believe that it will have an unacceptable level of leakage during a train trip of up to 1000 miles as compared to a trip of 500 miles. There is nothing inherent in additional train mileage that results in a progressive increase in leakage. It is not like, for example, wear on an automobile tire that is directly related to mileage.

Second, significant additional leakage enroute is generally caused by a traumatic occurrence, not by mileage. The likelihood of such an event occurring on a lengthy trip is no greater than the likelihood of the event occurring on two successive 500 mile segments.

Third, it is likely that a leakage test will be made enroute to satisfy other test requirements. Any time cars are added to a train, unless they have been

pretested, a leakage test must be made (49 CFR 232.13(d)).

Fourth, leakage problems can often be detected enroute. If the locomotive of a train is equipped with an air flow meter, the meter will indicate the amount of air being pumped into the brake pipe to maintain a constant pressure. An excessive amount indicates a leakage problem. If the locomotive is not equipped with that device, an engineer can sometimes detect excessive leakage by the way the train handles and, in situations of extremely large leakage, by utilizing the regular air gauges.

The last area where mileage may have an impact on the train air brake system is piston travel. As previously discussed, the maximum piston travel of body mounted 12-inch brake cylinders can be safely extended from 10 to 10½ inches. The FRA has concluded that the current 500 mile limit is not necessary to ensure that the piston travel on individual cars will not exceed 10½ during the train movement.

There are approximately 1.7 million railroad cars in the United States, of which about 1.2 million (70%) are equipped with either truck mounted brakes or automatic slack adjusters. Cars equipped with operative automatic slack adjusters or truck mounted brakes do not routinely require any piston travel adjustment. Hence, we are dealing with a small, but significant portion of the fleet that requires piston travel adjustment. The portion is declining since the AAR requires new construction cars with body mounted brakes to be equipped with automatic slack adjusters.

However, even for the non-equipped cars, a worst case set of assumptions does not indicate a need for the 500 mile test. Assuming that an entire train was comprised of cars not equipped with automatic slack adjusters, and assuming that all of the cars had 9 inches of piston travel at the initial terminal test (cars with over 9 inches would have to be adjusted back to 7 inches), there would still be at least 1½ inches of remaining piston travel before the 10½ inch maximum is reached. This 1½ inches of piston travel translates to well over 1,000 miles of train operation even if metal shoes, which wear faster than composition shoes, are being utilized.

The mileage figure is based on AAR testimony at the Power Brake Safety Inquiry in 1978 that approximately ¾ inch of metal shoe wear is normal per thousand miles. This figure is multiplied by the braking ratio because the brake rigging on the car accentuates the impact of shoe wear on piston travel. The ratio selected is eight, since that is

typical of most of the relevant car designs.

The view that the 500 mile test can be extended is supported by Canadian experience. In Canada, a railroad may undertake a train movement of any distance after an initial terminal test is made. It should be noted, however, that precise comparison with Canadian experience is not possible since other aspects of rail operations differ.

The conclusion of FRA's analysis is that the 500 mile test can be extended to 1000 miles without any reduction in safety. Further extension may be appropriate if actual experience over the next several years so indicates.

Initial Terminal Test Procedure

As indicated previously, the initial terminal air brake test and inspection is the critical procedure that ensures the effectiveness of the brake system. In addition, it also assures the road train engineer and crew that the train is safe to operate. In order to raise the confidence level that the test has been performed, and performed in a satisfactory manner, FRA agrees with the AAR and RLEA proposal to specify that the test be made by a qualified person and to require that the engineer be notified that the test has been properly performed.

Hence, the proposed rule requires that the initial terminal test be made by a person determined by the inspecting railroad to be qualified. It also requires that the engineer be notified that the test has been satisfactorily performed by a qualified person participating in the test or who has knowledge that the test has been made. The notice shall be in writing if the train will move excess of 500 miles without being subjected to another test pursuant to §232.12 or §232.13. It shall also be in writing when the road engineer will report for duty after the qualified person participating in the test goes off duty. The written notifications shall be made by a qualified person participating in the test.

Single Car Test

Section 232.17(a) specifies requirements for testing and repairing brakes on cars while on shop or repair tracks. One requirement applicable to freight cars in paragraph (a)(i) is that the brake equipment on a car is to be tested using a single testing device unless the car has received a single car test within the last 90 days. This requirement generally is referred to as the "in-date test" or IDT.

The IDT is a time related test requirement rather than one that arises as a result of an identified brake defect.

While it can be said to be a screening mechanism to detect brake equipment problems, the IDT does not have the direct safety link of other brake tests. The requirement of the initial terminal test that the brakes on each car apply and release provides a predeparture check of the functioning of the brake equipment.

Hence, FRA proposes to delete the requirement for a single car test based on the date of the last test (IDT). However, under the proposed rule a single car test would be required when a car is on the shop or repair track because of an air brake defect and when the brake equipment is due for periodic attention under § 232.17. The periodic attention, commonly known as "COT&S", is required every 8 to 16 years depending on the type of air brake equipment on the car. In addition, the proposed rule would require that all freight cars on a shop or repair track be inspected to determine that the brakes apply and release, and that piston travel be adjusted to within the prescribed limits.

FRA Enforcement Posture

IN the past the FRA has recognized the critical importance of the initial terminal air brake test and inspection as a means of achieving railroad safety. At numerous hearings on proposed waivers or changes in the Power Brake Rules, witnesses have affirmed the necessity of a proper initial terminal air brake test. Likewise, FRA's existing penalty schedule for violations of the Power Brake Rules (Appendix A to 49 CFR Part 209) states that the failure to fully and adequately perform an initial terminal air brake inspection indicates a serious lack of safety procedures and that for each failure FRA will seek to impose not the ordinary penalty of \$1,000 but the maximum penalty of \$2,500.

The industry itself, including both management and labor, also agrees that the initial terminal air brake test is essential for safety. Industry testimony at FRA hearings has repeatedly emphasized the importance of the initial terminal air brake test. That recognition was reaffirmed in the letter to the FRA Administrator dated November 6, 1981, co-signed by the Chairman of the Safety Committee of the Railway Labor Executives' Association and the President of the Association of American Railroads, recommending that the initial terminal air brake test provisions be strengthened.

FRA reaffirms the overriding importance of the initial air brake test as the foundation of power brake safety. This test would gain greater importance than in the past if FRA's proposals are

adopted to extend the 500-mile inspection to 1000 miles, revise the interchange inspection requirement, and relax certain other requirements. FRA intends to vigorously enforce the initial terminal air brake provision. Violations of this provision will be cited, at the discretion of the FRA field inspector, without prior notice to the carrier and without regard to whether the carrier properly performs the test after being notified by the inspector.

Because of the great safety value of the initial terminal air brake test, penalty assessments for violations of the Power Brake Rules requiring an initial terminal air brake test will not be compromised pursuant to the Federal Claims Collection Act, except in compelling circumstances and insofar as they involve significant litigative risks. It is the intention of the FRA to secure full compliance with all of the prescribed initial terminal air brake test procedures and to use the full panoply of its legal remedies, including injunctions and emergency orders, to achieve that necessary result.

Accident History and Technological Change

The conclusion that several requirements of the current power brake regulations can be modified or eliminated while maintaining the same level of safety is supported by an analysis of the accident history relating to power brake failures and a review of the major technological changes or improvements since 1958.

A trend analysis of accidents caused by equipment-related brake failures shows a marked decline over the past five years. The annual rate of decline for mechanical failures is 5.4 percent using a least-square regression method over a 5 year period. Accidents involving human-error show an annual increase of 3.9 percent. The annual rates applied over the entire five year period show a 24.1 percent decline in accidents due to mechanical failure and a 21.1 percent increase in accidents due to human error. These trends suggests that equipment quality has been improving and contributing to a reduction in brake-caused accidents, while the greater need is in the area of reducing human-error accidents.

In absolute terms, the number of accidents caused by equipment-related brake failures is very small, although the ultimate goal is to eliminate all accidents. According to FRA railroad accident statistics, a total of 8,451 train accidents (other than grade crossing accidents) occurred in 1980, resulting in 29 fatalities and 665 injuries. Of this total, equipment-related brake failures

caused 187 accidents (2.2%), resulting in no fatalities and 15 injuries (2.3%).

During the five year period 1976-1980, a total of 50,078 train accidents (other than grade crossing accidents) occurred, resulting in 165 fatalities and 5,114 injuries. Of this total, brake failures caused only 1,168 train accidents (2.3%) resulting in no fatalities and 62 injuries (1.2%). (One fatality in 1977 was reported to FRA as resulting from a "brake valve malfunction, undesired emergency." However, FRA has concluded that the primary cause of the fatality was not related to a power brake failure.)

Both the accident trend and the limited number of accidents caused by equipment-related brake failures suggest that lessening the regulatory burden is possible while maintaining, or even improving safety. This is especially true if the particular brake failures that cause accidents are not likely to increase as a result of the regulatory changes that reduce the burden. An analysis of equipment-related brake failures indicates that most are caused by conditions that are discoverable before a train departs its initial terminal. The conditions that are not discoverable at the initial terminal or intermediate terminal inspection would likewise not be discoverable at the inspections proposed to be revised, i.e., the 500 mile inspection and the interchange inspection. The conditions that are discoverable in most instances during an initial terminal inspection include: air hose uncoupled or burst; broken brake pipe or connections; obstructed brake pipe, e.g., closed angle cock; other brake components damaged, worn, broken or disconnected; brake valve malfunction-undesired emergency brake application; brake valve malfunction, e.g., stuck brakes; rigging down or dragging; handbrake broken or defective; and handbrake linkage or connections broken or defective.

From the standpoint of the conditions occurring enroute, for the most part, the likelihood of their occurring is either fairly remote or the conditions would be detected in any event, e.g., uncoupled or burst air hose and broken brake pipe or connection would probably cause the train brakes to apply in an emergency application. In sum, the accident analysis does not lead to a conclusion that either the 500 mile inspection or the interchange inspection needs to be retained in their present form, although it does demonstrate the importance of the initial terminal and other intermediate terminal inspections.

Technological Change

FRA believes that the major reason that equipment-related power brake accidents are so few and are declining in number is technological improvement. An outline of the major improvements in brake equipment since adoption of the current rules in 1958 and the contribution those improvements make to the overall brake system is set forth below. The conclusion to be drawn is simply that the total train brake system in 1981 is vastly superior to the system in 1958. Moreover, the system will continue to improve not only as new technology is developed, but because the AAR requires many of the improvements to be installed on new construction cars, e.g., the ABD brake valve and automatic slack adjusters.

Major Improvements in Brake Equipment Since 1958

1. Dynamic Braking:
 - Supplements the air brake system
 - Electrically converts power developed by the locomotive momentum into an effective retarding force
 - Improves train handling performance by controlling train speed on descending grades and during slow downs and stops
 - Controls slacks; gives smoother braking performance
 - Reduces wear on brake equipment during long grade brake applications, thus reducing chance of derailment from thermal crack failures in wheels
2. ABD and ABDW Brakes Valves:
 - Decrease stopping distances via quicker brake application and release
 - Reduce number of train separations and derailments caused by sticking brakes
 - Mandatory on new equipment
 - Over 50% of fleet now equipped
3. Composition Brake Shoe:
 - Decreases stopping distance of train
 - Smoother brake application; greatly reduces grabbing and sliding of wheels
 - Causes less wear on wheel, thus reducing probability of derailments resulting from cracked wheels
 - Extends brake shoe life, thus reducing probability of accidents resulting from brake shoe failures
 - Over 50% of fleet now equipped
4. Empty-Load Brake Device:
 - Senses difference in weight of loaded versus empty car
 - Prevents over application of brakes, thus preventing locking and sliding of wheels
5. Truck Mounted Brake Cylinders:
 - Increase control of train slack
 - Provide for shorter braking distances and smoother stopping

- Reduce possibility of brake failure because of redundant brake piston cylinders
 - Over 13% of fleet equipped
6. Double-Acting Automatic Slack Adjusters:
 - Improve train handling performance by controlling slack
 - Improve braking efficiency through more consistent piston travel
 - Adjust brake rigging to compensate for wear of brake shoes, wheels, pins, levers, etc.
 - Mandatory on new equipment with body mounted brakes
 - Over 60% of fleet now equipped
 7. Locomotive Main Reservoir Air Supply Systems:
 - Improved air compressors
 - Improved air filtering systems
 - Improved automatic drain valve equipment
 - Improved moisture separators
 - Improved quality and quantity of air in brake system reduces chance of accidents due to brake system failure
 8. Pressure Maintaining 26-L Brake Control Valve (Locomotive):
 - Compensates for brake pipe and brake system leakage
 - Increases ability to maintain degree of brake application
 - Increases smoothness of brake application, thus preventing locked and sliding wheels
 - Over 50% locomotive fleet now equipped
 9. Welded Brake Pipes and Improved Angle Cocks:
 - Greatly reduce brake pipe leakage
 - Decrease number of brake failures resulting from leakage
 10. Improved Air Hose:
 - Improved materials and clamps decrease amount of brake system leakage
 - Standard hose lengths and improved couplings decrease possibility of hose connections being pulled apart in service
 - Decreased number of brake failures due to system leakage and loss of air pressure
- In addition to improvements in the air brake system, other improvements in rail equipment and track also have improved the safety of railroad operations. These improvements include welded rail, use of roller bearings, low carbon steel wheels, and wayside detectors.

Impact of the Proposed Changes

It is FRA's view that the changes in the current requirements proposed in this notice are consistent with operating safety and are justified by the accident

history and improvements to the air brake system. Indeed, train operations in 1981 under the proposed less burdensome regulatory scheme would be safer than train operations in 1958 under the existing rules. Finally, the elimination of unnecessary regulation has the potential to improve railroad safety in two ways. First, the money saved will be available for other railroad safety related activities, e.g., improving track conditions. Second, elimination of unnecessary regulations helps focus industry and FRA attention on the necessary remaining requirements.

Environmental Impact

On June 16, 1980, the FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act (49 U.S.C. 1651 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1C.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures categorically exempt certain actions from the requirement for an environmental assessment because they are not major actions. The exemptions include technical or minor amendments to regulations and FRA actions concerning maintenance (normally periodic care) of existing railroad equipment. In this case, the proposed revision of Part 232 involves power brake inspection requirements that are related to the normal periodic testing and care of the air brake system.

The FRA environmental procedures also contain a provision that enumerates seven criteria which, if met, demonstrate that a non-categorically exempt action is not a "major" action for environmental purposes. These criteria involve diverse factors, including the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by §4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of the power brake inspection requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed amendments of Part 232, power brake

inspection requirements, do not constitute a major FRA action requiring an environmental assessment.

Economic Impact

FRA has reviewed this notice under the standards established by Executive Order 12291. Preliminary data indicates that the cost saving to the rail industry of the proposed changes could be in excess of \$100 million on an annual basis. Hence, FRA has determined that it is a major proposed rule. However, FRA has not prepared a complete Regulatory Impact Analysis because the Office of Management and Budget has granted a waiver of the requirements of Executive Order 12291.

This notice has been reviewed according to the requirements of the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1184, September 19, 1980). FRA has not identified any significant economic impact from the proposed rule changes that will affect small entities. The basis for this conclusion was reached after reviewing recent power brake studies, contacting railroad industry representatives, and studying the 1978 safety inquiry docket on power brakes. The recommended rule changes primarily benefit carriers having annual operating revenues over \$50 million. Small entity impacts will be indirect. No measureable impact on small businesses supplying materials or services to the groups directly affected has been forecasted. Based on these facts, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before March 22, 1982, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing at 10:00 a.m. on March 17, 1982, in Room 2230, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The hearing will be informal, and not a

judicial hearing. It will be conducted in accordance with FRA's published rules of practice in 49 CFR Part 211. The purpose of the hearing is to provide FRA with information that will assist in making final decisions regarding the proposed revisions.

A staff member of FRA will make an opening statement outlining the matter set for the hearing. Interested persons will then have the opportunity to present their oral statements. At the conclusion of all statements, each person will be permitted to make an additional comment or, if deemed appropriate by that person, a rebuttal statement. These rebuttal statements will be made in the same order in which the original statements were made.

The FRA hearing panel may ask questions of the persons making statements. In addition, the hearing officer will receive questions from persons attending the hearing that they wish to be asked of a person making a statement. The hearing officer will pose, as appropriate, the questions so received.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

The Proposed Rule

PART 232—RAILROAD POWER BRAKES AND DRAWBARS

In consideration of the foregoing, the FRA proposes the following:

1. To revise 49 CFR 232.11(c) to read as follows:

§ 232.11 Train air brake system tests.

(c) Each train must have the air brakes in effective operating condition, and at no time shall the number and location of operative air brakes be less than permitted by Federal requirements. When piston travel is in excess of 10½ inches, the air brakes cannot be considered in effective operating condition.

2. To revise 49 CFR 232.12 to read as follows:

§ 232.12 Initial terminal road train air brake tests.

(a)(1) Each train must be inspected and tested as specified in this section by a person determined to be qualified by the inspecting railroad at points—

(A) Where the train is originally made up (initial terminal); and

(B) Where train consist is changed, other than by adding or—removing a

solid block of cars, and the train brake system remains charged; and

(C) Where the train is received in interchange if the train consist is changed other than by—

(i) Removing a solid block of cars from the head end or rear end of the train;

(ii) Changing motive power;

(iii) Removing or changing the caboose; or

(iv) Any combination of the changes listed in (i), (ii), and (iii) of this subparagraph.

(2) A qualified person participating in the test and inspection or who has knowledge that it was made shall notify the engineer that the initial terminal road train air brake test has been satisfactorily performed. The qualified person shall provide the notification in writing if the road crew will report for duty after the qualified person goes off duty. The qualified person also shall provide the notification in writing if the train that has been inspected is to be moved in excess of 500 miles without being subjected to another test pursuant to either this section or § 232.13 of this part.

(b) Each carrier shall designate additional inspection points not more than 1000 miles apart where intermediate inspection will be made to determine that—

(1) Brake pipe pressure leakage does not exceed 5 pounds per minute;

(2) Brakes apply on each car in response to a 20-pound service brake pipe pressure reduction; and

(3) Brake rigging is properly secured and does not bind or foul.

3. To revise 49 CFR 232.17(a) to read as follows:

§ 232.17 Freight and passenger train air brakes.

(a) Testing and repairing brakes on cars while on shop or repair tracks.

(1) When a freight car having brake equipment due for periodic attention is on shop or repair tracks where facilities are available for making air brake repairs, brake equipment must be given attention in accordance with the requirements of the currently effective AAR Code of Rules for cars in interchange. Brake equipment shall then be tested by use of a single car testing device as prescribed by the currently effective AAR Code of Tests.

(2)(i) When a freight car having an air brake defect is on a shop or repair track, brake equipment must be tested by use of a single car testing device as prescribed by currently effective AAR Code of Tests. All freight cars on shop

or repair tracks shall be tested to determine if the air brakes apply and release. Piston travel must be adjusted to nominally 7 inches on all cars having standard single capacity brake. Piston travel of brake cylinders on all freight cars equipped with other than standard single capacity brake, must be adjusted as indicated on badge plate or stenciling on car located in a conspicuous place near brake cylinder. After piston travel has been adjusted and with brakes released, sufficient brake shoe clearance must be provided.

§ 232.19 [Removed]

4. To remove 49 CFR 232.19 in its entirety.

(72 Stat. 86, 45 U.S.C. 9; sec. 6 (e), (f), 80 Stat. 939, 49 U.S.C. 1655; and 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 February 11, 1982.

Robert W. Blanchette,
Administrator.

[FR Doc. 82-4296 Filed 2-17-82; 8:45 am]
BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-01; Notice 1]

Evaluation Report on Head Restraints; Request for Public Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comments on evaluation report.

SUMMARY: This notice announces the publication by NHTSA of an Evaluation Report concerning Safety Standard No. 202, *Head Restraints*. This staff report evaluates the effectiveness and costs of head restraints in current passenger cars. The purpose of a head restraint is to prevent whiplash injury of the neck in rear impact crashes. The report was developed in response to Executive Order 12291, which provides for government-wide review of existing major Federal regulations. The NHTSA seeks public review and comment on this evaluation, as well as additional information on certain issues addressed by the report. Comments received will be used to complete the review required by Executive Order 12291 and as a basis for possible future rulemaking on head restraints.

DATE: Deadline for submission is April 19, 1982.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornick, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0874). All comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C., 20590. [Docket hours, 8:00 a.m.-4:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 202 (49 CFR 571.202) requires the installation of head restraints at the driver's and right front seating positions of passenger cars. It also sets height, width and strength requirements for the restraint. If an adjustable restraint is used to meet the standard, the height requirement need only be satisfied when the restraint is in the up position. The purpose of a head restraint is to limit rearward motion of the head in a rear impact crash, thereby preventing whiplash injury due to hyperextension of the neck. The standard became effective for passenger cars in January 1969.

Pursuant to Executive Order 12291, NHTSA recently conducted an evaluation of Standard No. 202 to determine the effectiveness of the technology selected by the manufacturers in terms of preventing injuries and to determine the costs of that technology to consumers. Under the executive order, agencies are to review existing regulations to determine whether the regulations are achieving the order's policy goals, i.e., achieving legislative goals effectively and efficiently and without imposing any unnecessary burdens on those affected.

The principal findings and conclusions of the report are the following:

- Both integral and adjustable head restraints significantly reduce the overall injury risk in rear impact crashes: integral restraints by approximately 17 percent; adjustable restraints by 10 percent.

- Head restraints are effective because they have been performing as intended: they support the neck and prevent hyperextension. This conclusion is based primarily on crash and

laboratory test results and is consistent with the overall effectiveness findings.

- The restraints do not appear to have had any unforeseen benefits, such as reducing rear impact fatalities, nonwhiplash injuries or forms of whiplash other than hyperextension.

- The restraints do not appear to have significant negative side effects, such as increasing rear impact fatalities, aggravating injuries to rear-seat occupants in frontal crashes of causing accidents because they block a driver's view of traffic to the sides and rear.

- Integral restraints are nearly twice as effective as adjustable head restraints because 75 percent of the latter are left in the down position by occupants—an adjustable head restraint in the down position does not adequately protect an occupant of average height.

- Integral restraints cost about one third as much as adjustable restraints: integral restraints add \$12 (in 1981 dollars) to the lifetime cost of owning and operating a car; adjustable restraints, \$40.

- Adjustable restraints, despite their higher cost and lower benefit, continue to be installed in the majority of cars. On most makes and models, the car purchaser is offered a choice of integral and adjustable restraints, the latter usually as part of an extra-cost seating option: in these circumstances, the majority of purchasers chooses the option which includes adjustable restraints. (The preference, of course, may in many cases be due to features of the deluxe seat option other than the adjustable restraints.) Customer preference for adjustable restraints seems to be motivated primarily by a perception that they are more stylish and comfortable than integral restraints. Vision obstructions experienced with integral restraints are an annoyance to short drivers (e.g., 5 feet 2 inches or less) but are less important than styling and comfort issues in the perception of most car purchasers. These conclusions are based on analyses of sales data, not an actual survey of car purchasers.

- The current mix of integral, correctly positioned and mispositioned adjustable restraints in cars on the road eliminates about 65,000 injuries per year.

- An all-integral restraint fleet would eliminate 85,000 injuries per year, at much lower cost.

- A similar gain in benefits, but without the cost-savings, could be achieved if all adjustable restraints were to measure at least 27.5 inches tall in the down position. (Currently, Standard No. 202 only requires

adjustable restraints to measure 27.5 inches in the *up* position.)

• Significant gains in benefits might be achieved by increasing the height of the restraints. A 30 or 31 inch integral restraint (or an adjustable restraint 30 or 31 inches tall in the *down* position) may give improved protection for tall occupants, persons of average standing height who sit tall, and persons in crashes where vehicle forces displace them several inches upwards as well as rearwards.

The report was developed from statistical analyses of Texas accident files as well as the Agency's National Accident Sampling System, National Crash Severity Study and Fatal Accident Report System data, cost analyses of actual head restraint assemblies, and a review of laboratory and crash tests and multidisciplinary accident investigations.

NHTSA welcomes public review of the Standard No. 202 Evaluation Report and invites the public to submit comments. In addition to comments on the contents of the report, NHTSA seeks additional data and information relating to the following questions, which deal with subjects addressed by the report:

1. Are there any car purchaser surveys or other data to explain why so many more adjustable restraints than integral restraints are produced and sold?

2. Do car owners regard adjustable restraints primarily as a safety device, a way to minimize visibility obstructions, or a comfort device?

3. Would a requirement that adjustable restraints measure at least 27.5 inches tall in the *down* position make them about as effective as current integral restraints? Would the introduction of such a requirement affect the market shares for adjustable and integral restraints?

4. The report suggests that 30-31-inch head restraints would be significantly more effective than current restraints, in part because occupants are displaced several inches upwards in some rear impact crashes. Is there any evidence from in-depth accident investigations and laboratory or crash tests, besides the evidence cited in the report, that substantiates (or contradicts) the conclusion that taller restraints would be more effective?

5. Has there been any testing of vision obstructions experienced with restraints taller than 28 inches?

6. Has there been any testing of vision obstructions experienced with see-through restraints? With see-through restraints taller than 28 inches? Are there any data on consumer attitudes towards see-through restraints?

7. Would a reduction of the head restraint width requirement from 10 inches to 6.75 inches, on bench seats, lead to an increase in the production and sale of integral restraints? Are there any data on the possible safety consequences of reducing the width requirement? (The width requirement for bucket seats is currently 6.75 inches.)

8. Are there any statistical studies, in-depth accident data or test results, other than those presented in the report, that shed light on the effect of head restraints on fatal and serious injuries, on rear-seat occupant injuries or on accidents attributed to vision obstructions?

NHTSA seeks information on these questions in order to complete the review requirements of Executive Order 12291 and as a basis for possible future rulemaking on head restraints.

It is requested but not required that 10 copies of comments be submitted.

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.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Barry Felrice,
Associate Administrator for Plans and Programs.

[FR Doc. 82-4091 Filed 2-11-82; 4:52 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Air Brakes

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates a rulemaking action commenced at the request of the California Highway Patrol (CHP). CHP petitioned the agency to amend Standard No. 121, *Air Brake Systems*, to require that when a spring brake is applied due to low air pressure that it remain applied even when the pressure has returned to a safe level. This request was made to resolve a potential safety problem involving school buses. Subsequent to the rulemaking petition, manufacturers have modified their brake systems to use essentially the same brake system requested by the CHP. Accordingly, no further regulatory proceeding is

required, and this rulemaking action is terminated.

FOR FURTHER INFORMATION CONTACT:

Mr. John Machey, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION:

On September 5, 1979, the California Highway Patrol (CHP) petitioned the agency to amend Standard No. 121, *Air Brake Systems*, to require intentional drive release of air actuated spring brakes. On June 19, 1980 (45 FR 41463) the agency granted this rulemaking action and began research on the problem identified by the CHP.

The CHP has stated that a problem of inadvertent brake release was occurring in some school buses. Apparently, school bus drivers are required to perform pre-trip inspections of their vehicles. Part of the inspection involves starting the engine and testing the brakes for the low pressure warning device, air compressor buildup time, and air compressor "cut in" setting. This test is conducted with the parking brakes released. To perform these tests, the brakes have their air supply depleted which causes the automatic application of the vehicle's spring brakes. When the test is completed, drivers sometimes leave the vehicle with the engine running and forget to apply the manual parking brake control. As the compressor continues to supply air to the brake system, a designated air pressure is reached, and the spring brakes automatically release. At this point the vehicle has no brakes applied and is unattended. According to CHP, this condition has resulted in vehicle runaway problems.

The agency researched this problem and discovered that it existed only in one vehicle whose brake system was modified in 1979 to correct this problem. All school buses now are equipped with a spring loaded parking brake device which activates when air pressure falls below a certain level, and the spring brakes are applied. The subsequent buildup of air pressure will not release these parking brakes. The brakes may only be released by manual operation of the parking brake control. Accordingly, the problem of a runaway unattended vehicle is averted.

Since the problem identified by the CHP existed in only one vehicle type and since the brake system on that vehicle was modified by the manufacturer, the agency concludes that the industry has resolved this problem itself and that no government regulation

is needed at this time. Accordingly, this rulemaking action is terminated.

The principal authors of this notice are Mr. John Machey of the Crash Avoidance Division and Mr. Roger Tilton of the Office of Chief Counsel. (Secs. 103 and 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-4090 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 82-02; Notice 01]

Federal Motor Vehicle Safety Standards; Brake Hose

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for rulemaking; request for comments.

SUMMARY: This notice grants a petition for rulemaking submitted by the B. F. Goodrich Company and solicits comments regarding the issues raised by the petition. The petition requests two related changes in the adhesion test for air brake hoses contained in Safety Standard No. 106, *Brake Hoses*. The adhesion test is included in the standard to assure that the various layers of a brake hose do not separate in service. The petition requests that adhesion value, i.e., the force required to separate adjacent layers of a brake hose, be determined by an averaging technique rather than by the present method of using the minimum force recorded during the test. According to that company, the use of an averaging technique would be a more valid method of determining the force required for separation of adjacent layers of brake hoses. The petition also requests that the force levels recorded in separating the layers of the brake hose at the beginning and end of the test be disregarded.

DATE: Comment closing date: April 5, 1982.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Vern Bloom, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh

Street, S.W., Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: The B. F. Goodrich Company has submitted a petition for rulemaking that requests two related changes in the adhesion test for air brake hoses contained in Safety Standard No. 106, *Brake Hoses*. The adhesion test is included in the standard to assure that the various layers of a brake hose do not separate in service.

The first step of the adhesion test procedure is to cut a specimen of brake hose, 1 inch or more in length. The specimen is then cut longitudinally along its entire length to the level of contact with a lower layer. The layer to be tested is peeled back along the longitudinal cut so as to create a flap large enough to be attached to a test apparatus. The test apparatus applies tension in a direction essentially perpendicular to the axis of the brake hose so as to separate, i.e., unroll, the layer being tested from the rest of the brake hose. A chart is produced which has inches of separation as one coordinate and applied tension as the other. Section S7.3.7 requires that except for hose reinforced by wire, an air brake hose must withstand a tensile force of 8 pounds per inch of length before separation of adjacent layers.

Both changes requested by B. F. Goodrich concern how the test chart is interpreted to determine adhesion value. (Adhesion value is the force required to separate adjacent layers of a brake hose.) Section S8.6.4 of the standard provides that adhesion value is the minimum force recorded on the portion of the chart corresponding to the actual separation of the part being tested.

According to B. F. Goodrich, the definition of adhesion value contained in section S8.6.4 can lead to problems of interpretation. That company does not explain that assertion. The petition does, however, state that an averaging of recorded forces presents a more relevant and valid adhesion value than a single minimum value on the chart. According to B. F. Goodrich, an averaging procedure has been standard practice for testing textile reinforced industrial hose for years.

The petition states that extensive tests conducted by B. F. Goodrich indicate that the minimum values recorded on the chart can be influenced by such factors as sample preparation, operator intervention, inherent structural details such as longitudinal yarns, and by the normal variation within a sample of hose. That company concludes that the minimums recorded on the chart may not represent the force required for actual separation of adjacent layers.

The first change requested by B. F. Goodrich's petition is that the adhesion test of Standard No. 106 be amended to adopt an averaging technique rather than using the minimums recorded on the chart.

B. F. Goodrich's petition also requests that the portion of the test chart showing the force used to separate the layers of the brake hose at the beginning and end of the test be disregarded. According to that company, the adhesion between layers may be disturbed during sample preparation by pulling the flap loose for attachment to the jaws of the test machine. Also, if the sample distorts near the end of the test, erratic values may occur. That company concludes that only the center portion of the test chart truly represents the force of actual separation.

The specific amendment to Safety Standard No. 106 requested by B. F. Goodrich, which incorporates the two changes discussed above, is to amend section S8.6.4(a) of the standard to read:

The adhesion value shall be determined by drawing on the chart the best average line between the maximum and minimum force values recorded. In determining the average, disregard that portion of the chart which corresponds to the first and last 20% of the separation distance along the horizontal axis of the chart.

The agency believes that the changes suggested by B. F. Goodrich warrant further consideration. Therefore, to that extent, the agency grants B. F. Goodrich's petition.

The agency solicits comments concerning the issues raised by B. F. Goodrich's petition. Both the petition and a letter of further explanation received from B. F. Goodrich regarding the petition have been placed in the docket. The agency is particularly interested in receiving comments related to the following questions:

1. Are there any problems of interpretation about the present definition of adhesion value?
2. What advantages would result from adopting changes along the lines suggested by B. F. Goodrich's petition? What types and amount of cost savings might accrue?
3. What safety consequences would result from the changes? If an averaging test is proposed, what limitations, if any, should be placed on the extent to which the test measurements fall below 8 pounds per inch of length of the sample?
4. If an averaging technique is proposed, what type of average should be used? For example, if the agency decides to propose an averaging technique, it would contemplate specifying that the adhesion value is the

arithmetic mean of the force values recorded on the relevant portion of the test chart. Is arithmetic mean the best type of average? Should a specific method of calculating the arithmetic mean (or other type of average, if appropriate) be included in the standard? For example, the standard might specify use of a discrete number of points at regular intervals across the test chart in calculating the arithmetic mean or use of a planimeter to measure the area under the curve, which is divided by the abscissa to obtain the average ordinate.

5. What portion, if any, of the ends of the test chart should be disregarded?

Neither the granting of B. F. Goodrich's petition nor the issuance of this request for comments necessarily means that a rule will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

NHTSA has considered the impacts of this action in accordance with the Department of Transportation's regulatory policies and procedures and has concluded that it is nonsignificant within the meaning of those procedures. The expected impacts are too indeterminate at this time to conclude whether a regulatory evaluation would be appropriate. Should the agency decide to proceed with a notice of proposed rulemaking, the decision whether it is necessary to prepare a regulatory evaluation would be made at that time.

Interested persons are invited to submit comments on the issues raised by this notice. 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. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the

information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

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.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Carl E. Nash,
Acting Associate Administrator for
Rulemaking.

[FR Doc. 82-4087 Filed 2-11-82; 4:52 pm]
BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[No. 36135]

Rules Governing Publication of Exceptions Ratings Higher Than Classification Ratings

AGENCY: Interstate Commerce
Commission.

ACTION: Notice of proposed rulemaking; notice of granting of replies.

SUMMARY: In its notice of proposed rulemaking, the Commission sought comments on the merits of a petition seeking the removal of 49 CFR 1310.7(r), and on the merits of modifying rather than removing the paragraph. The paragraph requires motor common carriers to submit justification statements with any tariff that results in rates and charges higher than what would be applicable under classification ratings. In response to a letter petition filed by the National Small Shipments Traffic Conference *et al.*, the Commission is granting the request for the filing of replies to comments.

DATE: Replies are due May 16, 1982.

ADDRESS: Submit replies to Room 5356, Interstate Commerce Commission, Washington, D.C. 20423. Comments may be viewed in: Room 1221, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Commission published its notice of proposed rulemaking in this matter at 46 FR 56629, November 18, 1981. By notice published at 47 FR 59, January 4, 1982, the dates for filing comments was extended from January 4, 1982 to April 16, 1982. A letter petition was filed on January 14, 1982, by the National Small Shipments Traffic Conference *et al.*, requesting that parties be granted the right to file replies 30 days after comments are submitted.

The petition shall be granted. Although our comment extension decision was served on December 31, 1981, it was not published in the *Federal Register* until January 4, 1982, the original comment date. A number of parties, unaware of the extension, filed comments on that date. In order to avoid any potential unfairness in parties replying in their April 16 comments to the January 4 comments, we shall give all parties the right to file replies on May 17, 1982, 30 days after the comment date. Comments may be viewed at the Interstate Commerce Commission, Room 1221, Washington, D.C.

It is ordered;

The petition is granted.

By the Commission, Reese H. Taylor, Jr.,
Chairman.

Decided: February 11, 1982.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4314 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 47, No. 33

Thursday, February 18, 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.

CIVIL AERONAUTICS BOARD

[Docket No. 39975]

Trenton Hub Express Airline Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on February 17, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

The issues in the proceeding will be those prescribed by the Board in Order 81-12-146. Parties will present at the conference requests for any evidence in addition to that submitted with the application and be prepared to propose further procedural dates.

Dated at Washington, D.C., February 11, 1982.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 82 4380 Filed 2-17-82; 8:45 am]

BILLING 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 41-3, Amdt. 2; D.O.O. Reference 10-3, 40-1]

Assistant Secretary for International Economic Policy; Statement of Organization and Functions and Delegation of Authority

Effective date: January 4, 1982.

ITA Organization and Function Order 41-3 of January 19, 1981, as amended (46 FR 19950 and 46 FR 35328), is further amended to amend the delegation under the International Investment Survey Act of 1976 and to reflect the establishment and delegate authority to the Deputy Assistant Secretary for Trade Adjustment Assistance.

1. Part III, Section 2 is amended to read:

Section 2. Principal Functions

.01 The Assistant Secretary for International Economic policy shall assist and advise the Secretary and the Under Secretary on the Research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance, investment and services and those of a multilateral or regional nature (excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade), and shall operate a program to provide trade adjustment assistance to industries, communities and firms adversely affected by imports.

.02 The Assistant Secretary shall direct the activities of:

- a. The Deputy Assistant Secretary for International Economic Policy
- b. The Deputy Assistant Secretary for Finance, Investment and Services
- c. The Deputy Assistant Secretary for Trade Agreements
- d. The Deputy Assistant Secretary for Policy Planning and Analysis
- e. The Deputy Assistant Secretary for Textiles and Apparel
- f. The Deputy Assistant Secretary for Trade Adjustment Assistance

2. Part V, Section 1.01d is amended to read:

d. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976, (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3103 (a) and (b), and 3104(c)), and Section 4(e) of the International Investment Survey Act, as amended by Pub. L. 97-33, (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, (DOO 35-1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act shall be issued by the Under Secretary for International Trade in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to be undertaken pursuant to the Act, shall be issued by the Secretary.

3. Part IX is renumbered Part X and a new Part IX is added to read:

Part IX. Deputy Assistant Secretary For Trade Adjustment Assistance

Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretary for Trade Adjustment Assistance ("the DAS/TAA"):

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States;

b. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended, (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (See Department Organization Order 35-5A). Except that the right to award grants, loans or loan guarantees to eligible firms, industries and communities shall be reserved to the Under Secretary.

.02 Except as otherwise provided, the DAS/TAA may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The "Deputy Assistant Secretary for Trade Adjustment Assistance" shall direct the trade adjustment assistance program; develop policies to implement the trade adjustment assistance program; direct the certification of firms as eligible to apply for assistance; direct the provision of technical and financial assistance to certified firms; direct the provision of trade adjustment assistance to trade-impacted industries and communities; develop a monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establish procedures for

dealing with delinquent firms; evaluate the performance of firms which have received trade adjustment assistance; coordinate the trade adjustment assistance program with other federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR), and provide representation for the Commerce Labor Adjustment Action Committee (CLAAC).

.02 The DAS/TAA shall direct the Office of Trade Adjustment Assistance.

Section 3. Office of Trade Adjustment Assistance

.01 The "Office of Trade Adjustment Assistance" shall be headed by the DAS/TAA who shall direct the following Divisions:

.02 The "Certification Division" shall develop policies, plans and procedures to certify firms eligible to apply for Trade Adjustment Assistance; review certification petitions for acceptance or rejection, prepare notices of actions taken, conduct investigations for all accepted petitions, and issue certificates of eligibility to (or deny the petitions of) firms according to the Trade Act of 1974; maintain control under the appropriate reporting system of TAA activities and be responsible for regular reports to the appropriate offices within ITA and the Department; provide policy guidance and direction to ITA District Offices regarding trade adjustment and industry to ITA District Offices regarding trade adjustment and industry assistance projects, including specialized training for staff; and develop and direct the outreach and information system to inform the general public and businesses in particular of trade adjustment assistance programs available under the Trade Act.

.03 The "Technical Assistance Division" shall develop policies, guidelines and procedures for providing technical assistance to impacted firms, industries, and communities under the Trade Act; establish, supervise, coordinate and monitor the operation of Trade Adjustment Assistance Centers (TAACs) to assure uniform operations; evaluate the effectiveness of assistance provided to eligible firms and assist in improving each TAAC performance; provide assistance to impacted firms that prefer not to work with a TAAC, by providing grants or cooperative agreements to industry experts; review recovery plans submitted by certified firms and offer advice to the DAS/TAA on the feasibility of the firm to implement such a plan; review, process, supervise and monitor all technical assistance projects referred by DOC

industry teams; develop, analyze and process proposals for interagency transfers of funds to benefit trade impacted industries and monitor results of such transfers; provide advice and guidance about technical assistance to impacted firms, industries, and communities, as requested; develop, review, process, supervise and monitor industry assistance cooperative agreements to industry associations or other appropriate organizations for studies of new markets, new technology, new products, export development, and industry evaluation or analysis; coordinate technical assistance activities with other Federal agencies and departments; and assess program results and provide program status reports or other special studies needed by the DAS/TAA and other Department officials relative to firms, industry, and community technical assistance.

.04 The "Financial Assistance Division" shall develop policies, procedures and guidelines for evaluation adjustment proposals and applications for loans and loan guarantees to be provided to certified firms; review formal adjustment proposals submitted as part of an application to determine if the firm can either recover from the impact of foreign competition in its existing market area or successfully penetrate a new market area; review all proposals and applications to ensure compliance with all applicable regulatory and statutory requirements such as environment, civil rights, or flood hazard, as well as special requirements of the Trade Act; negotiate loan terms and conditions to attain reasonable assurance of loan repayment, recovery of firm and the permanent employment opportunities to be created or maintained by the project; evaluate and make recommendations regarding comprehensive financing, after processing of such applications; monitor trade adjustment recipients to ensure adherence to adjustment plans and recommend any necessary modifications; supervise the provision of specialized assistance to recipients of TAA loans of loan guarantees who may have repayment or other problems in meeting program objectives; supervise and monitor construction projects processed by the Division, including certifications for loan disbursements; and de-obligate trade assistance loan funds not required because of withdrawals, cancellations, and underruns.

4. The attached organization chart supersedes the chart attached to

Amendment 1 of ITA Organization and Function Order 41-3 dated May 11, 1981.

Raymond J. Waldmann,

Assistant Secretary for International Economic Policy.

Approved:

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-4382 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 41-1, Amdt. 4; D.O.O. Reference 10-3, 40-1]

International Trade Administration; Statement of Organization and Functions and Delegations of Authority

Effective date: January 4, 1982.

ITA Organization and Function Order 41-1 of January 30, 1980, as amended (45 FR 11862, 46 FR 13537, 46 FR 35329, and 46 FR 51948), is further amended to amend the delegation under the International Investment Survey Act of 1976; reflect the establishment of, and delegate authority to, the Deputy Assistant Secretary for Trade Adjustment Assistance; delegate authority for international exhibitions held in the United States; delegate authority for the small business export grant program; establish the Coal Export Staff and the position of Deputy Assistant Secretary for Trade Development; and establish four offices reporting to the Director General for the Foreign Commercial Service.

1. Part III, Section 1.01g is amended to read:

"g. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976, (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3103(a) and (b), and 3104(c)), and Section 4(e) of the International Investment Survey Act, as amended by Pub. L. 97-33 (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, (DOO 35-1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act shall be issued by the Under Secretary for International Trade in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to

undertake pursuant to the Act, shall be issued by the Secretary."

2. Part III., Section 1.01i is added to read:

"i. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (See Department Organization Order 35-5A). Except that the right to award grants, loans or loan guarantees to eligible firms, industries and communities shall be reserved to the Under Secretary.

3. The first paragraph of Part III, Section 2 is amended to read:

"The Assistant Secretary for International Economic Policy ("the Assistant Secretary") shall advise on the research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance, investment and services and those of a bilateral, multilateral or regional nature (excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade), and shall operate a program to provide trade adjustment assistance to industries, communities and firms adversely affected by imports. The Assistant Secretary shall carry out these functions through:"

4. Part III, Section 2.06 is added to read:

".06 The Deputy Assistant Secretary for Trade Adjustment Assistance shall direct the trade adjustment assistance program, including the development of policies to implement the program, and shall direct the following office:

a. The Office of Trade Adjustment Assistance shall certify firms as eligible to apply for assistance and provide technical and financial assistance to certified firms; provide trade adjustment assistance to trade-impacted industries and communities; develop a monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establish procedures for dealing with delinquent firms; evaluate the performance of firms which have received trade adjustment assistance; coordinate the trade adjustment assistance program with other federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative

(USTR); and provide representation for the Commerce Labor Adjustment Action Committee (CLAAC)."

5. The "and" at the end of Part V, Section 1.01e is deleted, the periods at the end of Section 1.01f and 1.01g are changed to semi-colons, and Sections 1.01h, 1.01i and 1.01j are added to read:

"h. The Act of May 27, 1970 (Pub.L. 91-269, 22 U.S.C. 2801 *et seq.*) relating to U.S. participation in international expositions;

"i. The Act of December 29, 1979 (Pub. L. 96-169, 93 Stat. 1281) regarding U.S. participation in the International Energy Exposition to be held in Knoxville, Tennessee in 1982; and

"j. Title III of Pub. L. 96-481 (15 U.S.C. 649a-649d), relating to making grants (including contracts and cooperative agreements) for small business international marketing programs."

6. The first paragraph of Part V., Section 2 is amended to read:

"The Assistant Secretary for Trade Development shall be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment posture of the U.S. The Assistant Secretary serves as the National Export Expansion Coordinator. The Office of the Assistant Secretary includes the Coal Export Staff which advises the Assistant Secretary in the latter's capacity as coordinator of the National Coal Export Program. The Assistant Secretary shall carry out these functions through:"

7. Part V., Sections 2.01, 2.02 and 2.03 are renumbered as 2.02, 2.03 and 2.04, respectively. A new section 2.01 is added to read:

".01 The Deputy Assistant Secretary for Trade Development shall serve as the principal deputy to the Assistant Secretary, perform such duties as the Assistant Secretary shall assign, and perform the functions of the Assistant Secretary in the latter's absence."

8. The first paragraph of the new Part V., Section 2.02 is amended to read:

".02 The Deputy Assistant Secretary for Export Development shall develop, plan and direct the export development activities in free-world countries and areas to be carried out by the U.S. and Foreign Commercial Services; plan, develop, and implement an automated export information transfer system; provide for staff support to the President's Export Council and in this capacity, communicate the President's Export Council recommendations through the Secretary of Commerce to the President. The Office of the DAS shall contain the International Expositions Staff which shall be responsible for Federal recognition and

participation in international expositions to be held in the United States. The DAS shall direct the following offices:"

9. Part VI., Section 2 is amended to read:

"Section 2. Organization and Functions

The Foreign Commercial Service is headed by the Director General who reports to the Under Secretary and is responsible for administrative management of the Foreign Commercial Service, including development and implementation of policies determining the recruitment, appointment, assignment, evaluation and career development of officers in the Foreign Commercial Service. The Director General administers the overseas network in ITA and is responsible for resolving any Foreign Commercial Service post resource conflicts which ITA program activities may impose. The Director General also serves as the ITA representative to other U.S. agencies for administrative and management issues affecting the Foreign Commercial Service. For activities relating to the delivery of services in support of the Department's trade development programs, the Director General reports and is responsible to the Assistant Secretary for Trade Development. The Director General directs the following elements:

.01 The Office of Career Development and Assignment shall establish and provide operational support for FCS officer assignment panels; develop and manage education and career development programs for FCS officers and Foreign Service National employees; develop and administer the FCS Officer Evaluation System and related selection boards; and administer a consultation program for FCS officers and nationals.

.02 The Office of Personnel Administration shall conceptualize and supervise a system to monitor FCS personnel records and processing; maintain liaison with ITA, Departmental, State Department, other Government agency personnel officers for administration of Foreign Service Act personnel policies and developments; provide support for all FCS recruitment and selection panels and for the Department's activities on the Board of the Foreign Service and the Board of Examiners of the Foreign Service; administer FCS grievance, labor-management relations and EEO programs; and provide for the movement of personnel, shipment of household goods, and medical coverage for FCS employees.

.03 The Office of Management Operations shall be responsible for FCS fiscal planning and monitoring, evaluation of FCS performance overseas, and overall administrative support in headquarters and abroad; oversee the evaluation and analysis of the post's workload plans (PCAP's); recommend long-term staffing and resource allocation decisions; monitor the State Department's shared administrative support policies; evaluate the provision of administrative support for FCS activities at overseas posts; provide support to posts in business management techniques, management information systems and equipment, and telecommunications support; maintain liaison with Commerce and State security offices to provide for the security of FCS installations; and maintain liaison between the ITA administrative elements and the FCS headquarters operation.

.04 The Office of Plans and Coordination shall coordinate with Trade Development and with input from the Office of Management Operations the post's workload planning process (PCAP) and plan implementation; maintain liaison with other government agencies, industry groups, the U.S. Chamber of Commerce, and academe to develop more effective techniques for promoting U.S. commercial interests abroad; serve as ombudsman for FCS clients to resolve program delivery problems; coordinate the FCS role in MTN implementation; establish and monitor the use of small business facilities abroad; in conjunction with the Office of Management and Systems, maintain liaison with GAO, State/IG and Commerce/IG on FCS activities; and provide management oversight of the commercial libraries abroad.

.05 The FCS Overseas shall be responsible for promotion of U.S. commercial interests abroad; implementing the full range of the Department's overseas commercial programs and activities, including those administered by ITA, other Commerce agencies, and other U.S. Government agencies; and coordinating, within the areas of its jurisdiction, the activities of all assigned overseas personnel."

10. The attached organization chart supersedes the chart attached to Amendment 3 of ITA Organization and Function Order 41-1 of September 17, 1981.

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-4381 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00328. Applicant: La Jolla Cancer Research Foundation, 2945 Science Park Road, La Jolla, CA 92037. Article: Electron Microscope, Model H-600-2. Manufacturer: Hitachi Scientific Instruments, Ltd., Japan. Intended use of article: See Notice on page 43730 in the Federal Register of August 31, 1981. Article ordered: February 26, 1981.

Docket No. 81-00338. Applicant: NINCDS-Lab of Neuro-Otolaryngology, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope, Model JEM-100CX/SEG with Accessories. Manufacturer: Japan Electron Optics Ltd., Japan. Intended use of article: See Notice on page 45791 in the Federal Register of September 15, 1981. Article ordered: July 15, 1981.

Docket No. 81-00351. Applicant: National Eye Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Application received by Commissioner of Customs: August 21, 1981.

Docket No. 81-00352. Applicant: Northwestern University, 633 Clark Street, Evanston, IL 60201. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Article ordered: February 26, 1981.

Docket No. 81-00353. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Electron Microscope, Model JEM 200-CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of

October 1, 1981. Application received by Commissioner of Customs: August 21, 1981.

Docket No. 81-00356. Applicant: Northwestern University/Medical School, Department of Cell Biology and Anatomy, 303 East Chicago Avenue, Ward 7-315, Chicago, IL 60611. Article: Electron Microscope, Model JEM 100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Article ordered: March 30, 1981.

Docket No. 81-00357. Applicant: North Carolina State University, Raleigh, North Carolina 27650. Article: Electron Microscope, Model EM 400-T with Accessories. Manufacturer: Philips Electronic Instruments Inc., The Netherlands. Intended use of article: See Notice on page 48279 in the Federal Register of October 1, 1981. Article ordered: June 9, 1981.

Docket No. 81-00361. Applicant: Harper-Grace Hospitals, Harper Division, 3990 John R. Street, Detroit, MI 48201. Article: Electron Microscope, Model EM-10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 48279 in the Federal Register of October 1, 1981. Article ordered: July 30, 1981.

Docket No. 81-00364. Applicant: Harrington Cancer Center, 1500 Wallace Blvd., Amarillo, TX 79106. Article: Electron Microscope, H-600-2. Manufacturer: Hitachi Ltd., Japan. Intended use of article: See Notice on page 48280 in the Federal Register of October 1, 1981. Article ordered: June 15, 1981.

Docket No. 81-00366. Applicant: St. Elizabeth's Hospital, 736 Cambridge Street, Boston, MA 02135. Article: Electron Microscope, Model JEM 100S with Sheet Film Camera. Manufacturer: Jeol Ltd., Japan. Intended use of Article: See Notice on page 48280 in the Federal Register of October 1, 1981. Article ordered: June 15, 1981.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a

comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-4425 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee, which will meet to examine and provide recommendations to the Council on the development of fishery management plans for Shallow-water Reef Fish, Coastal Migratory Pelagic Resources and a Generic Plan for the Fishery Resources of the Puerto Rican and St. Croix Geological Platforms.

DATES: The public meetings will convene on Wednesday, March 10, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m., reconvene on Thursday, March 11, 1982, at approximately 9 a.m., and adjourn at approximately noon.

ADDRESS: The meetings will take place at the Council Headquarters Office, 1108 Banco de Ponce Building, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4383 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the Bluefish and Summer Flounder Fishery Management Plans; discuss the status of other fishery management plans; discuss advisory panel nominations, as well as other fishery management and administrative matters.

DATES: The public meetings will convene on Wednesday, March 10, 1982, at approximately noon and will adjourn on Friday, March 12, 1981, at approximately noon. The meetings may be lengthened or shortened depending upon progress on the agenda.

ADDRESS: The meetings will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, (Telephone-302-674-2331).

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4384 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee, which will meet to discuss Executive Order 12291 and the National Marine Fisheries Service's guidelines for compliance with the Order, as well as other Council business.

DATES: The public meeting will convene on Friday, March 12, 1982, at approximately 10 a.m., and will adjourn

at approximately 5 p.m., and may be lengthened or shortened, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Samoset Inn, Rockport, Maine.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway—Route One, Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4385 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Groundfish Subpanel; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Groundfish Subpanel, which will meet to discuss the proposed groundfish regulations and other groundfish matters.

DATES: The Groundfish Subpanel's public meeting will convene on Thursday, March 4, 1982, at approximately 1 p.m., and adjourn on Friday, March 5, at approximately 5 p.m.

ADDRESS: The public meetings will take place at the Oregon Department of Fish and Wildlife Commissioner's meeting room, 5th and Mill Streets, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4386 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From Mexico

February 12, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products imported from Mexico.

SUMMARY: The Governments of the United States and Mexico exchanged letters dated December 23 and 24, 1981, further amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the two Governments to extend its term four years, from January 1, 1982 through December 31, 1985. The agreement, as amended and extended, establishes specific levels of restraint for certain cotton and man-made fiber textile products, among others, in Categories 335 (Women's, Girls' and Infants' Cotton Coats), 347/348 (Cotton Trousers) and 641 (Woven Blouses of Man-Made Fibers), produced or manufactured in Mexico and exported during the twelve-month period beginning on January 1, 1982. In the letter published below, the Chairman of the 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 cotton and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)).

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: February 22, 1982.

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).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 12, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

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 February 26, 1979, as amended and extended, between the Governments of the United States and Mexico; 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 February 22, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Mexico, in excess of the following levels of restraint:

Category	12-mo level of restraint
335	39,302 dozen.
347/348	645,139 dozen of which not more than 387,084 dozen shall be in Cat. 347 and not more than 387,084 dozen shall be in Cat. 348.
641	324,909 dozen.

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Mexico, which have been exported on and after January 1, 1981 and extending through December 31, 1981, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period which began on January 1, 1981 and extended through December 31, 1981. 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 notice.

The levels set forth above are subject to adjustment in the future, according to the provisions of the bilateral agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, which provide, in part, that: (1) Specific limits or specific sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve 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 February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5,

1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).

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 Mexico and with respect to imports of cotton and man-made fiber textile products from Mexico 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,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-4363 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Restrictions Applicable to Certain Contract Market and Clearing Organization Employees

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of staff interpretative position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing the position of its Division of Trading and Markets concerning the propriety of contract market employees and the employees of the contract market's clearing organization trading commodities or otherwise misusing sensitive, nonpublic information which such employees may obtain in their official capacity. In December, 1980¹ the Commission proposed regulation § 1.57 which, if adopted, would have made it unlawful for contract market or clearing organization employees to participate in commodity futures, commodity options, and investment transactions in actual commodities. Instead of adopting proposed regulation § 1.57 the Commission has decided to give guidance to the contract markets by publishing the following position of its Division of Trading and Markets.

FOR FURTHER INFORMATION CONTACT: Donald R. Levine, Assistant Director, or Lawrence B. Patent, Special Counsel, Contract Markets Section, Division of Trading and Markets, Commodity

¹ 45 FR 84084 (December 22, 1980).

Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Background

A. Proposed rule § 1.57

The publication for comment of proposed rule 1.57 was prompted by the Commission's recognition of the important responsibilities which self-regulatory compliance personnel bear. The Commission expressed its concern, in the *Federal Register* release announcing the proposal of § 1.57² about the potential for abuse, in addition to the appearance of impropriety, if employees with access to sensitive nonpublic information, particularly that regarding the market positions of contract market members, are permitted to trade futures contracts. Because of the expanding self-regulatory responsibilities of the contract markets and their clearing organizations and the concomitant growth in the number of compliance, audit, and market surveillance personnel, an increasing number of employees have access to the books and records of contract market members. Further, while they are engaged in the conduct of investigations of alleged rule violations, or while they conduct financial audits or routine market surveillance, employees so engaged can be expected to have access to information which relates, among other things, to market positions of members. The Commission notes that such information frequently relates to member positions in all markets. If these employees are permitted to trade futures contracts while at the same time having access to member books and records, they could use the confidential position information obtained in their official capacity for their personal benefit. The Commission believes that such conduct, or even the potential for such conduct, seriously undermines the concept of self-regulation and reduces public confidence in contract markets and their clearing organizations as regulators of their respective marketplaces.

As proposed, § 1.57 generally would have made it unlawful for contract market or clearing organization officers, staff members, employees or other persons occupying a similar status or performing similar functions (hereinafter referred to collectively as "employees") to participate in commodity futures transactions, commodity option transactions, or investment transactions in actual commodities. Section 1.57 also would have required each contract market to adopt and enforce rules approved by the Commission prohibiting

such activities, and rules prohibiting employees from misusing sensitive, nonpublic information.

B. Comments on the Proposed Rule

The Commission received fifteen written comments on the proposal. The commentators included nine contract markets, two clearing organizations, a futures commission merchant, a commodity trading advisor, and two individuals not directly identified with any particular aspect of the commodities industry.

There were certain general comments on proposed rule § 1.57. Several commentators stated that proposed rule § 1.57 was unnecessary because neither contract market nor clearing organization personnel have ever been accused of trading in a manner which would violate the provisions of the proposed regulation.³ Two commentators questioned whether any exchange employee would have access to information which would provide such a person with an advantage in the commodity markets unavailable to a brokerage firm employee, and they pointed out that a brokerage firm employee would not be subject to the restrictions of proposed rule § 1.57. In addition, two commentators asserted that the Commission lacks the statutory authority to promulgate rule § 1.57.⁴

Two exchanges which commented on the proposal also pointed out that contract market rules apply only to contract market members, and those exchanges stated their belief that contract market rules are an inappropriate method of addressing the problem of commodity trading or the abuse of sensitive, nonpublic information by employees. Those commentators asserted that this subject should be treated as a personal matter and that an exchange, as employer, should be able to discipline, suspend or

terminate its employees quickly and without the need for the elaborate and formal procedures which would be involved in determining whether an exchange rule was violated.

Several commentators discussed the types of persons and the types of activities which should be covered by proposed rule § 1.57. Seven commentators stated that the application of proposed § 1.57 to any "officer, staff member, or employee (or any person occupying a similar status or performing similar functions) of a contract market or of its clearing organization" was too broad. Two of those commentators stated that various contract market and clearing organization by-laws require certain officers to be contract market members or clearing organization members, and, therefore, proposed § 1.57 would bar such persons from trading. Two other commentators stated that the regulation as proposed would be discriminatory. Those commentators pointed out that certain exchange and clearing organization officers are also members of the governing board and, as officers, would be barred from trading by § 1.57, while non-officer board members would not be so barred. Five of the seven commentators addressing the issue of the types of persons who should be covered by the proposed regulation stated that § 1.57 should be limited to in-house, full-time, paid employees and should specifically exclude any officer whose principal employment is outside of the contract market or clearing organization, and whose only compensation from the contract market or clearing organization consists of director's fees. Three commentators stated that there should be no restrictions on commodity trading for those contract market employees who do not have access to confidential data.

Finally, several commentators stated that certain types of trading activities should be excluded from the general ban which proposed § 1.57 would impose. Two commentators stated that exchange personnel should be permitted to engage in hedging transactions. Those two commentators, joined by a third, also stated that exchange personnel should be allowed to purchase participation units in commodity pools, or to have a managed commodity account, provided that the trading authority for any such pool or account was exercised by another party. Several commentators stated that the proposed ban on direct or indirect participation in investment transactions in any actual commodity was too broad and would restrict exchange personnel from participating in traditional types of investment

³ On one recent occasion, however, the Commission expressed its concern to a contract market that one of its employees with significant compliance responsibilities had initiated futures transactions.

⁴ The Division notes, however, that several provisions of the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 1 *et seq.* (1976 & Supp. III 1979)) and the regulations adopted thereunder place responsibilities on commodity exchanges to act in the public interest and to adopt and enforce rules to fulfill such responsibilities. See, e.g., Sections 5a(8) and 5a(9) of the Act (7 U.S.C. 7a (8) and (9) (1976)) and Commission regulations §§ 1.51 and 1.52 (17 CFR 1.51 and 1.52 (1981)), as amended 46 FR 54500, 54525 (November 3, 1981)). Thus, exchanges must have suitable personnel to carry out those responsibilities, and such employees must be free of conflicts of interest and the appearance of impropriety in the performance of their duties. The avoidance of such conflicts was the intended purpose of proposed § 1.57, and it forms the basis for the Division's interpretative statement on this subject. See also sections 5(d), 5(g) and 8a(7) of the Act (7 U.S.C. 7(d), 7(g) and 12a(7) (1976)).

² *Id.*

vehicles used by many members of the public.

II. Interpretative Statement⁵

Section 5a(8) of the Act requires each contract market to enforce all of its rules which have been approved by the Commission pursuant to Section 5a(12) of the Act (7 U.S.C. 7a(12) (Supp. III 1979)).⁶ Section 1.51 of the Commission's regulations requires each contract market to use due diligence in maintaining a continuing affirmative action program to meet its rule enforcement obligations under the Act. To meet these obligations, each exchange must have a suitable staff to fulfill its self-regulatory functions. The Division believes that restrictions on employees who could otherwise engage in commodity transactions or potentially abuse information obtained by virtue of their employment are necessary to ensure a suitable staff to meet those obligations. Public confidence in the ability of a self-regulatory organization to perform its regulatory duties cannot be achieved if improprieties in the use of confidential regulatory information or even the appearance of such improprieties exist.⁷

The Division recognizes that the exchanges are different entities due to the varied types of activities which particular exchanges engage in, and that they may have different types of employees. The Division will inquire, in conducting its rule enforcement reviews, whether the exchange has a policy suited to its particular employees regarding participation in commodity futures transactions, commodity option transactions, and investment transactions in actual commodities, as well as the misuse of sensitive, nonpublic information. The exchanges should consider the function and activities of the employee involved, the employee's access to sensitive,

nonpublic information, and the type of commodity investment involved.

Contract market and clearing organization employees who are involved in compliance, audit or market surveillance activities, and who have routine access to the books and records of members, and thus have position information available to them concerning the particular exchange where they are employed and, perhaps, other exchanges as well, should generally be barred from all commodity transactions, including those which would be executed on other exchanges. The key element which should be considered is access to confidential information, and such access should disqualify an employee from engaging in commodity transactions even if the employee is not full-time, in-house, paid employee, and even if the person's principal employment is outside of the contract market or clearing organization. A full-time employee could, therefore, be subject to less restrictions than a part-time employee if the full-time employee did not have access to confidential information, while the part-time employee has such access on a routine basis.⁸

The commodity investments in which employees who have access to sensitive nonpublic information should be prohibited from trading include commodity futures, commodity options, and investment transactions in actual commodities involving those commodities on which futures contracts are traded. The Division recognizes, however, that a blanket application of such investment restrictions would in many cases be impractical and not necessary to assure the independence and integrity of self-regulatory compliance personnel. The recent growth in the financial futures markets perhaps best illustrates the impracticability of a blanket prohibition against employee transactions in commodities underlying futures contracts. For example, under such a

prohibition, compliance personnel could be prevented from investing in many securities issued by the United States as well as such common investment instruments as bank certificates of deposit. The Division does not believe that an exchange policy which permits its employees to use such investment vehicles would raise any problems under §§ 1.51 or 1.52.⁹

In determining what types of commodity investments should be permitted, factors such as the employee's degree of control over the investment, whether the employee could make use of confidential information for personal benefit, and whether such investment activity would interfere with the employee's job performance should be considered. For example, it may be permissible for an employee without routine access to confidential information, and whose responsibilities on behalf of the contract market or clearing organization do not require the employee's full time and attention, to engage in legitimate hedging activities. An exchange should consider seriously, however, whether it would be appropriate to employ someone on a full-time basis in a position with substantial responsibilities if such a person would have to be in frequent contact with the market to carry on hedging activities.

With respect to whether commodity pools or managed accounts are appropriate investment vehicles for contract market or clearing organization employees, consideration must be given to the potential control over such an account which an employee could exercise, irrespective of whether general trading authority is controlled by someone else, and consideration must also be given to whether the employee has access to confidential information which could easily be passed along to a commodity pool operator or commodity trading advisor, even if the employee does not make specific trading decisions.

Concerning other types of commodity or commodity related transactions, the exchanges should consider whether information to which the employee has access would affect a particular investment, and the amount of interference any investment might cause to performance of the employee's responsibilities. The Division recognizes that, due to the growth and widening

⁵The Division believes this interpretative statement would also be applicable to personnel of the National Futures Association, as well as contract market and clearing organization employees.

⁶Such rules are those which relate to terms and conditions in contract of sales to be executed on or subject to the rules of such contract market or related to other trading requirements except those relating to the setting of levels of margin.

⁷Indeed, Congress has found that restrictions on Commission personnel with respect to commodity transactions are necessary to ensure public confidence in the regulatory activities of the Commission. See sections 9(d) and 9(e) of the Act (7 U.S.C. 13(d) and 13(e) (Supp. III 1979)). See also section 2(a)(7)(A) of the Act (7 U.S.C. 4a(f)(1) (Supp. III 1979)), and the Commission's Code of Conduct, 17 CFR 140.735-1 *et seq.* (1981). Of course, the Division does not intend that contract market and clearing organization employees should be held to more stringent standards than are Commission employees.

⁸An individual who sits on a contract market or clearing organization governing board or committee and is not an employee, and contract market and clearing organization officers who are required to be members or affiliated with members, are not intended to be covered by the Division's interpretative statement. Such persons must be guided, however, by general conflict of interest principles, and they should strive to conduct themselves in such a way as to avoid even the appearance of impropriety. See Rule Enforcement Review of the Commodity Exchange, Inc. by the Commodity Futures Trading Commission, Division of Trading and Markets, at 67-75 (September 29, 1981), and Discussion Paper on Standards for the Prevention of Conflicts of Interest in Actions Authorized by the Governing Boards of Contract Markets, Office of the General Counsel (December 8, 1980).

⁹Trading in options on such instruments, however, raises different questions which, depending on the nature of the individual's information access and other responsibilities, may well require that such trading be prohibited by the contract market.

utilization of the financial futures markets and the development of such vehicles as money market funds, employee participation in a pension fund, money market fund, or the purchase of life insurance, may involve an indirect investment in a commodity interest. The Division realizes that the commodity component in such a transaction frequently is tangential to the main purpose for such a transaction, and that the commodity component may be sufficiently removed from an employee's control so that any confidential information to which an employee might have access would be of no use. The Division further recognizes that such transactions do not generally require continuous monitoring. Accordingly, the Division does not believe that its policies stated here would be contradicted if contract market policies permit participation in investment vehicles which meet the above criteria.

Each contract market should establish a policy concerning participation in commodity futures transactions, commodity option transactions, and investment transactions involving actual commodities, as well as the misuse of sensitive, nonpublic information by employees of the contract market and its clearing organization, taking into account the guidelines set forth in this interpretative statement and other factors within the market's expertise. Such a policy should be widely disseminated and each employee of the contract market and clearing organization should be made aware of the policy at the time employment commences or at the time when a policy goes into effect. The contract market also should establish procedures to monitor compliance with such a policy. Three exchanges which commented on proposed rule § 1.57 suggested, as an alternative approach to the promulgation of a regulation, that contract market and clearing organization personnel be required to report on their trading activities to appropriate officials. Exchanges may want to consider such an approach for any employees who, under the exchange's policy, would be allowed to make certain commodity investments. The Division expects that exchanges would discipline, suspend or terminate employees who violate their policy in this area.

By issuing this interpretative statement, the Division wishes to emphasize that it will consider the guidelines set forth herein during rule enforcement reviews to determine whether contract markets are fulfilling

their rule enforcement responsibilities under sections 5a(8) and 5a(9) of the Act and §§ 1.51 and 1.52 of the regulations. Such responsibilities include having a suitable staff at the contract market and the clearing organization consisting of persons whose interests in possible commodity transactions do not conflict with their employment responsibilities and who do not misuse confidential information obtained by virtue of their employment.

Dated: February 12, 1982.

By the Division of Trading and Markets.

John L. Manley,

Director, Division of Trading and Markets.

[FR Doc. 82-4387 Filed 2-17-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

February 8, 1982.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will meet at the Pentagon, Washington, D.C. on March 10, 11, and 12, 1982. The purpose of the meeting will be to review the progress of programs originally recommended by the Panel and to determine what new areas the Panel should be concerned with in the future. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. 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 (202) 697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-4388 Filed 2-17-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Force Enhancement Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 10-11, 1982, from 9:00 a.m. to 5:00 p.m. each day, at 2000 North Beauregard Street, Alexandria,

Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of the Outer Air Battle and potential "soft kill" investments which will make a Soviet attack more difficult and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Lieutenant K. M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311, Phone (703) 756-1205.

F. N. Otte,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-4334 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-AE-M

Long Range Planning Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Long Range Planning Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 5, 1982, from 8:30 a.m. to 4:30 p.m. at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The agenda for the meeting will consist of discussions involving assessments of alternative surveillance systems and their implications for future naval warfare. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Captain J. C.

McLaurin, Program Planner, CNO Long Range Planning Group, 2000 North Beauregard Street, Room 568, Alexandria, Virginia 22311, Phone (202) 694-8422.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.
February 12, 1982.

[FR Doc. 82-4335 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Migrant Education High School Equivalency Program (HEP); Application to Serve as Field Readers

AGENCY: Education Department.

ACTION: Notice for individuals interested in reviewing high school equivalency program applications submitted under programs administered by the migrant education programs office in fiscal year 1982.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education, Department of Education, invites qualified and interested individuals to apply to serve as field readers for the Migrant Education High School Equivalency Program (HEP), Catalog of Federal Domestic Assistance Programs, No. 84.141. The final regulations for HEP were published as 34 CFR Part 206 in the *Federal Register* (July 6, 1981). Interested parties are encouraged to review these regulations before applying for reader candidacy.

Each year the Secretary selects field readers who have expertise in the secondary education of migrant and seasonal farmworker youth, particularly "dropouts," or related fields, to evaluate grant applications under criteria contained in the final regulations. Once received, reader candidate information is stored in a computer. The initial selection of qualified individuals is made from a computerized roster containing names, personal information, and qualifications of prospective field readers. Final selection of field readers is made following a review of the reader application forms and resumes maintained on file. The existence, characteristics and use of this system of records were announced in a notice (09-400079) published on October 7, 1979 in the *Federal Register* (44 FR 58218). Applications to serve as field readers for the fiscal year 1982 funding cycle should be mailed as soon as possible, to the address indicated below, and should be received by March 1, 1982 in time for a

planned panel meeting in late March. You may obtain an application by calling or writing Mr. Joseph P. Bertoglio.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph P. Bertoglio, Migrant Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3608, ROB-3), Washington, D.C. 20202. Telephone: (202) 245-2222.

Dated: February 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.141; High School Equivalency Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4283 Filed 2-17-82; 8:45 am]

BILLING CODE 4000-01-M

Migrant Education College Assistance Migrant Program (CAMP); Applications to Serve as Field Readers

AGENCY: Education Department.

ACTION: Notice for individuals interested in reviewing College Assistance Migrant Program applications submitted under programs administered by the Migrant Education Programs office in Fiscal Year 1982.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education, Department of Education, invites qualified and interested individuals to apply to serve as field readers for the Migrant Education College Assistance Migrant Program (CAMP), Catalog of Federal Domestic Assistance Programs, No. 84.149. The final regulations for CAMP were published as 34 CFR Part 206 in the *Federal Register* (July 6, 1981). Interested parties are encouraged to review these regulations before applying for reader candidacy.

Each year the Secretary selects field readers who have expertise in the postsecondary education of migrant and seasonal farmworker or related fields to evaluate grant applications under criteria contained in the final regulations. Once received, reader candidate information is stored in a computer. The initial selection of qualified individuals is made from a computerized roster containing names, personal information, and qualifications of prospective field readers. Final selection of field readers is made following a review of the reader application forms and resumes maintained on file. The existence, characteristics, and use of this system of records were announced in a notice (09-40-0079) published on October 7, 1979 in the *Federal Register* (44 FR 58218). Applications to serve as field readers for the fiscal year 1982 funding cycle should be mailed as soon as possible to the address indicated below, and should be

received by March 1, 1982 in time for a planned panel meeting in late March. You may obtain an application by calling or writing Mr. Joseph P. Bertoglio.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph P. Bertoglio, Migrant Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3608, ROB-3), Washington, D.C. 20202. Telephone: (202) 345-2222.

Dated: February 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.149; College Assistance Migrant Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4284 Filed 2-17-82; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Grants to Local Educational Agencies Serving Areas With Concentrations of Children From Low-Income Families; Intent To Compromise Claim

AGENCY: Education Department.

ACTION: Notice of intent to compromise claim.

SUMMARY: Notice is given that under Section 452(f) of the General Education Provisions Act, 20 U.S.C. 1234a(f), the Secretary intends to compromise a claim against the Colorado State Department of Education after a decision of the Education Appeal Board, Docket No. 6-(42)-78.

DATE: Interested persons may submit written comments or objections on or before April 5, 1982.

ADDRESS: Additional information may be obtained by writing to Mr. Richard B. Mellman, Office of the General Counsel, Department of Education, 400 Maryland Avenue, SW., (Room 4091, FOB-6), Washington, D.C. 20202.

FOR INFORMATION CONTACT:

Mr. Richard B. Mellman, Telephone: (202) 426-6300.

SUPPLEMENTARY INFORMATION: Section 111 of Title I of the Elementary and Secondary Education Act (ESEA), 20 U.S.C. 2711, authorizes grants for programs operated by local educational agencies (LEAs) that are designed to meet the special educational needs of educationally deprived children residing in low income areas. The current regulations governing the local educational agency programs under Title I ESEA are found in 34 CFR Parts 200 and 201. These regulations were published in the *Federal Register* on January 19, 1981 (46 FR 5138).

The claim in dispute arose out of an audit conducted by the former Department of Health, Education, and Welfare Audit Agency which concluded that the Denver and Pueblo, Colorado LEAs had improperly spent Title I funds during the 1972-73 school year.

Specifically, the audit questioned the Denver, Colorado LEA's use of \$42,936 of Title I funds to provide services in a Follow Through project that it administered, and the Pueblo, Colorado LEA's use of \$1,901 of Title I funds to provide services in its occupational training program. The auditors had found that, in violation of the Title I regulations, both LEAs had failed to specify in their applications for Title I assistance that these Title I funds would be spent on those projects. In addition, they found that neither the Colorado State Department of Education nor either LEA had been able to demonstrate that the funds in question were nonetheless expended for permissible Title I purposes.

On April 19, 1978, the Office of Education (OE) notified the Colorado State Department of Education that it was responsible for refunding to OE the \$44,537 because of the actions of the two LEAs. The Colorado Department of Education appealed this final determination to OE's Title I Audit Hearing Board.

Under Section 451(a) of the General Education Provisions Act, 20 U.S.C. 1234, the former U.S. Commissioner of Education established the Education Appeal Board (EAB) as successor to the Title I Audit Hearing Board, and conferred on it jurisdiction to, among other things, conduct audit appeal hearings. The procedures of the EAB were published as final regulations in the *Federal Register* on April 3, 1980 (45 FR 22634). Revised regulations governing procedures before the EAB were published in the *Federal Register* on May 18, 1981 (46 FR 27304).

The EAB conducted proceedings on the appeal of the Colorado State Department of Education during 1980 and 1981. During the course of those proceedings, the parties stipulated to a reduction of the Department's claim to \$10,773 (amounting to \$10,294 and \$479 that were attributed to the Denver and Pueblo, Colorado LEAs respectively) due to the applicability of the statute of limitations (20 U.S.C. 884 (1976)).

On September 13, 1981, the EAB issued its decision and transmitted it to the Secretary for review. In that decision, the EAB determined that the Colorado State Department of Education had failed to establish that the services provided by the Denver and Pueblo, Colorado LEAs were designed to meet

the special educational needs of the children who were enrolled in the respective programs as required by the Title I regulations, and that it had not otherwise refuted the findings of the audit. The EAB concluded that the Colorado State Department of Education therefore had to submit repayment to the United States Department of Education in the amount of \$10,773 because of the Title I misexpenditures made by the Denver and Pueblo, Colorado LEAs during the 1972-73 school year.

On November 25, 1981, the Secretary issued a final decision in this case accepting the EAB's decision, but compromising the claim of \$10,773. Under the proposed terms of the compromise, the Secretary would require the Denver and Pueblo, Colorado LEAs to supplement their present Title I programs from non-Federal sources to the extent of not less than the \$10,294 and \$497 that the Secretary had determined were misspent, instead of requiring the Colorado State Department of Education to repay the \$10,773. Under the terms of the proposed compromise, the Colorado State Department of Education would be responsible for verifying the nature, extent, and source of supplementation.

The Secretary would give to the Denver and Pueblo, Colorado LEAs, the discretion to determine the form that the supplementation would take, which might be direct financial assistance to their respective Title I programs or a shift of existing non-title I services to those Title I programs.

In this case, the Secretary determined that collection of the \$10,773 in question would not be in the public interest, and that the practices giving rise to the Department's claim have been corrected and will not recur. This proposed compromise will not adversely affect any other audit proceeding currently pending before the Education Appeal Board.

The Secretary proposes to compromise the claim in this manner in order to achieve the goals of (1) resolving the differences that gave rise to the claim, (2) correcting any and all practices that may be in violation of Title I requirements, and (3) providing increased benefits to eligible disadvantaged children in the respective LEAs without diverting valuable and limited resources from the public education system in the State of Colorado.

The Secretary intends that the responsibilities of the Denver and Pueblo, Colorado LEAs and the Colorado State Department of Education under the terms of the proposed

compromise in this notice will be formalized by an agreement that is executed by the Denver and Pueblo Colorado LEAs, the Colorado State Department of Education, and the United States Department of Education.

The public is invited to comment on the Secretary's intent to compromise the claim under the terms specified in this notice. Additional information may be obtained by writing to Mr. Richard B. Mellman whose address is at the beginning of this notice.

(20 U.S.C. 1234 and 1234a(f))

Dated: February 10, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4282 Filed 2-17-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education; Comprehensive Program; Fund for the Improvement of Postsecondary Education; Extension of Closing Date for Transmittal of Application

AGENCY: Education Department.

ACTION: Notice of extension of closing date for transmittal of applications under the comprehensive program for fiscal year 1982.

SUMMARY: This notice extends the closing date of March 2, 1982 to March 9, 1982 for the transmittal of applications under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education. The application notice for this program, published in the *Federal Register* on November 13, 1981 (46 FR 56008), provides detailed information concerning the Comprehensive Program.

FOR FURTHER INFORMATION: Inquiries concerning this extension date and the program should be addressed to the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3100), Washington, D.C. 20202 regarding 84.116A, the Comprehensive Program; Telephone: (202) 245-8091.

SUPPLEMENTARY INFORMATION: Only those applicants who submitted preapplications on or before December 14, 1981 are eligible for assistance under the Comprehensive Program.

Dated: February 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.116A, Fund for the Improvement of Postsecondary Education)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4281 Filed 2-17-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AEN-FRL-1975-3]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Summary of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reconsideration of Waiver of Federal preemption.

SUMMARY: This decision reconsiders and affirms a prior EPA waiver of Federal preemption under section 209(b) of the Clean Air Act, as amended (Act), for California to enforce its "Specifications for Fill-Pipes and Openings of Motor Vehicle Fuel Tanks" as they apply to motorcycles. EPA cannot make the findings necessary to revoke California's waiver of Federal preemption; thus, this action will permit California to continue implementing its motorcycle fill-pipe and fuel tank opening regulations.

ADDRESSES: The complete decision document and other relevant information is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Manufacturers Operations Division, 499 South Capitol St., SW., Washington, D.C., (202) 382-2521. Interested parties may also obtain copies of the decision document from the Manufacturers Operations Division by contacting Michael Chernekoff, as noted below.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney-Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2495.

SUPPLEMENTARY INFORMATION: I have decided to affirm EPA's prior waiver of Federal preemption to permit the State of California to enforce its motorcycle fill-pipe and fuel tank opening regulations. Section 209(b) of the Act requires me to grant the State of California a waiver of Federal preemption unless I can make certain findings, including a finding that the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act in that they are not technologically feasible within available lead time, considering cost.

EPA decided to reconsider the prior decision because subsequent Executive Orders issued by the Director of the California Air Resources Board (CARB) to implement the specifications called into question findings EPA made in its

prior decision regarding technological feasibility. (42 FR 1503 (January 7, 1977)). The record on reconsideration does not support revocation of the waiver of Federal preemption. The motorcycle manufacturers have not established that the specifications are inconsistent with section 202(a) of the Act. Specifically, the manufacturers have not shown that the designs that CARB suggested would meet its requirements are not technologically feasible within available lead time, considering cost. A full explanation of my decision to affirm the prior waiver is contained in the decision document, which may be obtained from EPA as noted above.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to determine whether a "rule" it intends to issue is a major rule and to prepare Regulatory Impact Analyses (RIA) for all major rules. Section 1(b) of the Order defines "major rule" as any "regulation" (as defined in the Executive Order) that is likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this action is not a "major rule" requiring preparation of an RIA. This decision reaffirms a prior waiver of Federal preemption to permit the State of California to enforce its motorcycle fill-pipe and fuel tank opening regulations. Thus, it does not impose any new burdens on motorcycle manufacturers. Further, the annual effect on the economy of the California regulations themselves will be less than \$100 million, particularly since most of the manufacturers affected are foreign. While there may be an increase in costs to consumers associated with these California regulations, any increase will not be "major." Since the regulations fall on all motorcycle manufacturers, there will not be any significant adverse effects on competition. There are no anticipated adverse effects on employment, investment, productivity,

or the ability of United States-based enterprises to compete with foreign companies.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The motorcycle manufacturers are not "small entities," as defined by the Act. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 11, 1982.

John W. Hernandez,
Acting Administrator

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision of the Administrator

I. Introduction

This decision, issued under section 209(b) of the Clean Air Act (Act),¹ reconsiders and affirms the waiver of Federal preemption that EPA granted California on January 7, 1977,² permitting it to enforce its motorcycle fill-pipe and fuel tank opening requirements. The reconsideration is in light of subsequent California Air Resources Board (CARB) Executive Orders implementing its fill-pipe and fuel tank opening specifications as they apply to motorcycles.³ The Executive Orders call into question the findings made in the previous waiver decision.

Section 209(b) of the Act requires me to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. I may not grant a waiver if I find that the protectiveness determination of the State of California is arbitrary and capricious, that the State does not need its own standards to meet compelling and extraordinary conditions, or that the State standards and accompanying enforcement

¹ 42 U.S.C. 7543(b), as amended (1977).

² 42 FR 1503 (January 7, 1977).

³ The CARB Executive Order now in effect that implements "Specifications for Fill-Pipes and Openings of Motor Vehicle Fuel Tanks," 13 California Administrative Code, Section 2290, (hereinafter "specifications"), is Executive Order G-70-16-E, dated July 3, 1980, and is reproduced at 45 FR 49133 (July 23, 1980).

procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California certification and test procedures are inconsistent. The only issue that I am reconsidering here is whether CARB's modified fill-pipe and fuel tank opening regulations are inconsistent with section 202(a) of the Act.

On the basis of the record before me, I cannot make the findings required to vacate that portion of the waiver granted previously under section 209(b) of the Act pertaining to California's motorcycle fill-pipe and fuel tank opening specifications. Therefore, the January 7, 1977, waiver decision is affirmed.

II. Background

On March 24, 1976, CARB adopted "Specifications for Fill-Pipes and Openings of Motor Vehicle Fuel Tanks" for 1977 and later model year gasoline powered vehicles, including motorcycles. CARB intended the specifications to require compatibility between vehicle fuel tanks and service station nozzles equipped with vapor recovery devices.⁴ On January 7, 1977, EPA published a decision granting the State of California a waiver of Federal preemption to enforce these specifications including that portion applicable to motorcycles.⁵

That waiver decision was based in part on a finding that specific technology was then available to the motorcycle industry that would permit compliance with the specifications. That technology involved relocating the fuel tank opening off-center so that the fill nozzle could be fully inserted into the tank without striking the center hump where the tank is shallow to accommodate the vehicle frame.

I decided to reconsider the previous waiver decision because Executive Orders subsequently issued by CARB may affect one of the determinations made in that decision. Specifically, they may affect the determination that CARB's specifications are not inconsistent with section 202(a) because they are technologically feasible within available lead time, considering the cost

of compliance.⁶ By Executive Orders issued to implement these specifications, CARB made a number of changes in the schedule for achieving full compliance with the specifications.⁷ The Executive Order currently in effect⁸ requires full compliance for all newly-introduced 1983 and subsequent model year motor-cycle models and all models that undergo fuel tank design changes in 1983 and later model years. Certain models are exempt from these requirements.⁹ Manufacturers also have the option of obtaining an exemption from compliance with the specifications through the use of alternative means of achieving the same degree of vapor emissions control as the specifications.¹⁰

⁴ Shortly after EPA published its decision, Kawasaki Motors Corporation (Kawasaki) sought judicial review of the waiver grant insofar as it would permit California to enforce its fill-pipe and fuel tank opening specifications with regard to motorcycles. ("Kawasaki Motors Corp., U.S.A. v. Environmental Protection Agency," D.C. Cir., No. 77-1103.) After EPA decided to reconsider the waiver decision in light of subsequent California regulatory developments, Kawasaki voluntarily withdrew its lawsuit.

⁷ Executive Order G-70-4, dated July 8, 1977, first established a compliance schedule for motorcycles to comply with the specifications, and exempted certain small and off-road mopeds and motorcycles.

Executive Order G-70-18, dated March 16, 1978, extended that date of compliance for motorcycles for one model year.

Executive Order G-70-16-D, dated April 4, 1980, extended the date of compliance again. It also established new exemptions covering motorcycles with substantially unchanged fuel tank designs, small and off-road motorcycles, motorcycles that qualify for an evaporative emission trade-off, and motorcycles that use qualifying alternative designs, and clarified the term "full compliance."

The Executive Order currently in effect does not differ markedly from G-70-16-D.

⁸ Executive Order G-70-16-E, dated July 3, 1980.

⁹ The classes of motorcycles that are exempt from the specifications are:

- (1) All 1979 to 1982 model year motorcycles;
- (2) All Class III 1983 model year motorcycles;
- (3) All 1983 and subsequent model year motorcycles with fuel tank designs which remain unchanged from their 1982 designs;

(7) Motorcycles equipped with evaporative emission control systems certified at U.2 gm/test, or more, below the applicable evaporative emission standard."

Executive Order G-70-16-E, dated July 3, 1980.

¹⁰ The criteria for evaluation of alternative designs shall be:

- (1) The alternative system shall allow the service station vapor recovery system to provide vapor recovery performance as efficient as its certification value as determined using the Board's Test Procedures for determining the Efficiency of Gasoline Vapor Recovery Systems at Service Stations, (Title 17 California Administrative Code Section 94001), or, if any onboard recovery system is used, no less than 90 percent (by weight) of the vapors which would be displaced during refueling an uncontrolled motorcycle shall be contained;
- (2) The fuel tank shall be capable of being filled to its rated capacity when the vapor recovery system is operated in its design mode;

The Executive Order also states that "full compliance" with the specifications includes the requirement that the fuel tank is capable of being filled with the service station nozzle in "normal resting position." It is this requirement that most directly caused EPA to question the finding of consistency with section 202(a) that EPA made in the earlier waiver decision.

The specific technology deemed available in EPA's earlier waiver decision¹¹ to meet the specifications no longer appeared to be capable of achieving "full compliance" in light of the recent Executive Order, since a motorcyclist might not be able to fill the tank with the nozzle in "normal resting position" using that technology. The gas pump's shut-off mechanism might stop the flow of fuel well before the tank was filled because the nozzle would extend at least three inches into the fuel tank. As a result, in order to fill the motorcycle to capacity the consumer most likely would have to unseal and withdraw the nozzle. Since the earlier determinations regarding consistency with section 202(a) of the Act were possibly no longer applicable, EPA decided to reconsider the issue.

III. Discussion

The only issue I am reconsidering is whether the California fill-pipe and fuel tank opening regulations are consistent with section 202(a) of the Act.¹² I have already determined that the specifications are at least as protective of public health and welfare as applicable Federal standards, and that California needs its regulations to meet compelling and extraordinary circumstances,¹³ and the new Executive Orders do not affect these determinations.

CARB described examples of technologies that it believes would comply with the specifications or would qualify as alternative designs which it would exempt from compliance under

(3) The alternative means of recovery shall not encourage or readily allow the consumer to intentionally defeat the vapor recovery system; and

(4) The manufacturer's normal standard for safety, reliability, and customer acceptance shall be observed."

Executive Order G-70-16-E, dated July 3, 1980.

Formerly motorcycle manufacturers were able to obtain exemptions for a particular model year on a case-by-case basis if they could demonstrate that compliance was not technologically feasible (Executive Order G-70-4, dated July 8, 1977). This provision is no longer part of the fill-pipe regulations.

¹¹ 42 FR 1506 (January 7, 1977).

¹² 45 FR 45356 (July 3, 1980).

¹³ 45 FR 1503, 1504 (January 7, 1977).

⁴ Transcript of July 24, 1980, Public Hearing on Reconsideration of Waiver of Federal Preemption Granted to California (hereinafter "Tr.") at 41.

⁵ 42 FR 1503.

the Executive Order.¹⁴ One possibility is the "side-fill" which would entail constructing the fuel tank with a raised lip containing an opening facing to one side of the motorcycle so that the service station nozzle is inserted from the side, rather than the top, into a slanted fill-pipe extending into the tank. CARB stated that this design should permit the tank to fill almost completely before the flow is stopped by the fuel pump nozzle's automatic shut-off mechanism.¹⁵ Another possible design that CARB suggested would meet its requirements and still permit complete fuel tank fill up involves the use of a false top to the fuel tank. A manufacturer could combine this design with a change in the location of the opening (e.g., by also employing a side-fill design) so that tank capacity would not be excessively reduced. CARB also discussed the use of collapsible or telescoping filler necks to which the station nozzle could be locked and used in the "normal resting position" while still permitting the tank to be completely filled.

Motorcycle manufacturers objected to the regulations, as interpreted by the Executive Orders, on the grounds of technological infeasibility regardless of lead time, insurmountable safety problems, lack of cost effectiveness of the regulations, and marketing problems.

A. Technology and Lead Time. Kawasaki stated at the hearing that it has primarily been working on a collapsible or telescoping filler neck as a means of complying with the regulations.¹⁶ It said, and CARB acknowledged, that there are a number of problems remaining with the design, including long-term durability and reliability of the filler neck.¹⁷ Kawasaki also discussed other means of compliance, and identified some potential problems with manufacturing fuel tanks incorporating the side-fill design due to the additional complexity of fabricating an asymmetrical tank.¹⁸

Suzuki Motor Co., Ltd. (Suzuki) said that it had no specific comments concerning the technological feasibility of the specifications or of CARB's design proposals.¹⁹

Yamaha Motor Corporation (Yamaha) argued that the specifications, read literally, are not technologically feasible for motorcycles generally in that they require a fill-pipe that either would extend into the tank, thereby making complete fueling impossible, or would protrude above the surface of the tank creating a safety hazard.²⁰ Yamaha claimed that possible designs mentioned by CARB such as the telescoping fill-pipe, side-fill and false top do not meet the specifications exactly, nor would they qualify as "alternative fill-pipe designs" pursuant to the Executive Order because the suggested designs do not permit the tank to be completely filled without sacrificing safety or consumer acceptability.²¹ Finally, Yamaha stated that apart from these objections to the regulations, after examining CARB's suggested designs Yamaha believes that it would encounter various problems manufacturing motorcycles that implement those designs.²²

American Honda Motor Co., Inc. (Honda) stated that it would most likely attempt to qualify for an exemption under the trade-off provision of the Executive Order²³ because it concluded that no technology exists that complies with the specifications and meets Honda's own safety and consumer acceptance criteria.²⁴ Honda also pointed out that the technological feasibility of the evaporative emission standard for motorcycles, on which the trade-off provision is based, has not yet been established.²⁵

The manufacturers that appeared at the hearing did not have many specific comments concerning lead time. Kawasaki argued that EPA's original lead time determination no longer applies since the amount of lead time changed each time CARB altered its regulations by executive order.²⁶ Suzuki mentioned that it might have lead time

problems resulting from the interaction of the fill-pipe and evaporative emission regulations. Specifically, Suzuki said that meeting the evaporative emission regulations might entail changing the fuel tank design, which would require compliance with the fill-pipe regulations under the Executive Order.²⁷ The evaporative emission regulations require compliance by 1983 for class I and II, and by 1984 for class III motorcycles.²⁸ Suzuki stated that it risks failure to meet both sets of regulations simultaneously but provided no information to substantiate the probability of its potential inability to comply.²⁹ Neither Yamaha nor Honda had specific comments concerning lead time.

In spite of their objections to the regulations, no manufacturer has shown that it is unable to comply with the regulations. Virtually, no evidence was presented at the hearing or in supplemental submissions to indicate that the motorcycle industry would be unable to incorporate designs that would be acceptable to California as complying with the fill-pipe and fuel tank opening regulations. Kawaskai and Suzuki both admitted that it would be possible for them to produce motorcycles with fill-pipe or fuel tank designs that were suggested by CARB.³⁰ Kawasaki indicated that it could produce a fuel tank with a collapsible filler neck that would satisfy CARB.³¹ It also said that although there were engineering questions to be resolved, it would be able to incorporate the side-fill fuel tank into its motorcycle designs.³² Suzuki stated that it could most likely design and manufacture motorcycles that would comply with the regulations, although it would prefer not to.³³

Finally, CARB testified that its suggested designs have been shown to be feasible.³⁴ CARB held a number of workshops for motorcycle manufacturers to explore possible

²⁰ Tr. 120. See, section III of this decision for further discussion of the safety issue.

²¹ Tr. 121.

²² Yamaha submitted information that it requested be held confidential that raised concerns similar to those mentioned by Kawasaki and discussed above.

²³ Tr. 135.

²⁴ Comments of American Honda Motor Co., Inc. to EPA's Reconsideration of Waiver of Federal Preemption (hereinafter "Honda Comments") at second unnumbered page.

²⁵ Honda Comments at 3. EPA has provided the public with an opportunity for a public hearing to consider California's request for a waiver of Federal preemption covering its evaporative emission standard for motorcycles. See 46 FR 10851 (February 4, 1981). Since no party expressed an intention to testify at the hearing on this or the other issues scheduled for EPA's consideration that day, EPA cancelled the hearing. EPA will decide on that waiver request on the basis of the written record. See 46 FR 18348 (March 24, 1981).

²⁶ Tr. 59.

²⁷ See note 7, *supra*.

²⁸ "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Gasoline-Powered Motor Vehicles," adopted April 16, 1975, amended April 23, and June 26, 1980.

²⁹ Tr. 115-117.

³⁰ One of the arguments that has been an undercurrent in this proceeding is that CARB's suggested designs would not meet its own specifications or qualify as alternative designs. CARB has said that it would be satisfied with implementation of these suggested technologies. See Tr. 41.

³¹ Tr. 90.

³² Tr. 96.

³³ Suzuki said that it would probably choose the evaporative emission trade-off exemption provided in the Executive Order because it felt that in order to meet the specifications it would have to employ a design that it considers commercially unacceptable. Tr. 113.

³⁴ Tr. 39.

¹⁴ Tr. 41. See "Summary of Motorcycle Fill-Pipe Workshops." The examples CARB provided were not intended as exclusive examples of technologies that it believes will comply with the regulations. Tr. 38.

¹⁵ Tr. 38.

¹⁶ Tr. 71.

¹⁷ Tr. 100; Kawasaki Supplemental Comments to EPA Reconsideration of California Motorcycle Fill-Pipe Waiver (hereinafter "Kawasaki Supplemental Comments") at 2.

¹⁸ Kawasaki Supplemental Comments at 2.

¹⁹ Tr. 114.

means of compliance with the fill-pipe regulations. Based on the designs shown to CARB at those workshops, and designs developed by CARB's own technical staff, CARB concluded that, "in view of the cost effectiveness and relative ease of implementation of various types of fuel tank or fill-pipe modifications * * * technology is clearly available to meet California's fill-pipe specifications."³⁵

The motorcycle manufacturers have failed to establish that they have any lead time problem in complying with CARB's requirements. According to the terms of the Executive Order in effect, after model year 1982 manufacturers must comply with the regulations when they redesign existing models, or introduce new models. Not all models would need to be brought into compliance in the same year.³⁶ Kawasaki testified at the hearing that one of the CARB's suggested designs could be incorporated into a fuel tank within normal redesign cycle,³⁷ and stated that motorcycle models are typically redesigned every 4-5 years.³⁸ Suzuki stated that it intends to use the evaporative emission trade-off to comply with the refueling emission regulations, and that although some risks remain,³⁹ it appears to be on schedule for meeting the evaporative standard and thus using the trade-off exemption.⁴⁰ No other manufacturer presented evidence as to its actual redesign needs, or showed that it was under manufacturing constraints that would prevent it from making necessary changes in time to meet the vapor recovery requirements.

CARB testified that it intended the Executive Orders to provide manufacturers with sufficient lead time to develop the details of an appropriate design capable of complying with the regulations with a minimum of disruption and additional cost to the industry.⁴¹ Because the implementation date of the specifications is geared to the date of redesign of the fuel tank or the introduction of a new model, CARB pointed out that the manufacturers may delay compliance until they have worked out the details of the technology

and are confident they would be able to comply.⁴²

I cannot conclude on the basis of the record that the fill-pipe and fuel tank opening regulations are not technologically feasible within available lead time. Representatives of the motorcycle industry have not established that the manufacturing difficulties they mentioned are insoluble within the time constraints CARB has presented.

B. Cost of Compliance. With regard to the cost of compliance with the motorcycle fill-pipe and fuel tank opening regulations, Kawasaki estimated the cost of compliance per pound hydrocarbon (HC) controlled to be \$19, or \$18 per vehicle,⁴³ while Honda's estimate was \$65-\$93 per pound HC.⁴⁴ None of the other manufacturers submitted information regarding the cost of compliance.

Even using the motorcycle manufacturers' cost estimates, the cost of compliance per vehicle amounts to a small fraction of the price of a new vehicle.⁴⁵ Further, Honda's cost estimate included an allocation of die cost over the number of vehicles produced.⁴⁶ If the requisite technology were introduced during redesign of the vehicle, some portion of the cost of retooling would have been incurred anyway and would not be directly attributable to manufacturers' efforts at compliance with the regulations.⁴⁷ Thus, the cost of compliance per vehicle would be considerably lower. Moreover, it might not be necessary to use completely different stampings for those motorcycles sold in California market than for those motorcycles destined to be sold nationally. Kawasaki stated, for instance, that it could probably incorporate its telescoping fill-pipe design in most of its larger models and would probably not require two entirely different stampings for the California and national markets.⁴⁸ Thus, the manufacturers probably would not incur substantial additional manufacturing costs to produce California vehicles that comply with the fill-pipe and fuel tank opening regulations than it would to produce Federal vehicles.

Finally, CARB testified that the cost of meeting the regulations was not

excessive.⁴⁹ CARB estimated the cost effectiveness of the regulation to be between \$1.80 and \$14.80 per pound HC.⁵⁰ Although these figures represent only the cost of the hardware, the Executive Orders changed the compliance schedule to minimize additional retooling expenses.⁵¹ Therefore, I cannot conclude that the cost of compliance with these regulations is so excessive as to warrant revocation of the waiver on these grounds.⁵²

C. Other Objections. The motorcycle manufacturers raised safety concerns that they claimed make CARB's suggested designs infeasible. The best articulated safety concern is the risk associated with any protrusion from the surface of the fuel tank.⁵³ For example, Kawasaki indicated that use of a telescoping fill-pipe, a false top, or side-fill could present a safety hazard in that a higher tank or protruding top, possibly combined with 2½ inches of fill-tube inside the false top, could increase the risk of groin injury or fuel spills in the event of a collision.⁵⁴

The manufacturers have not submitted evidence to show that the false top or recessing the cap and/or fill-pipe would not solve this potential

³⁵ Tr. 39-40.

³⁶ Tr. 39.

³⁷ Tr. 44. See footnotes 7-9 and accompanying text, *supra* for an explanation of CARB's compliance schedule.

³⁸ The low end of the CARB cost effectiveness estimate (\$1.80 per pound HC removed (1979 dollars)) is greater than EPA's estimate for its 1980 and subsequent model year Federal motorcycle HC exhaust emissions standard (\$0.43 to \$0.72 per pound (1979 dollars)). See Environmental and Economic Impact Statement, Exhaust and Crankcase Regulations for 1978 and Later Model Year Motorcycles, December 1976; Summary of Group I Control Technique Guideline Documents for Control of Volatile Emissions from Existing Stationary Sources, Document No. EPA-450/3-78-120; and Cost Effectiveness of EPA Motorcycle Exhaust Emission Standards, Memorandum from George Kittredge, Office of Mobile Source Air Pollution Control, to Michael Chernekoff, Manufacturers Operations Division. However, as then Administrator Train stated in the January 7, 1977 waiver decision I am affirming:

arguments concerning the wisdom of California's actions, the cost effectiveness of compliance with the specifications, and the degree of improvements in air quality that will result are all outside my permissible scope of inquiry. These are matters of public policy which are left to California's judgment.

44 FR 1504, 1506, 1507. See also 41 FR 44209 (October 7, 1976).

⁵² Several manufacturers referred to a study performed by the University of Denver to support their contention that tank-top protrusions have the ability to injure a motorcycle rider in the event of a crash. "Dynamics of Motorcycle Impact Vol. II Motorcycle Crash Test Program", University of Denver, Denver Research Institute, July 1971.

⁵⁴ Tr. 92; Kawasaki Supplemental Comments at 4-5.

³⁵ Tr. 39-40.

³⁶ Tr. 117.

³⁷ Tr. 96.

³⁸ Tr. 86-87.

³⁹ See text accompanying note 29, *supra*.

⁴⁰ Tr. 118.

⁴¹ Tr. 44-45. The earliest model year that motorcycles are no longer covered by blanket exemptions is 1983 for class I and II motorcycles (50-279 cubic centimeters) and 1984 for class III (280 cubic centimeters or larger) motorcycles. CARB Executive Order G-70-16-E, dated July 3, 1980.

⁴² Tr. 117.

⁴³ Tr. 62-63.

⁴⁴ Honda Comments, at 8.

⁴⁵ The Kawasaki representative estimated the average price of its motorcycles to be \$1800. Tr. 88. Thus, at an estimated cost of compliance of \$18 per vehicle, the cost of compliance represents only one percent of the price of the vehicle.

⁴⁶ Honda Comments at 8.

⁴⁷ Tr. 49.

⁴⁸ Tr. 103-104.

problem.⁵⁵ The evidence does not show an increased incidence of actual rider injury due to protrusions, or that the incidence or severity of injuries would increase if manufacturers were to employ one of CARB's suggested designs to meet the fill-pipe vapor recovery regulations. CARB stated that its designs are reasonably safe. It said that the false top is designed to eliminate protrusion of the fill-pipe, and that there is no reason to expect a telescoping fill-pipe to protrude more than a noncollapsible one.⁵⁶

A second potential safety concern the manufacturers expressed is the possibility of fuel spillage due to overfilling the tank. This problem is not unique to motorcycles. The manufacturers did not submit evidence establishing that spills would occur with greater frequency using technology that meets the regulations than with technology not meeting the regulations. CARB has examined the designs that the motorcycle industry has been exploring to meet the specifications, or as alternatives to the specifications, and is convinced that the safety problems can be overcome. Moreover, as CARB pointed out, compatibility of motorcycle fill inlets with vapor recovery nozzles should help prevent spills that result when motorcyclists must retract the vapor recovery boot in order to fill a noncompatible tank.⁵⁷ Thus, the manufacturers have not substantiated their own claims that complying with the regulations poses safety concerns that they would be unable to resolve.

Kawasaki, as well as other motorcycle manufacturers, argued that the regulations will not be effective because consumers will defeat the vapor recovery device.⁵⁸ The manufacturers also objected on the grounds that California does not need the fill-pipe regulations because they will not have a significant impact on air quality, and on the grounds that they would encounter marketing difficulties due to a lack of consumer acceptance of design changes that might be incorporated in order to comply with the regulations.⁵⁹

In deciding on a request for waiver of

Federal preemption, I am not empowered under the Act to consider the effectiveness of California regulations, since Congress intended that California should be the judge of "the best means to protect the health of its citizens and the public welfare."⁶⁰ CARB is concerned with effectiveness, and has testified that compliance by the motorcycle industry with the regulations as implemented by the Executive Orders will result in significant air quality benefits.⁶¹ Furthermore, the manufacturers have not presented adequate evidence substantiating their claims that motorcyclists would opt to defeat the vapor recovery system.⁶²

I am not required to make a determination as to California's need for a particular regulation.⁶³ EPA has determined in prior waiver decisions that California's regulatory program is necessary to meet compelling and extraordinary circumstances. I am not reconsidering that determination in today's decision.

With regard to the manufacturers' consumer acceptability arguments, no manufacturer has demonstrated that lost sales due to consumer dissatisfaction with manufacturers' design modifications intended to effectuate compliance with the regulations would be substantial.⁶⁴ No party submitted information to show how much tank capacity would be reduced by various designs, or by how much tank size would be increased, and to what degree these changes would be likely to affect sales. Finally, as Suzuki acknowledged, marketing concerns can be accommodated by choosing to comply with the regulations through the use of the evaporative emissions trade-off.⁶⁵

The Act does not authorize me to

deny California a waiver on the grounds supplied in these other objectives. The decision on such matters of public policy is properly left to California's judgment.⁶⁶

IV. Findings and Decision

I have reconsidered EPA's prior decision to waive Federal preemption for California motorcycle fill-pipe and fuel tank opening specifications in light of subsequent Executive Orders of the CARB implementing those specifications. The thrust of the modifications appears to be an attempt to insure the effectiveness of the specifications by more clearly defining "full compliance" while providing manufacturers more lead time and greater flexibility. CARB submitted information as to the feasibility of a number of technologies that it believes would satisfy the regulations. I cannot conclude that the fill-pipe and fuel tank opening regulations are not technologically feasible if there is a reasonable means of satisfactory compliance. Several motorcycle manufacturers have indicated that they would be able to implement at least one of CARB's suggested technologies, although they questioned their effectiveness, safety and consumer acceptability. I have evaluated the various concerns that were raised by manufacturers. Based on all the information in the record before me, I have determined that I cannot make the findings necessary to revoke California's waiver of Federal preemption for its motorcycle fill-pipe and fuel tank opening regulations.

Dated: February 11, 1982.

John W. Hernandez, Jr.,
Acting Administrator.

[FR Doc. 82-4312 Filed 2-17-82; 8:45 am]

BILLING CODE 6560-33-M

[OPTS-513971; TSH-FRL-2052-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim

⁵⁵ H.R. Rep. No. 95-294, 95th Cong., 1st Sess., 301-302 (1977).

⁵⁶ CARB pointed out that local governments in Southern California have already considered and will implement pollution control measures that produce similar air quality benefits to those expected from implementation of the motorcycle fill-pipe and fuel tank opening regulations. CARB feels that it needs even small programs such as the control of motorcycle refueling emissions so that the State government can carry its fair share, *vis-a-vis* local governments, of the burden of protecting the environment. Tr. 140-141; Memo to All Motorcycle Manufacturers, dated October 15, 1979, at 2.

⁵⁷ CARB pointed out that it had not seen any empirical evidence that motorcyclists intentionally defeat the vapor recovery system. Tr. 97, 141-142. The representative from Kawasaki stated that he had observed motorcyclists defeating the system but that Kawasaki had no surveys or data concerning the incidence of this behavior. *Id.* 97-98. See 44 FR 38660, 38661 (July 2, 1979).

⁵⁸ Kawasaki testified that if all manufacturers had to comply with the regulations by using designs that would make the tank larger, there would be no individual marketing detriment, because there would be no problem for one manufacturer that would not be shared by all. Tr. 85.

⁵⁹ Tr. 117.

⁶⁶ 43 FR 1829 (January 12, 1978).

⁵⁵ Kawasaki admitted that this problem could be mitigated by recessing the filler cap into the fuel tank. Tr. 71. A false top could also eliminate the problem of a protruding fill-pipe or cap.

⁵⁶ Tr. 51-52.

⁵⁷ Memorandum to all Motorcycle Manufacturers from CARB, dated October 15, 1979. See also Tr. 141.

⁵⁸ Tr. 56, 64-65, 70, 110, 113, 124.

⁵⁹ One of Kawasaki's major objections to the use of a false top, alone or in conjunction with a side-fill or telescoping-fill, is that it would require using a tank that would be commercially undesirable either because it would have to hold less fuel or be unattractively large in order to accommodate the same volume. Kawasaki Supplemental Comments at 5, Tr. 71, 79-80, 89, 90.

policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of three PMNs and provides a summary of each.

DATES: Written comments by:

PMN 82-70, April 4, 1982.

PMN 82-71, April 5, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51397]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT:

David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M. St. SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-70

Close of Review Period. May 4, 1982.

Manufacturer's Identity. CIBA-GEIGY Corporation, P.O. Box 18300, Greensboro, NC 27419.

Specific Chemical Identity. α -[1,3-dioxolan-2-ylmethoxy]imino]benzeneacetonitrile.

Use. The manufacturer states that the PMN substance will be used as a herbicide antidote.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—White crystalline solid.

Specific gravity—1.33.

Melting point—78° C.

Heat of fusion—7.8 kcal/mole.

Solubility: water @ 20° C—20 parts per million (ppm). Density @ 20° C—1.33 g/cm³.

n-Octanol/Water Partition

Coefficient—575.

Vapor pressure @ 20° C— 3.9×10^{-6} torr.

Molecular weight—232.24 g/mole.

Heat of evaporation—19 kcal/mole.

Heat of sublimation—26.8 kcal/mole.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—

> 5,000 mg/kg.

Acute oral toxicity LD₅₀ (mouse)—

> 5,000 mg/kg.

Acute oral toxicity LD₅₀ (chinese

hamster)—> 3,000 mg/kg.

Acute oral toxicity LD₅₀ (bob white quail)—> 2,000 mg/kg.

Acute oral toxicity LD₅₀ (mallard ducks)—> 2,000 mg/kg.

Acute dermal toxicity LD₅₀ (rat)—> 5,000 mg/kg.

Primary skin irritation (rabbit)—

Minimally irritating.

Primary eye irritation (rabbit)—

Minimally irritating.

Ames salmonella—Not a mutagen.

Skin sensitization (guinea pig)—Not a sensitizer.

Acute intraperitoneal LD₅₀ (rat)—> 2,000 mg/kg.

Environmental Test Data

Acute LC₅₀ 96 hr. (bluegill sunfish)—12 mg/l.

Acute LC₅₀ 96 hr. (rainbow trout)—7.1 mg/l.

Acute LC₅₀ 48 hr. (daphnia magna)—8.5 mg/l.

Subacute dietary LC (8 day) to bob white quail—5,000 ppm.

Subacute dietary LC (8 day) to mallard ducks—> 5,000 ppm.

Exposure. The manufacturer states that during manufacture workers may experience dermal exposure per 12 hr/shift during sampling and drumming.

Environmental Release/Disposal. The manufacturer states that release to the environment will be minimal from accidental release or agricultural use.

PMN 82-71

Close of Review Period. May 5, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—\$500,000,000 and up.

Manufacturing site—West South Central region.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Alkyl aryl amino polyol.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Amber viscous liquid.

Specific gravity 20°/20° C—1.059.

Boiling point—Decomposes before boiling.

Flash point, closed cup—260° F.

Viscosity @ 25° C—8,000–10,000 cps.

Solubility: water—Insoluble.

acetone—Soluble, methanol—Soluble.

methylene chloride—Soluble.

Volatility—Nil.

Reactivity—Reacts vigorously.

Toxicity Data. No data were available.

Exposure. The manufacturer states that during manufacture a total of 2 workers may experience dermal exposure up to 2 hrs/day, up to 330 days/yr during sampling, transfer, loading and filling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land and water. Disposal is by incineration.

PMN 82-72

Close of Review Period. May 5, 1982.

Manufacturer's Identity. Celanese Plastics and Specialties Company, 1 Riverfront Plaza, Louisville, KY 40202.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkenoic acid ester of a halogenated alkyl aryl ether.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as an industrial component of coating.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	10,000
2d year	5,000	20,000
3d year	5,000	50,000

Physical/Chemical Properties

Viscosity @ 25° C—Solid.

Acid value SMT 9L—< 5.

% non-volatile—Assumed.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing a total of 170 workers may experience dermal exposure up to 8 hrs/day, up to 15 days/yr during filling, sampling, cleaning operations and transfer.

Environmental Release/Disposal. The manufacturer states that 10–10,000 kg/yr will be released to land 24 hrs/day, 250 days/yr. Disposal is by Resource Conservation Recovery Act (RCRA), landfill or incineration.

Dated: February 5, 1982.

James A. Combs, Jr.,

Acting Director, Management Support Division.

[FR Doc. 82-4095 Filed 2-17-82; 8:45 am]

BILLING CODE 5560-31-M

[OPTS 140005; TSH-FRL-2052-7]

Maxima Corp.; Transfer of Data to Contractor**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has contracted with Maxima Corporation of Bethesda, Maryland to provide typing and editing services to the Office of Toxic Substances. Some of the material which Maxima will have access to may contain confidential business information.

DATE: Access to confidential business information will occur no sooner than March 1, 1982.

FOR FURTHER INFORMATION CONTACT:

John G. Davidson, Management Support Division (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-521, 401 M St. SW., Washington, D.C. 20460, (202-382-3783).

SUPPLEMENTARY INFORMATION: EPA has contracted with Maxima Corporation (Contract Number 68-01-6466) to provide typing and editing services to the Office of Toxic Substances (OTS). OTS needs the assistance of Maxima because it does not have sufficient staffing for the amount of work it must perform within certain time constraints.

Some of the drafts which Maxima will receive to type and edit may contain information claimed confidential, including Toxic Substances Control Act (TSCA) confidential business information. Pursuant to 40 CFR 2.306(j), it has been determined that such disclosure of confidential business information to Maxima is necessary for the satisfactory performance of this contract.

At no time will Maxima be permitted to remove any confidential business information from EPA premises. Maxima employees will have access to confidential business information only while working on site at EPA.

Maxima is legally required under the terms of its contract to safeguard confidential business information from any unauthorized disclosure. It is especially prohibited from revealing such information to any third party in any form without written authorization from EPA. Maxima's employees will have signed nondisclosure agreements and will be briefed on appropriate security procedures which must be followed before they will be allowed access to any confidential business information.

Dated: February 7, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-4103 Filed 2-17-82; 8:45 am]

BILLING CODE 6580-31-M

[WEN-9-FRL-2015-7]

Issuance of Final General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) Off Southern California**AGENCY:** Environmental Protection Agency.**ACTION:** Notice of final general NPDES permit.

SUMMARY: The Regional Administrator of Region 9 is today issuing a final general NPDES permit for certain dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. This general NPDES permit establishes effluent limitations, standards, prohibitions and other conditions on discharges from oil and gas facilities. The facilities covered by this permit are located offshore of southern California and seaward of the territorial seas of the State of California.

EPA regulations and this permit contain a procedure which allows the owner or operator of a point source to obtain an individual permit. This final general NPDES permit is based on the administrative record which includes the support document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released Onto the Outer Continental Shelf." The fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in issuing this permit. A copy of the permit is reprinted as required by 40 CFR 122.59.

ADDRESSES: Notifications and requests should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont St., San Francisco, CA 94105.

FOR FURTHER INFORMATION AND COPIES OF FINAL PERMIT CONTACT:

Eugene Bromley, Region 9, U.S. Environmental Protection Agency, 215 Fremont St., San Francisco, CA 94105. Telephone: (415) 974-8062.

SUPPLEMENTARY INFORMATION:*Request for an individual NPDES Permit:*

Any operator authorized by this permit may request to be excluded from the coverage under this permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator.

A source located within the general permit area, excluded from coverage

under this permit solely because it already has an individual permit, may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply.

FACT SHEET AND SUPPLEMENTARY INFORMATION**I. Background***A. General Permits*

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination system (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of general permits to categories of dischargers (40 CFR 122.59). EPA may issue a single general permit to a category of point sources located within the same geographic area, whose discharges warrant similar pollution control measures. The director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by a final general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request. The Regional Administrator may require any person authorized by this general permit to apply for and obtain an individual permit. In addition, any interested person may petition the Regional Administrator to take this action. However, an individual permit will not be issued for an oil or gas facility covered by a general permit unless it can be clearly demonstrated that inclusion under a general permit is inappropriate. The Regional

Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.59(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in 40 CFR 122.59(a) and identified in the previous paragraphs are not met.

B. Oil and Gas Operations on the Outer Continental Shelf Offshore of California

On January 30, 1981, EPA received a request from Chevron U.S.A. for the issuance of a general NPDES permit for Offshore California. This request was followed by numerous requests from oil and oil-related industries that the Agency proceed with the development and expedite issuance of a final general permit. On March 23, 1981, Region 9 notified Chevron of its intent to develop a general permit and notified state and local agencies, as well as interested parties by letter dated June 15, 1981. To date Region 9 of the U.S. Environmental Protection Agency has issued individual NPDES permits for 15 exploratory drilling vessels and 12 production platforms. These facilities are located seaward of the outer boundary of the territorial seas of the State of California. A review of these NPDES permits, their effluent limitations and monitoring requirements, and the criteria for establishing a general permit clearly indicated that these facilities would be more appropriately controlled by a single general permit. A general permit has been most recently issued for a similar category of point source discharges in the Gulf of Mexico. General permits eliminate, for the Agency, the time-consuming and resource intensive process of reviewing and evaluating individual permit applications, and significantly reduce the regulatory burden imposed on industry in applying for and obtaining individual permits. For the point source discharges from offshore oil and gas operations where the principal issue is the environmental fate and effects of drilling fluid discharges, the provisions for general permits allow the Agency to

address cumulative effects of multiple facilities operating in one area in permit reissuance, modification, and revocation. In addition, environmental monitoring can be defined and imposed on facilities operating in a permit area reducing the cost per facility and providing the Agency a better mechanism to address environmental degradation.

In view of the national effort to identify and develop the nation's natural resources and in view of the Department of the Interior's efforts to accelerate offshore oil and gas lease sales, it is particularly important that EPA expedite issuance of NPDES permits for these facilities where discharges will not significantly affect the marine environment. Facilities entering the areas covered by this permit will be required to notify the Agency of their intent to be covered. The use of general permits is particularly appropriate for mobile drilling units used in exploratory operations on the OCS which drill a limited number of wells at a given site to identify oil reserves. These operations require a permitting action which will allow maximum flexibility, i.e., the ability to move efficiently from one location to another within the general permit area without having to obtain a new permit.

II. Nature of Discharges From Offshore Oil and Gas Facilities

The Offshore Subcategory of the Oil and Gas Extraction Point Source Category includes facilities engaged in field exploration, drilling, production, well production, and well treatment in the oil and gas extraction industry which are located seaward of the inner boundary of the territorial seas (40 CFR Part 435).

Operations within the Offshore Subcategory can be divided into three distinct phases: exploration, development, and production. Exploratory operations involve drilling to determine the nature and extent of potential hydrocarbon reserves. These operations are usually of short duration at a given site, involve a small number of wells, and are generally conducted from mobile drilling units. These include units with traditional ship's hulls or semisubmersible craft—essentially floating platforms with submerged hulls which support the units above water.

Development operations involve the drilling of wells once a hydrocarbon reserve has been identified. Developmental drilling averages a large number of wells (20-40) and is usually conducted from a fixed platform. However, in some instances

development wells can be drilled from mobile drilling units.

Production operations usually begin once the drilling unit used in well development operations has been removed and the actual recovery of hydrocarbons from underground geologic formations begins. Production platforms are usually fixed for long periods of time.

The discharges which accompany the recovery of offshore oil and gas resources are discussed below. The discharges are similar for drilling vessels (exploration and development operations) and production platforms with the exception of produced water which does not result from well drilling but from actual hydrocarbon recovery. Produced water from production platforms may be discharged or reinjected into the well. Region 9 has identified a total of fourteen discharges which are discussed below.

A. Drilling Muds, and Drill Cuttings (Discharge 001)

Drilling mud is defined as any fluid sent down the hole including, gelling compounds, weighting agents, and any specialty products, from the time a well is begun until final cessation of drilling in that hole. There are two basic types of muds, water-based and oil-based muds. Water-based muds are usually mixtures of fresh water or sea water with clays. Oil-based muds (invert emulsion muds) are mixtures of diesel oil and clays with water or brine emulsified in the oil.

Drilling muds are used in both exploration and production drilling to maintain hydrostatic pressure control in the well, lubricate the drilling bit, and remove drill cuttings from the well. Oil-based muds are used for special drilling requirements such as tightly consolidated subsurface formations, water sensitive clays, and shales. Specific needs of a drilling program may require other additives in the drilling muds.

Drill cuttings are mineral particles generated by drilling into subsurface geologic formations. Drill cuttings are carried to the surface of the well with the circulation of the drilling muds and separated from the fluids on the platform by solid separation equipment (screens and shakers).

B. Produced Water (Formation Water or Brine) (Discharge 002)

Produced water includes water and suspended particulate matter, brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations.

Produced waters are primarily generated during the production phase of oil and gas operations with the amount generated dependent upon the method of recovery and the nature of the formation. Geologic formations contain different oil-water or gas-water mixtures which are produced at different times:

1. In some formations, water is produced with the oil and gas in the early stages of production;
2. In others, water is not produced until the formation has been significantly depleted; and
3. In still others, water is never produced.

C. Produced Sands (Discharge 003)

Produced sands include sands and other solids removed from the produced waters.

D. Well Completion Fluids (Discharge 004)

Well completion fluids include fluids pumped downhole to enhance oil recovery.

E. Deck Drainage (Discharge 005)

Deck drainage includes all water resulting from platform washings, deck washings, tank cleaning operations, and runoff from curbs, gutters, and drains including drip pans and work areas.

F. Sanitary Wastes (Discharge 006)

Sanitary wastes include human body waste discharges from toilets and urinals.

G. Domestic Wastes (Discharge 007)

Domestic wastes include materials discharged from sinks, showers, laundries, and galleys.

H. Miscellaneous Discharges (Discharges 008-014)

Desalinization Unit Discharge (Discharge 008). Desalinization unit discharge means any wastewater associated with the process of creating fresh water from seawater.

Cooling Water (Discharge 009). Cooling water means once-through, non-contact cooling water.

Bilge Water (Discharge 010). Bilge water is water that accumulates in the bilge of the drilling vessel.

Ballast Water (Discharge 011). Water used by a drilling vessel to maintain proper stability.

Excess Cement (Discharge 012). Excess cement is unused cement discharged after a well cementing operation.

Blow-out Preventer Fluid (Discharge 013). Blowout preventer fluid is a mixture of water and 1-2% hydraulic fluid vented at the ocean floor during

periodic testing of the blow-out preventer system as required by U.S. Geological Survey.

Fire System Test Water. (Discharge 014). Fire system water is sea water discharged during periodic testing of the fire control system.

III. Conditions in the General NPDES Permit

A. Geographic Areas of General Permit

The general permit published today is applicable to dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435) operating in Federal waters on the outer continental shelf (OCS) off the coast of Southern California.

These waters are described in final environmental impact statements for OCS lease sales 35, 48, and 53. These areas include waters west and northwest of Point Arguello, south and west of Point Conception, of the Santa Barbara Channel from Point Conception to Goleta Point, of the Santa Barbara Channel from Santa Barbara to Ventura, south of Santa Rosa and Santa Cruz Island, of the San Pedro Channel between San Pedro and Laguna, and west of San Clemente Islands in the Tanner Bank area. Under the regulatory provisions of general permits, new information on any portion of the permit area which indicates that the terms and conditions of the permit are inappropriate or do not provide adequate protection of the marine environment under Section 403 of the Act, would require the Regional Administrator to modify the permit or require a facility owner or operator to apply for and obtain an individual permit.

This general permit does not authorize discharges into the territorial seas of the State of California, nor does it authorize discharges into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters (facilities in the Onshore and Coastal Subcategories as defined in 40 CFR Part 435).

The Bureau of Land Management (BLM) has identified a special lease stipulation (Stipulation 7 in Lease Sale No. 48) for certain tracts in the Tanner-Cortes Bank area. The stipulation prohibits the discharge of drill cuttings and drilling muds within an area defined by the 80 meter isobath and a 1500 meter buffer zone surrounding the 80 meter isobath for each designated parcel including OCS parcel P-0368. Lease parcel P-0368 which was included within the proposed draft general permit has been excluded from the final permit

because this parcel is within the 1500 meter buffer zone. Discharge within this lease parcel may be authorized only after issuance of a separate NPDES permit.

B. Application of the General Permit Program

The Regional Administrator of Region 9 has determined that oil and gas facilities operating within the areas described in this permit are more appropriately controlled by a general permit than by individual permits. There are several reasons for this determination. In accordance with 40 CFR 122.59, these facilities involve similar types of operations, discharge the same types of wastes, require the same effluent limitations and operating conditions, and require the same monitoring requirements. These similarities are discussed in Part II of this fact sheet. Additionally, as discussed earlier, the provisions for general permits allow the Agency to address cumulative effects of multiple facilities operating in one geographic area, and to impose an area-wide monitoring program that can more effectively assess environmental degradation.

The Agency will be permitting a relatively large number of exploratory operations with this permitting action. These facilities remain at a site for a short period of time and drill a limited number of wells at each site. The general permit provides these facilities the flexibility to move within a permitted area without applying for and obtaining a new permit. Moreover, the Agency is unable to impose the more stringent new discharger provisions to mobile drilling units operating in this permit area.* Therefore, the general permit is the best regulatory mechanism available to the Agency to impose uniform effluent limitations and conditions upon all facilities entering the permit area.

The Regional Administrator has also concluded that oil and gas facilities operating under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment. This determination is based on a review of all of the material available for a determination of the issues in this general permit. The major type of waste water generated by these facilities is produced waters; these discharges are discussed in Part III D. of the fact sheet. No effluent limitations have been established for other waste

*American Petroleum Inst. v. Costle Civ. No. 79-0858 (W. D. La. decided July 16, 1981).

water pollutants because they are normally reduced incidentally with the removal or reduction of another pollutant parameter, or do not represent a threat to marine water quality.

Environmental concerns appear to center around the environmental fate and effects of drilling muds in the marine environment. In the past year the Agency has undertaken several efforts to examine this issue. The Agency has prepared an extensive analysis of the available information on the environmental fate and effects of drilling muds and cuttings discharged from oil and gas facilities which is appropriate for this permitting action. The document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf" presents the scientific basis for the decision to allow the discharge of drilling muds and cuttings in the issuance of three general permits to oil and gas facilities in the Gulf of Mexico. A review of this document combined with the fact that the permit contains limitations on these discharges supports the conclusion that oil and gas facilities operating under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment.

Efforts are presently underway to address the long-term fate and effects of drilling muds and cuttings. EPA's Gulf Breeze Laboratory has also completed a Summary Report of the status of the Agency's Drilling Fluids Hazard Assessment Program which is also part of the administrative record of this permit. In addition, continuing monitoring programs at the Flower Garden Banks in the Gulf of Mexico, and the monitoring program of the interagency Biological Task Force for Georges Bank, as well as on-going bioassay studies to be conducted by industry and the Gulf Breeze Laboratory will provide the Agency additional information to address the potential for long-term fate and effects, bioaccumulation, and food-chain concentration of the constituents of drilling muds and cuttings, as well as other discharges from oil and gas facilities. Under Section 403(c) of the Clean Water Act this permit contains a reopener clause (Part I.A.6 of the permit authorized by 40 CFR 125.123(d)(4)) which requires the Regional Administrator to modify or revoke this general permit if new data indicates that continued discharges may cause unreasonable degradation of the marine environment. Permit modification or revocation would be conducted in accordance with 40 CFR 122.15, 122.16

and 124.5 pursuant to Part II.B.5 of the general permit.

This general permit will expire on December 31, 1983. Discharges during the short term of this permit should not allow unreasonable degradation of the marine environment and the new information on the long-term fate and effects of drilling fluid discharge obtained during the term of the permit will be considered in permit reissuance.

C. Notification by Permittees

Part I.A.6 of the draft general permit requires each permittee within the general permit area to notify the Regional Administrator in writing of the commencement and termination of discharge from each facility. This written notification must include the permittee's legal name and address, lease block number, and the number and type of facilities located within the lease block or area. Failure to provide this written notification means that the facility is not authorized to discharge under this general permit. Individual permit applications are not required to be submitted by persons discharging within the general permit area.

D. Technology-Based Effluent Limitations

The Act requires all dischargers to meet effluent limitations based on the technological capacity of dischargers to control the discharge of their pollutants. Section 301(b)(1)(A) of the Act requires the application of "Best Practicable Control Technology Currently Available" (BPT). On April 13, 1979, EPA promulgated final effluent limitations guidelines establishing BPT for the Offshore Subcategory (40 CFR Part 435). These limitations have been incorporated into this final general permit.

The BPT guidelines restrict the concentration of oil and grease in produced waters to a monthly average of 48 mg/1 and daily maximum of 72 mg/1. Because of the relative inaccessibility of the production platforms, EPA has concluded that it is impracticable to specify the monthly average effluent limitation for oil and grease and to require the additional more frequent monitoring necessary to demonstrate compliance with this limitation. See 44 FR 22069, April 13, 1979, for more detailed explanation.)

BPT effluent guidelines require a "no discharge of free oil" limitation for all other discharges associated with drilling operations (deck drainage, drilling, fluids, drill cuttings, and well treatment fluids). The term "no discharge of free oil" means that a discharge shall not cause a film or sheen upon a

discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR Part 435).

The BPT limitation requires that in sanitary wastes from facilities housing ten or more persons the concentration of chlorine be maintained as close to 1 mg/1 as possible. This general permit provides that any exploratory drilling vessel facility using an approved marine sanitation device that complies with Section 312 of the Act shall be in compliance with the permit.

E. Other Discharge Limitations

In addition to the BPT effluent limitations, these permits contain several other conditions.

1. **Drilling Muds and Cuttings.** (Discharge 001). The Agency has conducted bioassay testing of seven generic types of drilling muds and has approved these muds for discharge based on the bioassay results. The permit prohibits the discharge of drilling mud in a volume and/or concentration which, after allowance for initial dilution, would result in exceedances of the limiting permissible concentration (LPC) for a particular drilling mud. The definition of the LPC (Part III C. 17) was derived from the Ocean Discharge Regulations (40 CFR 227.27(a)). (The mud compositions and bioassay results are contained in the administrative record.)

Variation from the list of approved muds will require the facility owner or operator to conduct bioassay tests and to submit the analyses to the Regional Administrator within six months of the commencement of discharge. Specifically, the bioassay is required if the mud does not meet the definition of a "generic" mud in Part III C. 18 of the permit. Based on the results of these bioassay tests, authorization for continued discharge will be at the discretion of the Regional Administrator.

The discharge of oil-based drilling muds constitutes the discharge of free oil and, in accordance with 40 CFR Part 435, is prohibited.

A provision which provides for permit modification or revocation based on new data or information on the toxicity or long-term fate and effects of drilling muds or their constituents is included in Part I.A. 5 of the permit.

2. **Produced Waters.** (Discharge 002). This general permit includes effluent limitations for heavy metals in produced waters. The limits are the daily maximum concentration in the California Ocean Plan. Compliance with

these limits, is determined through the use of the following equation:

$$Ce = Co + Dm (Co - Cs)$$

where:

Ce = the maximum allowable concentration,

Co = the concentration from the California Ocean Plan which is to be met at the completion of initial dilution.

Cs = background seawater concentration (See Part III.C.19).

Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

Computer models such as PLUME which was developed by EPA are available for use at the Environmental Protection Agency, Region 9.

3. Dispersants, Surfactants, and Detergents. The facility operator is also required to minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the United States Geological Survey. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. This restriction is imposed because detergents disperse and emulsify oil, thereby enhancing toxicity and making the detection of a discharge of oil more difficult. These limitations have been established pursuant to Section 403 of the Act and 40 CFR 125.123(d)(3).

4. The discharge of halogenated phenol compounds is prohibited in accordance with a U.S. Geological Survey Operations Order.

F. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The final 403(c) Ocean Discharge Criteria guidelines published on October 3, 1980 (45 FR 65952), set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of an NPDES permit. If sufficient information is unavailable on the proposed discharge or on its potential effects to make this determination the Director may require the applicant to submit additional information. If EPA determines that there will be no unreasonable degradation, the permit may be issued. If a determination of unreasonable degradation cannot be made, the Director must then determine whether a discharge will cause irreparable harm to the marine environment. In assessing the probability of irreparable harm, the Regional Administrator is required to make a reasonable determination that the discharger operating under a permit

with monitoring requirements and effluent limitations, will not cause permanent and significant harm to the environment. If further data gathered through monitoring indicates that the continued discharge of a pollutant will produce unreasonable degradation, the discharge must be halted or additional permit limitations established.

The regulations identify ten factors which are to be considered in making the determination of unreasonable degradation: these factors include: (1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged; (2) The potential transport of such pollutants by biological, physical or chemical processes; (3) The composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act or the presence of those species critical to the structure or function of the ecosystem such as those important for the food chain; (4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways or areas necessary for other functions or critical stages in the life cycle of an organism; (5) The existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs; (6) The potential impacts on human health through direct and indirect pathways; (7) Existing or potential recreational and commercial fishing, including finfishing and shellfishing; (8) Any applicable requirements of an approved Coastal Zone Management plan; (9) Such other factors relating to the effects of the discharge as may be appropriate, and (10) marine water quality criteria developed pursuant to Section 304(a)(1).

Factors 1, 2 and 3 relate to the composition of the pollution to be discharged, the physical, chemical and biological transport of the pollutants, and the effects of the pollutants on biological communities, critical species, and endangered species.

The document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf" includes an extensive analysis of the bioassay test studies which address the toxicity of whole drilling muds and their constituents on marine organisms. A

summary of current bioassay studies indicates that 72 species of organisms including all major groups from invertebrates to fin fish have been tested. The results of these tests indicate that the concentrations of most drilling mud discharges after dilution and dispersion in the water column will not have any significant adverse effect on marine organisms. In addition, this permit limits the discharge of drilling muds and additives to an approved list for which the Agency has bioassay test data, and for which the concentration after initial dilution will not exceed 0.01 of the concentration found to be toxic. Variation from the approved drilling muds and additives list requires the facility owner or operator to conduct bioassay tests with appropriate sensitive marine species. Such muds must also meet the toxicity test noted above for previously tested muds. At this time the Agency is working with scientists within the Agency, in industry, and in other Federal agencies to develop a list of appropriate species to be used in further bioassay tests. The Regional Administrator may waive the bioassay requirement upon determination by the Regional Administrator that concentrations of components in the drilling mud do not pose a significant threat to marine organisms. The criteria which will be applied in making the determination will be the ranges of component concentrations in the seven drilling muds referred to in the document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf" and additional bioassay analysis or related information.

Factors 5, 7, and 8 relate to the geographic areas covered by these general permits. The general permit areas are described in Part III.A. of the Fact Sheet. The National Oceanic and Atmospheric Administration, under the authority of the Marine Protection, Research and Sanctuaries Act, has designated the Channel Islands Marine Sanctuary as a special aquatic site and has promulgated regulations applicable to the Sanctuary. This general permit is consistent with all of the requirements of these regulations even though these requirements have been suspended, as of the time of issuance of this permit. The Bureau of Land Management has identified, in Lease Sale No. 48, aquatic sites in Tanner and Coites Bank and, in a lease stipulation, has applied conditions which limit discharges associated with any exploratory or production activities on these lease parcels. Lease parcel P-0368, which was

included in the proposed draft general permit, is subject to this stipulation and has, therefore, been excluded from the general permit. The Agency has not identified other special aquatic sites or potential recreational and major commercial fishing areas in the general permit area. These effluent limitations or operating conditions in this general permit should provide adequate protection of the marine sanctuary and remainder of the permit area.

Factor 4 addresses the importance of the receiving water of the permit area to non-resident species and critical habitats. This factor is intended to ensure that potential impacts on spawning sites, nursery/forage areas, migratory pathways, or other critical functions are considered. In considering this factor, the Agency has reviewed the Environmental Impact Statements prepared by the Bureau of Land Management. These sources and the conclusions of the technical support document indicate that discharges from oil and gas facilities operating under the terms and conditions of these general permits will not adversely affect marine species or marine communities beyond the immediate area of the discharges.

The potential impacts to human health (Factor 6) are examined in the technical summary "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf." Discharges authorized by the general permit should not pose a threat to human health.

Factor 10 requires that the Agency identify conventional, non-conventional, and toxic pollutants in the discharge to be permitted and establish that numeric units in applicable marine water quality criteria will be met with permit limitations. The technical support document contains a thorough analysis of the components of drilling fluids, and summaries of the applicable marine water quality criteria have been prepared from the EPA publication, "Quality Criteria for Water" (the "Red Book"), and from the water quality criteria for toxic pollutants published November 28, 1980 at 45 FR 79318.

The application of dispersion/dilution models from the technical summary indicates that the dilution of drilling fluid components within the mixing zone will be sufficient to reduce the concentrations of pollutants to levels below the numeric limits set in the marine water quality criteria. The report, "Analysis of Potential for Violations of Marine Water Quality Criteria Resulting from Oil and Gas Operations," has been placed in the Administrative Record for this general permit. For those drilling muds not

previously tested, the permit requires biological toxicity testing. The permit prohibits discharge of muds or any other pollutant if, after initial dilution, the concentration in the receiving water will exceed 0.01 of the concentration found to be toxic or applicable marine water quality criteria.

In the preparation of this general NPDES permit a review has been made of all of the material in the administrative record, all of the material in the file, and all material either admitted or offered in evidence in the evidentiary hearing titled: *In re Diamond M Drilling Company (Diamond M General) et al.*; Docket No. IX-WP-80-3, now pending before the Administrator and assigned to Administrative Law Judge Thomas B. Yost. A review of all of the material available for a determination of the issues in this general permit discloses that the state of knowledge on these subjects is extensive but not perfect. Areas of uncertainty remain. A complete factual support in the record is not possible or required. It is necessary to make policy judgments as to these matters where no factual certainties exist or are possible.

Based on a consideration of the criteria for unreasonable degradation, the available factual data, and exercising the best judgment possible in the circumstances, the Regional Administrator has determined that the discharges associated with oil and gas facilities located in the general permit area and operating in compliance with this permit will not cause unreasonable degradation of the marine environment.

G. Monitoring and Enforcement

This general permit requires dischargers to monitor monthly the concentrations of oil and grease in produced water discharges and the chlorine in sanitary waste discharges. In addition, monthly monitoring or estimates of the produced water flow rate is required, as well as annual sampling to demonstrate compliance with the numeric limits placed on heavy metals in produced water discharges. Monthly volume estimates are required for drilling muds, drill cuttings, deck drainage, produced sand, and well treatment fluids. Discharge Monitoring Reports (DMRs) must be submitted annually. A chemical inventory of all materials actually added down the well must be maintained and all records retained for three years.

H. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. In the 1978 amendments to Section 311, Congress

clarified the relationship between this Section and discharges permitted under Section 402 of the Act. It was the intent of Congress that routine discharges permitted under Section 402 be excluded from Section 311. Discharges permitted under Section 402 are not subject to Section 311 if they are:

1. In compliance with a permit under Section 402 of the Act;
2. Resulting from circumstances identified, reviewed and made part of the public record with respect to a permit issued or modified under Section 402 of the Act, and subject to a condition in such permit; or
3. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under Section 402 of this Act, which are caused by events occurring within the scope of the relevant operating or treatment systems.

To help clarify the relationship between discharges permitted under Section 402 and Section 311 discharges, EPA has compiled the following list of discharges which it considers to be regulated under Section 311 rather than under a Section 402 permit. The list is not to be considered all-inclusive.

1. Discharges from a platform or structure on which oil or water treatment equipment is not mounted.
2. Discharges from burst or ruptured pipelines, manifolds, pressure valves or atmospheric tanks.
3. Discharges from uncontrolled wells.
4. Discharges from pumps or engines.
5. Discharges from oil gauging or measuring equipment.
6. Discharges from pipeline scraper, launching, and receiving equipment.
7. Spills of diesel fuel during transfer operations.
8. Discharges from faulty drip pans.
9. Discharges from well head and associated valves.
10. Discharges from gas-liquid separators, and
11. Discharges from flare lines.

I. Other Legal Requirements

The Endangered Species Act requires that each Federal Agency shall ensure that any of its actions, such as permit issuance, does not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modifications of their habitats. The Bureau of Land Management has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service and the Department of the Interior, Fish and Wildlife Service, with respect to all oil and gas leasing in

the general permit area. EPA has concluded that the discharges authorized by this general NPDES permit will neither jeopardize the continual existence of any endangered or threatened species nor adversely affect its critical habitat. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred with this conclusion. EPA recognizes its obligation to comply with the requirements of the Endangered Species Act, and will initiate consultation should new information reveal impacts not previously considered or should the activities affect a newly listed species.

The *Coastal Zone Management Act* (CZMA) and its implementing regulations (15 CFR Part 930) require that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. EPA's Region 9 has determined that this general NPDES permit is consistent with the CZMP. Operations within 1000 meters seaward of the territorial sea of the State of California may have some effect on the coastal zone of California. For that reason operations under this permit may not be conducted within 1000 meters of the territorial sea of the State of California until the plan of exploration or development has been certified to the Coastal Commission of the State of California as consistent with the CZMP and has been concurred upon by that Commission.

Section 306 of the Act directs the Administrator to promulgate standards of performance for categories of sources identified in 306(b)(1)(A) which reflect the greatest degree of effluent reduction achievable through best available demonstrated control technology. The Agency has not proposed nor finally promulgated such standards, new source performance standards, for the Offshore subcategory of the Oil and Gas Extraction Point Source Category. Until new source performance standards are finally promulgated, and EPA determines that it is appropriate to modify this general permit to include an environmental review for the issuance of this general NPDES permit under the National Environmental Policy Act (NEPA).

J. Economic Impact

EPA has reviewed the effect of Executive Order 12291 on this final general permit and has determined that it is not a major rule under that order. The permit will result in substantially reduced paperwork required of regulated facilities by eliminating permit

applications and reducing reporting requirements.

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

K. Effective Date

The final NPDES general permit issued today is effective immediately. Ordinarily, EPA would issue this permit and allow 30-days before making the final permit effective. However, EPA may, under 5 U.S.C. Section 553(d)(1) make the permit effective immediately because it relieves a restriction on the regulated community by authorizing the discharge of pollutants in compliance with its terms. Without a permit, discharges of pollutants are prohibited under Section 301 of the Clean Water Act. Moreover, because the thirty day period between the date of issuance and the date of effectiveness is provided to afford administrative appeal, a procedure which is not available for general permits, no purpose is served by delaying the effective date.

Dated: January 22, 1982.

Sonia F. Crow,

Regional Administrator, Region 9.

Note.—After review of the facts presented in the Notice of Intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that the general permit will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

Dated: February 11, 1982.

John W. Hernandez, Jr.,
Acting Administrator.

Appendix A—Public Comments

A public hearing was held on October 16, 1981 in Santa Barbara, California to receive public comment regarding a proposed general NPDES permit covering discharges associated with the development of oil and gas resources on the Pacific Outer Continental Shelf, adjacent to southern California. Numerous comments were submitted to EPA at the public hearing and within the public comment period which closed on October 30, 1981. The following parties responded with comments:

California Coastal Commission;
Research and Development Associates of
Denver;
Ocean Drilling and Exploration Company;
Chevron, U.S.A.;
Texaco, U.S.A.;
Lois S. Sidenberg for Get Oil Out, Inc.;
Santa Barbara Chamber of Commerce;
California Regional Water Quality Control
Board, Los Angeles Region; California
Department of Fish and Game;
Whitman College, Walla Walla, WA;

Arco Oil and Gas Co.;
American Cetacean Society;
U.S. Department of the Interior;
U.S. Department of Energy;
County of Santa Barbara;
Baker and Hostetler, Counsellors at Law;
Shell Oil Co.;
County of San Luis Obispo;
IMCO Services of Halliburton Co.;
Exxon Company U.S.A.;
Union Oil Company;
League of Women Voters, Santa Maria;
Conoco;
McMoran, Metairie, LA;
Gulf Oil Exploration and Production Co.;

and the following individuals:

Angela Aiena, San Luis Obispo, CA;
Susan N. Atlee, San Luis Obispo, CA;
J. L. Mohr, Los Angeles, CA;
Susan L. Anderson, Davis, CA;
Maxine Staszak, Santa Barbara, CA;
Joan Kerns, Santa Barbara, CA; and
Pauline Spaulding, Santa Barbara, CA.

The following parties testified at the October 16 public hearing:

F. T. Weiss, John Herring, Ronald Kolpack,
Robert P. Merk, Edward Gilfillan and Frank
Hester, all for the Ad Hoc General NPDES
Permit Group;
Mari Gottdeiner, California Coastal
Commission;
William Master, Santa Barbara County;
Gregory Mohr, City of Santa Barbara;
John Huddleson, California State Water
Resources Control Board;
Martin Byhower, American Cetacean Society;
Jim Steele, California Department of Fish and
Game;
Michael Wabner, Seafood Specialties;
Peter Reis, Texaco, Incorporated;
Eric Hanscum, Sierra Club;
Ralph Hicks, Sierra Club;
Fred Eissler, Scenic Shoreline; Friends of the
Earth;
Ralph W. Hazard, Keel D.;

and the following individuals:

Margaret Ann Blankley;
Thomas P. Smith;
Dorothy Taylor Knife;
John Mohr;
Alice Alldredge;
Douglas Stow;
Kenneth S. Johnson;
Rae Richardson;
Beatrice M. Sweeney;
William Gesner;
Michael David Cox; and
Mark Page.

The following parties submitted comments which were received after the public comment period which concluded on October 30, 1981:

Frank R. Bush for the Santa Lucia Chapter,
Sierra Club;
Victor R. Husbands, County of Ventura;
Phillips Petroleum Company;
Joan Leon for the League of Women Voters,
San Luis Obispo;
Marion Schillo for the League of Women
Voters, Ventura County;

Barbara Plummer for the League of Women Voters of Santa Barbara, Inc.; National Oceanic and Atmospheric Administration; California State Water Resources Control Board; Jennifer Silva, San Jose, CA; Denise Gibson, Santa Cruz, CA; Ruth W. Piper, Cupertino, CA; Gerald P. Lorentz, San Jose, CA; Jan E. Jorgensen, Santa Cruz, CA; Richard A. Davis, Santa Cruz, CA; and Edith Nelson, Santa Cruz, CA.

Comments presented during the public comment period and at the public hearing were reviewed by EPA and considered in the formulation of the final decision regarding the proposed permit. Our response to these comments is as follows:

Comment: The reopener clause of the general permit (Part I.A.5) should be modified to require that the procedures outlined in the Consolidated Permit Regulations (40 CFR 122 and 124) would be followed in any future permit modification or revocation proceedings.

Response: Part I.A.5 was obtained from 40 CFR Part 125 Subpart M (Ocean Discharge Criteria). Several commenters expressed concern that the condition specified in the draft general permit would allow the agency to modify or revoke the permit with no opportunity for comment by an affected party. However, 40 CFR Part 125 Subpart M does not affect the applicability of the procedures in the Consolidated Permit Regulations. Accordingly, any revision, suspension or revocation of the permit would be required to be conducted in accordance with 40 CFR Part 122 and 124. The permit does not change this requirement.

Comment: Many commenters objected to the drilling mud bioassay requirement (Part I.A.1.h) and the accompanying limiting permissible concentration (LPC) requirements.

Response: The EPA believes that bioassay studies have demonstrated that many drilling mud discharges will not cause unreasonable degradation of the marine environments. However, the combinations of possible drilling mud additives and formulations is too extensive to conclude that all drilling muds which would be utilized will pose no threat to the marine environment. To ensure that no unreasonable degradation of the marine environment will occur we have, in accordance with 40 CFR 125.123(a) and 40 CFR 125.123(d), included the bioassay and LPC requirements.

The preamble to the Ocean Dumping Criteria (FR 65946 Oct. 3, 1980) clearly indicates that the Regional Administrator may include the requirements of 125.123(d) to ensure no

unreasonable degradation even if the permit is issued pursuant to 125.123(a). The permit does not require bioassay testing of muds which have already been tested and found acceptable for discharge based on the bioassay results and demonstrated dispersion in the marine environment. To clarify when a bioassay is required Part III.C.18 (Definition of generic mud) was added to the permit. A mud need not be tested if it satisfies any of the requirements of Part III.C.18. Industry has indicated that the generic types of mud already tested are utilized for most drilling operations. As such, the bioassay requirement should not prove overly burdensome.

Comment: Condition I.A.1.h.(d) is flawed in that computer programs have replaced graphical techniques, such as graphical extrapolation, for determination of the LC₅₀ from bioassay data.

Response: The reference to the extrapolation has been deleted to allow the permittee to determine the LC₅₀ in accordance with the procedures of the Mid-Atlantic Joint Industry Bioassay Program or other methods approved by EPA.

Comment: Models for determining the dilution of drilling muds are not reliable.

Response: Condition III.C.16 defines the mixing zone as "the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge or to boundary of the zone of initial dilution as calculated by a plume model or other method approved by the Regional Administrator." In the case of drilling mud discharges, compliance with permit limitations may be more accurately determined by comparing the required dilution for a given mud discharge with observed dilution in field studies such as the Tanner Banks Mud and Cuttings Study (Ecomar, 1978), studies in the Cook Inlet (Dames & Moore, 1977), Baltimore Canyon (Ayers, 1980), and the Gulf of Mexico (Ayers, 1980). As such, Part III.C.16 has been modified to allow determination of initial dilution "by a plume model or other method approved by the Regional Administrator."

Comment: The LPC is not properly used in the general permit. The continuous discharges of drilling muds are so small that they should be considered negligible, and the bulk discharges are of short duration and will not subject organisms to the same exposure as in a 96 hour bioassay.

Response: The permittee is authorized to discharge drilling muds without specific limitation on the rate, volume or duration of discharge of pollutants contained in the drilling muds except to

the extent that the discharge not cause exceedance of a limiting permissible concentration at the edge of the mixing zone. Absent limitations on specific pollutants in the drilling muds, a limiting permissible concentration has been specified in the permit, in accordance with the authority of 40 CFR 125.123(d), and based upon bioassays, which will guard against unreasonable degradation of the marine environment. The permittee is responsible for compliance with this requirement and may be required to regulate the rate of discharge of drilling muds. For short-term bulk discharges where there is evidence submitted by the permittee that marine organisms are exposed only briefly to the drilling muds pollutants, the Regional Administrator may approve the use of an alternative application factor for calculation of the limiting permissible concentration.

Comment: Many commenters objected to the heavy metals, cyanides and phenols limits placed on the produced water discharge. They also objected to the methods used for deriving the permit limits.

Response: EPA believes that these limits should be retained to ensure compliance with requirements of Section 403(c) of the Clean Water Act. The available data show that the heavy metals concentrations in produced water vary widely but in some cases the concentrations may approach or exceed the acute toxicity level for marine organisms. The dilution achieved at the edge of the mixing zone is a function of the volume and depth of the discharge, local currents and the difference in the specific gravity between the wastewater and the receiving water. Circumstances could arise whereby heavy metals concentrations could exceed marine water quality criteria outside the zone of initial mixing. EPA is directed by Section 403(c) to ensure that this does not occur. We believe that the likelihood of degradation of the marine environment from this discharge is minimal and have, therefore modified the permit to require annual monitoring for these pollutants, rather than semi-annual monitoring. The regulations do not specify that any particular modeling technique be utilized to predict ocean dispersion. EPA uses the program PLUME (developed by the EPA laboratory in Corvallis, OR) which was suggested in the preamble to the proposed Section 403(c) regulations (FR 9550 February 12, 1980). Although it was developed for municipal discharges the program is sufficiently general to be applicable to produced water discharges also. One commenter also pointed out

that PLUME includes the assumption that there is no ocean current and that greater dispersion would be expected with ocean currents. Our response to this point is that the program is basically used as a "worse case" screening tool. The permittee may provide his own proposed analysis (including effects of currents) of the dilution occurring for a given discharge if he believes that PLUME underestimates the dilution.

The commenter also objected to the derivation of the marine water quality criteria for the heavy metals in the draft permit. Specifically the commenter pointed out that the use of ambient ocean concentrations as a limit guarantees violations of the permit if the produced water adds an incremental amount of pollutant above ambient concentrations. In addition the commenter pointed that the use of the six month median concentrations from the California Ocean Plan is not appropriate since the permit requires a single semi-annual 24-hour composite sampling. In response to these concerns EPA has revised the permit for heavy metals limitations and procedures for determining compliance as follows:

Constituent	Daily maximum concentration (mg/l) ¹
Arsenic.....	0.032
Cadmium.....	0.012
Total chromium.....	0.008
Copper.....	0.020
Lead.....	0.032
Mercury.....	0.00056
Nickel.....	0.08
Silver.....	0.0016
Zinc.....	0.08
Cyanide.....	0.02
Phenolic compounds.....	0.12

¹ Water Quality Control Plan for Ocean Waters of California, 1978.

Compliance with these limits is determined through the use of the following equation:

$$Ce = Co + Dm - Dm (Co - Cs)$$

where:

Ce = the maximum allowable concentration,
Co = the concentration in Part I.A.2.a which is to be met at the completion of initial dilution,

Cs = background seawater concentration [See Part III.C.19]

Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

Part I.A.2 of the general permit has been modified to reflect the above changes in limits and method for determining compliance.

Comment: State certification of the permit (Section 401(a)(1) of the Clean Water Act) is not necessary and should not be requested.

Response: Section III.H of the fact sheet mentions that State certification of the permit has been formally requested of the State of California. EPA recognizes that certification of this permit is not mandated by the Clean Water Act since the dischargers are operating beyond the territorial seas of the State of California. Certification of the permit by the State will not be pursued further.

Comment: The area encompassed by the general permit is not uniform and therefore a general permit applicable to the entire region is not appropriate.

Response: EPA has discretionary authority for defining the geographic area to which the general permit applies, as indicated in the Consolidated Permit Regulations (40 CFR 122.59(a)(1)). The Agency has concluded that the geographic area of this general permit should include lease sales 35, 48, and part of the Santa Maria Basin of lease sale 53 because, based on a review of previously issued permits for discharges from comparable facilities in lease sales 35 and 48, the same permit requirements would apply for most, if not all facilities; the discharges are to moderately deep ocean waters which are at least three miles from shores of the continent and any island, and for those circumstances or conditions where this general permit would not be appropriate, a separate NPDES permit may be specifically required under 40 CFR 122.59(b)(2).

Comment: Exploratory drilling and actual production are distinct operations and a separate general permit should be issued to cover each operation.

Response: EPA, in accordance with the Consolidated Permit Regulations (40 CFR 122.59(a)(2)(ii)), may issue a general NPDES permit to regulate a category of point sources if all of the sources (a) involve the same or substantially the same type of operations, (b) discharge the same type of wastes, (c) require the same effluent limitations or operating conditions, (d) require the same monitoring, and (e) in the opinion of the Regional Administrator, are more appropriately controlled under a general permit. In promulgating effluent guidelines for discharges from production, exploration, drilling, well completion and well treatment, EPA considered such factors as age, size of the facility, manufacturing processes, products produced and treatment technology available, and promulgated a uniform set of effluent limitations for discharges from facilities which are included within the scope of this general permit. EPA has reviewed additional information which characterizes these discharges and has concluded that a general permit is applicable to

discharges from both exploratory drilling and production facilities.

Comment: A site-specific environmental review should be performed before any discharges are permitted.

Response: In the Environmental Impact Statements for lease sales 35, 48 and 53, each lease parcel received individual environmental review prior to being leased by the Bureau of Land Management (BLM). Special biological stipulations were developed for some of these parcels based on the parcel-specific review. For example, the prohibition of discharge of drilling muds and cuttings in the Tanner Banks area is a result of a BLM lease stipulation. Another stipulation requires that if the Deputy Conservation Manager (USGS) has reason to believe that biological populations or habitats exist which require special protection on a given parcel, a biological survey is required prior to any exploratory drilling or placement of a production platform. This stipulation has been invoked by BLM for many of the parcels for lease sales 48 and 53, primarily those with rocky substrates. All the parcels in the Tanner Banks area and the Santa Rosa-Cortez Ridge area require this survey. Should the results of any survey indicate the need for special protection beyond requirements of the general permit, an individual permit would be required with special conditions and effluent limitations reflecting the level of protection necessary for that specific location.

Comment: The general permit will allow unlimited oil and gas development on the Outer Continental Shelf.

Response: Industry has estimated that 69 exploratory wells and development wells for two platforms may be drilled from facilities not already covered by existing NPDES permits, during the term of the two year permit. This contrasts with approximately 3600 wells which have been drilled in the general permit area to date. Thus, the commenter's fears appear to be unfounded.

Comment: Toxicity tests should be performed on produced water prior to discharge.

Response: The general permit contains limitations, applicable to discharge of produced water, that require that marine water quality criteria not be exceeded beyond the zone of mixing. The water quality criteria which were taken from the California Ocean Plan are based upon bioassays and an application factor to further ensure that no chronic toxicity will be caused. Therefore, additional toxicity tests are not required.

Comment: Several commenters pointed out that rare and valuable animals have been discovered in the Tanner Banks area and the Santa Rosa-Cortes Ridge area. Concern was expressed regarding how the general permit provides protection for these biological resources.

Response: The Bureau of Land Management, in recognition of the valuable biological communities in the Tanner and Cortes Bank area, has placed limitations on discharges which affect specified lease parcels. Lease parcel P-0368 which was included in the draft general permit has been excluded from the final permit because this parcel is subject to and within the area defined by the lease stipulation. EPA believes that excluding from the general permit those lease parcels to which the BLM stipulation applies and the conditions of the general permit, for discharges at other lease parcels, provide sufficient protection to these biological resources.

Comment: The dispersion characteristics in the general permit area are variable and the dilution which the Agency assumes with respect to the drilling mud discharge may not actually occur everywhere.

Response: It is true that the dilution will vary depending on exactly where, in the general permit area, a discharge occurs. However, the dilution of drilling mud has been studied at a number of locations including Tanner Banks (Ecomar, 1978), Mid-Atlantic (Ayers, 1980), the Gulf of Mexico (Ayers, 1980) and the Cook Inlet (Dames and Moore, 1977). The variability of the results is modest and the studies show that the drilling muds are rapidly diluted. We would expect these results to be reasonably representative for waters of the general permit area.

Comment: Monitoring is necessary to determine compliance with the "no free oil" limit applicable to various discharges. The commenter suggested visual observations at frequent intervals.

Response: The permit has been modified to require visual observations of the receiving water, in the vicinity of discharge, for the presence of any free oil.

Comment: Effluent guidelines require a chlorine residual (1 mg/l) in the sanitary discharge for disinfection. A commenter suggested that a maximum level would be appropriate due to the toxic effects of a high chlorine concentration in the marine environment.

Response: The general permit requires that the chlorine residual be maintained as close to 1 mg/l as possible. Given the very low volume of the sanitary

discharge, we can expect substantial dilution within 100 meters and that the discharge will not represent a threat to marine biota beyond a mixing zone. In reviewing discharge monitoring reports, it is the practice of EPA to notify operators reporting residual chlorine levels of greater than 10 mg/l to reduce chlorine concentration to as close to 1 mg/l as possible. The permit, therefore, has not been modified.

Comment: The general permit should not limit discharges to the 152 lease parcels listed in the permit. As a minimum the permit should cover the present parcels and all parcels to be leased in the upcoming Lease Sale No. 68. This would eliminate the time consuming process of modifying the general permit when Lease Sale No. 68 parcels are awarded.

Response: EPA does not believe it is appropriate to authorize discharges on any lease parcel until a final EIS has been completed and reviewed. When EPA has completed a review of the final EIS for Lease Sale No. 68, we will consider proposing a permit modification to include as authorized discharge sites all parcels which are offered for sale.

Comment: The use of biocides should be prohibited.

Response: The permit prohibits the use of halogenated phenols which include many of the biocides which could be considered for use on the OCS (such as pentachlorophenol, Dowicide, and Surflo). Other biocides, such as paraformaldehyde, may be used but in quantities such that the bioassay and LPC conditions of the permit for discharge of drilling muds are met.

Comment: Compliance with marine water quality criteria should be achieved at the point of discharge rather than after initial mixing.

Response: The Ocean Discharge Criteria (40 CFR Part 125 Subpart M) provide for a zone of mixing within which the pollutants of a discharge may be diluted to levels which comply with marine water quality criteria. The regulations do not require that water quality standards be met at the discharge point. Studies have shown that the required dilution does occur within a relatively small mixing zone, as allowed by the regulations and the general permit.

Comment: The permit contains inadequate mechanisms to ensure compliance with permit limits. The commenter suggested that industry compensate EPA for additional monitoring and sampling.

Response: There is no statutory or regulatory authority upon which to base a requirement that a permittee

compensate EPA for costs attributable to monitoring and sampling by EPA.

Comment: A commenter suggested that the permit explicitly prohibit the discharges in areas not covered in the general permit.

Response: The general permit explicitly identifies the parcels to which the general permit applies. Discharge at any other location, except as authorized by another NPDES permit would be unlawful under the Clean Water Act and we, therefore, do not believe further clarification is necessary.

Comment: Several research projects are ongoing in the Santa Barbara Channel. Consultation with researchers is needed before discharges are allowed.

Response: Research study areas may be of sufficient scientific value as to require protection from over-exposure to drilling muds which would be discharged in the course of well drilling required for development of an oil field. The relatively small amount of drilling muds discharged as the result of exploration at a single location appear to represent neither a probable nor significant threat to such research sites. For those research sites where the scientific value associated with continuing research merits further protection, EPA may require a separate NPDES permit, as provided for in Part III.A of the General Permit, which establishes conditions necessary for protection of this use. EPA will, in reviewing the plans for development which each leasee must prepare for the U.S. Geological Survey, prior to their proceeding with onsite development, consider the scientific values and need for any additional protection which may be appropriate via a separate NPDES permit.

Comment: No discharges should be allowed in the Channel Islands marine Sanctuary. Also, unique biological areas such as the transition zone off Point Conception need special attention.

Response: The Channel Islands Marine Sanctuary (designated a sanctuary in September, 1980) consists of the Channel Islands from Anacapa Island to Richardson Rock and a six nautical mile buffer zone surrounding these islands. The northern boundary of the Sanctuary overlaps certain areas in several OCS lease parcels. The National Oceanic Atmospheric Administration has promulgated regulations implementing the designation of the Sanctuary. These regulations (15 CFR 935) exempt, from prohibition, discharges into the Sanctuary from hydrocarbon exploration, development and production activities where the lease parcels were sold prior to the

effective date of 15 CFR 935.6. The effective date of 15 CFR 935.6, at the time of issuance of this permit, has been suspended. EPA has concluded that the requirements of this general permit are adequate to ensure against unreasonable degradation of the marine environment in the Sanctuary and the transition zone located off Point Conception.

Comment: A revision of Section II.B. 8 (State Coastal Zone Management Plan consistency) was suggested to reflect Section 307(3)(b)(iii) of the Coastal Zone Management Act.

Response: Section 307(3)(b)(iii) would allow EPA to issue a permit without certification of consistency if the Secretary of Commerce finds that the plan is consistent with the objectives of the Act or is otherwise necessary in the interest of national security. EPA does not believe this modification is necessary since the intent of section 307(3)(b)(iii) will be achieved under the present conditions of the permit. As such, Section II.B.8 has been left unchanged.

Comment: Many of the studies upon which EPA based its decision are defective. The commenters were particularly critical of studies performed on the environmental fate and effects of drilling muds and note that the studies have not received sufficient peer review. A commenter stated that many of the authors are not cited in *Scientific Citation* and that EPA should not rely so heavily on these studies.

Response: The record shows that the studies in question (such as the Tanner Banks Mud and Cuttings Study) have received the review of various parties including extensive review by EPA. While these studies may have deficiencies, EPA does not believe the alleged flaws are sufficient to negate the basic conclusions.

Comment: Inadequate notice of agency actions has been given to the scientific community.

Response: The Consolidated Permit Regulations provide that public notice of agency actions be provided as described in 40 CFR 124.10. Persons to be informed of NPDES permit actions include applicants, affected federal and state agencies, the public at large via notice in a newspaper of wide distribution, and all other persons and organizations who have shown an interest in similar permits in the past. EPA has disseminated information on the general permit to a wide audience including all of the above groups. Notices of Agency actions have been published in the Santa Barbara News Press, Los Angeles Times, and San Diego Union. As such, we believe that there has been sufficient

notification and that the requirements of 40 CFR 124.10 have been satisfied.

Comment: A commenter suggested that Part II.B.5 (Permit Actions) be modified to specify that the procedures of 40 CFR 122 and 124 regarding permit modification and revocation would be followed.

Response: The Consolidated Permit Regulations (Ref. 40 CFR 122.15, 122.16, and 124.5) prescribe procedures to be followed for permit modification, revocation, and reissuance. These procedures will be followed if any permit action described in Part II.B.5 is initiated by the agency. EPA has cited the applicable sections of the regulations in the permit but does not believe that it is necessary to describe the procedures outlined in the above regulations in the permit itself.

Comment: Parcel P-0300 was omitted in the draft general permit.

Response: This was a typographical error. Parcel P-0300 is included in the final general permit.

Comment: Trivalent chromium in the drilling mud will ultimately be converted to the more toxic hexavalent form in the marine environment. As such, drilling mud discharges should be prohibited or restricted in the amount of chromium used.

Response: The speciation of chromium in the marine environment is not fully understood. Nevertheless, studies have been completed which indicate that trivalent chromium tends to be absorbed on particles and is not readily available for further oxidation and that oxidation to the hexavalent form proceeds very slowly. The hexavalent form of chromium is more mobile and may be expected to diffuse. EPA has therefore concluded that chromium discharged in accordance with the general permit will not cause significant acute or chronic toxicity.

Comment: The existence of mercury in the drilling mud and cuttings needs to be more fully reviewed.

Response: Mercury has been detected as a contaminant of barite which is one of the principle components of drilling mud. The exact level of mercury contamination varies with the source of the barite. Analysis for trace metals was performed for the types of drilling mud and the mercury concentration, in each mud, was found to be 1 ppm or less on a whole-mud basis, a level which will not cause unreasonable degradation of the marine environment.

The general permit allows use of drilling muds where the mercury concentration does not exceed one part per million, as defined in Part III.C.18, or other drilling muds which have been determined to be satisfactory by

appropriate bioassay and demonstration of compliance with a limiting permissible concentration. EPA believes that these requirements provide adequate regulation of the discharge of mercury.

Comment: Two offshore drilling contractors suggested that the permittee referred to in the permit should be identified as the lease holder for a given parcel. Region 9 has in the past assigned responsibility for permit compliance to the owner of an exploratory drillship or offshore platform. The commenter enumerated some advantages of the change including consistency with other EPA regions.

Response: The effect of the commenter's suggestion would be to shift responsibility for permit compliance from the drilling contractor to the lease holder. In many cases the lease holder may be directly involved in the operation of an exploratory drilling vessel and in decisions which could affect compliance with the permit. However, this is not always the case. If the lease holder agrees to assume full responsibility for permit compliance and provides certification to this effect to the Regional Administrator along with the written notification of commencement of operations required by Part I.A.6 of the permit, then the permittee shall become the lease holder. Otherwise compliance with permit requirements for exploratory drilling operations shall remain the responsibility of the owner of the exploratory drillship. The permit has been modified accordingly.

Comment: A commenter suggested that Part II.B.8 (Coastal Zone Management Plan Consistency) could be interpreted to require resubmission of plans for exploration and development for facilities constructed prior to approval of the Coastal Zone Management Plan. In order to eliminate this possibility, the commenter suggested that some language be added to Part II.B.8 in the permit to clarify this requirement.

Response: EPA believes that the Coastal Zone Management Act makes it clear that facilities constructed prior to approval of the Coastal Zone Management Plan need not resubmit plans for consistency review. EPA does not believe it necessary to repeat the intent of the above section of the Coastal Zone Management Act in the general permit.

Comment: Many offshore facilities have a combined outfall for sanitary and domestic wastes and it is not possible to monitor each stream prior to commingling with any other waste

stream as required by Part I.A.3.b of the proposed permit.

Response: We have modified the permit, for this circumstance, to require that the wastewater effluent limitation apply to the effluent consisting of the combination of the sanitary and domestic wastewaters.

Comment: Many commenters expressed concern over a wide range of potential adverse effects associated with discharge of drilling mud into the marine environment. Concerns were expressed about possible acute and chronic toxicity, bioaccumulation, biomagnification, smothering of benthic organism and other effects. Commenters felt that more information is needed before this discharge is permitted and called for a thorough study of the issue. Other commenters stated that sufficient information is already available to conclude that drilling muds are safe for ocean disposal.

Response: Drilling muds which may be discharged in accordance with the general permit are subject to bioassay criteria which are intended to limit the discharge of toxic substances. The dispersion which can be expected for discharges to water of the Outer Continental Shelf will reduce the quantities in the water columns to concentrations which should cause neither acute nor chronic toxicity. There will probably be limited amounts of accumulated drilling muds near platforms where, as the result of well development, substantial quantities of drilling muds will be discharged. The area affected, however, will be relatively small.

Chromium which may be discharged with drilling muds in limited quantities will be predominantly in the trivalent form. Oxidation to the hexavalent form proceeds at a very slow rate and EPA expects no significant increases or build-up of hexavalent chromium.

The general permit will be effective for a period of approximately two years. During this time, industry estimates that there will be 69 wells drilled for exploration and that there will be two new platforms. This represents a very modest number of new wells for the area to which the permit applies.

EPA has, after considering the information which has been made available, concluded that discharges authorized in accordance with the general NPDES permit will not cause an unreasonable degradation of the marine environment. Should information subsequently become available which would give cause for changing this conclusion, EPA may modify or revoke the permit.

Comment: The meaning of the phrase "no discharge of free oil" is not clear and the requirement should be in terms of the "discharge of free oil."

Response: This requirement is applicable to several wastewater streams including deck drainage, drill cutting and drilling mud and is specified in the permit in accordance with promulgated effluent guidelines (40 CFR Part 435). The term "no discharge of free oil" is defined in Part III.C.6 of the permit.

Comment: Part I.D.1. of the permit (anticipated noncompliance) was described as unclear by a commenter since no specific guidance is offered with respect to which changes must be reported.

Response: This condition applies to all permit requirements. Any change which could result in noncompliance with any permit condition must be reported.

Comment: A commenter pointed out that the barging of mud and cuttings has been accomplished in the past. The commenter asked about the costs involved and why barging should not be required now.

Response: A discussion of this subject is provided in a recent draft environmental impact report (DEIR) prepared by the California State Lands Commission (Resumption of Exploratory Drilling Operations by the Shell Oil Company, Lease PRC 3314.1, Pierpont Prospect). The review concluded that the costs of barging, trucking, and disposing of the mud would not be insignificant although they would be expected to represent a small fraction of the total project cost. The costs of land disposal of wastes generated by operations in the general permit area would be somewhat larger than for Lease PRC 3314.1 due to greater distance from land. The DEIR also stressed that suitable disposal sites are in short supply in the area.

Other commenters have pointed out that barging of the wastes, particularly from an exploratory drillship, is a hazardous operation. In view of the demonstrated low toxicity of approved drilling muds the Regional Administrator has concluded that barging of the wastes for land disposal is not justified.

Comment: A commenter argued in favor of additional dispersion studies if they might demonstrate that the .01 application factor was too stringent.

Response: The application factor is used for estimating acceptable pollutant concentrations outside a mixing zone and is based on acute toxicity data. Dispersion of the effluent is a determination which is independent of the application factor.

Comment: A commenter was unclear whether Part II.A.1 of the permit applies only to the facilities operated by the permittee or also commercial laboratories the services of which were used by the permittee.

Response: Part II.A.1 applies to the operation and maintenance of facilities operated by the permittee and defined in 40 CFR Part 435 Subpart A. The permittee is also responsible for ensuring that sampling and analyses performed by a commercial laboratory under contract are conducted in accordance with provisions of the general permit and 40 CFR Part 136.

Comment: A commenter felt that the application factor of .01 used to determine acceptable water concentration based on bioassay results is overly conservative.

Response: The application factor of .01 was obtained from 40 CFR Part 227.27(a)(2). Part III.C.17 provides for the use of other factors when justified by reasonable scientific evidence. EPA does not believe this requirement to be overly conservative.

Comment: A commenter suggested a change in the definition of "composite sample" (Part III.C.15 of the permit). The commenter felt that "equal time intervals" should be replaced by "over a period of." The commenter felt that Part I.C.1 would ensure representative sampling.

Response: We have left the definition of composite sample unchanged to ensure no uncertainty over the meaning of representative sampling.

Comment: Several commenters questioned the EPA's decision to issue a 2-year permit rather than a regular 5-year permit.

Response: EPA believes that, prior to extending or reissuing the permit, operating experience with the general permit and additional information which may subsequently become available should be reviewed. The term of the permit has, therefore, not been changed.

Comment: Drilling mud will accumulate on the pycnocline where an increased impact could be expected.

Response: While the record does contain a study where the dispersion of wastes was restricted temporarily above a pycnocline, there have been other studies which indicate that well developed gradients are infrequent and temporary on the California Outer Continental Shelf. The dispersion assumptions, upon which the general permit is based, have been confirmed in the field. As such, we believe that the dispersion of these discharges will be adequate to protect marine organisms.

Comment: A commenter questioned why an individual permit must be requested "not later than 90 days after the publication" (Part III.B of the draft permit).

Response: This was a error in the draft permit and has been deleted from the final permit. An individual permit may be requested at any time in accordance with the procedures outlined in Part III.B of the permit.

Comment: A commenter suggested that to clarify the permit on page 7 "the following outfalls" at the top of the page should be changed to Outfall number 003-007."

Response: We agree that this change would clarify the permit and have modified the permit in accordance with the suggestion.

Comment: A commenter suggested that the term "discrete sample" which is defined in Part III.C.14 of the permit be deleted because that term does not appear in any other part of the permit.

Response: A discrete sample is specified in Part I.A.3.a of the permit. The definition has, therefore, been retained.

Comment: One commenter states that he had appealed an NPDES permit previously issued to Diamond M. General which is comparable in its content, to the general permit and asked whether issuance of the general permit nullifies the appeal proceedings which are currently underway.

Response: Whether or not issuance of this final general permit will nullify the evidentiary hearing proceedings for permits issued to Diamond M. General and to other permittees involved in the same proceedings will be the decision of the Administrative Law Judge.

Comment: Bioassays should be performed on marine organisms which are indigenous to the area of discharge.

Response: Data upon which bioassay requirements of the general permit have been based were obtained from bioassays with marine organisms which are sufficiently sensitive to be indicative of the relative toxicity of these drilling muds. The low toxicities which have been observed for these drilling muds support the conclusion that discharge will not cause unreasonable degradation of the marine environment.

[Permit No. CA0110516]

General Permit—Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.; the "Act"), the following discharges are authorized:

Drill Cuttings and Drilling Muds—
(discharge 001)

Produced Water—(discharge 002)

Produced Sand—(discharge 003)

Well Completion and Treatment Fluids—(discharge 004)

Deck Drainage—(discharge 005)

Sanitary Wastes—(discharge 006)

Domestic Wastes—(discharge 007)

Desalinization Unit Discharge—
(discharge 008)

Cooling Water—(discharge 009)

Bilge Water—(discharge 010)

Ballast Water—(discharge 011)

Excess Cement Slurry—(discharge 012)

BOP Control Fluid—(discharge 013)

Fire Control System Test Water—
(discharge 014)

from offshore oil and gas facilities (defined in 40 CFR Part 435, Subpart A) to receiving waters named the Pacific Ocean, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II and III thereof.

Offshore permittees who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized to discharge to the specified receiving waters unless an individual permit has been issued to the facility by EPA, Region 9.

The authorized discharge sites are (by OCS lease parcel number):

In waters west and northwest of Point Arguello, P-0393, P-0394, P-0395, P-0396, P-0397, P-0400, P-0401, P-0402, P-0403, P-0404, P-0405, P-0406, P-0407, P-0408, P-0409, P-0410, P-0411, P-0412, P-0413, P-0414, P-0415, P-0416, P-0418, P-0419, P-0420, P-0421, P-0422, P-0424, P-0425, P-0426, P-0427, P-0429, P-0430, P-0431, P-0432, P-0433, P-0434, P-0435, P-0436, P-0437, P-0438, P-0439, P-0440, P-0441, P-0443, P-0444, P-0445, P-0446, P-0447, P-0448, P-0449, P-0450, P-0451, P-0452, P-0453;

In waters south and west of Pt. Conception, P-0315, P-0316, P-0317, P-0318, P-0319, P-0320, P-0321, P-0322, P-0323, P-0324, P-0325, P-0327, P-0328, P-0330, P-0331, P-0332, P-0333, P-0338;

In the Santa Barbara Channel from Pt. Conception to Goleta Point, P-0180, P-0181, P-0182, P-0183, P-0184, P-0185, P-0186, P-0187, P-0188, P-0189, P-0190, P-0191, P-0192, P-0193, P-0194, P-0195, P-0196, P-0197, P-0326, P-0329, P-0334, P-0335, P-0336, P-0339, P-0340, P-0341, P-0342, P-0343, P-0344, P-0345, P-0348, P-0349, P-0350, P-0351, P-0352, P-0353, P-0354, P-0355, P-0356, P-0357, P-0358, P-0359, P-0360;

In the Santa Barbara Channel from Santa Barbara to Ventura, P-0166, P-0202, P-0203, P-0204, P-0205, P-0208, P-0209, P-0210, P-0215, P-0216, P-0217, P-0231, P-0232, P-0233, P-0234, P-0238, P-0240, P-0241, P-0337, P-0346, P-0347, P-0361;

In waters south of Santa Rosa and Santa Cruz Islands, P-0248, P-0251, P-0362, P-0363, P-0364;

In the San Pedro Channel between San Pedro and Laguna, P-0295, P-0296, P-0300, P-0301, P-0306, P-0366;

In waters west of San Clemente Island in the Tanner Bank Area, P-0367, P-0369.

This permit does not authorize discharges from "new sources" as defined in 40 CFR 122.3.

The permit shall become effective on this permit and the authorization to discharge shall expire at midnight, December 31, 1983.

Signed this 22nd day of January, 1982.

Sonia F. Crow,

Regional Administrator, Region 9.

Part I—Permit No. CA0110516

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through December 31, 1983, the permittee is authorized to discharge from outfall(s) serial number 001 (drill cuttings and drilling muds).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations				Monitoring requirements	
	Kilograms per day (pounds per day)		Other units (specify)		Measurement frequency	Sample type
	Daily average	Daily maximum	Daily average	Daily maximum		
Total volume (cubic meters) ¹					Once/month	Estimate

¹ The total volume of drill cuttings and drilling muds discharged for the prior month at each site shall each be monitored by an estimate sample type.

b. There shall be no discharge of free oil as a result of the discharge of drill cuttings and/or drilling muds. The permittee shall make visual observations for the presence of free oil on the surface of the receiving water in the vicinity of the discharge on each day of the discharge.

c. There shall be no visible floating solids in the receiving waters as a result of these discharges.

d. The discharge of oil-base drilling muds is prohibited.

e. There shall be no discharge of toxic materials in a concentration and/or volume which after allowance for initial mixing, exceeds the limiting permissible concentration defined in Condition III.C.17. The discharge of generic drilling muds, as defined in Part III.C.18 of this permit, shall constitute compliance with this provision.

f. Drilling Muds Inventory. The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling mud

additives used to meet specific drilling requirements.

g. Additional Monitoring Requirements: Bioassay of Spent Drilling Muds.

Within six (6) months of the initiation of drilling mud discharges, the permittee shall demonstrate compliance with condition I.A.1.e. by conducting and reporting the results of a drilling mud bioassay performed for each type of drilling mud discharged. A sample of spent drilling mud, immediately prior to its intended discharge, shall be collected for analysis. The bioassay shall be conducted in accordance with the procedures developed by the Mid-Atlantic Joint Industry Bioassay Program, or other methods approved by the Regional Administrator, Region 9. The following shall be submitted to the Regional Administrator:

(a) The date the sample was collected;

(b) The average rate of discharge and total volume of spent drilling mud discharged on the date of the sample;

(c) The water depth into which the drilling muds were discharged;

(d) The results of bioassays, including the survival percentages of all dilutions tested;

(e) A list of all components, including the weights, in pounds per barrel, used to compose the drilling muds which are discharged. If commercial names are listed, their chemical constituents shall also be provided.

The bioassay requirements shall be deemed satisfied where the permittee discharges a drilling mud for which bioassay test data, obtained through procedures defined above, has previously been submitted to the Regional Administrator without regard to whether the permittee was originally responsible for obtaining the test data.

2. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through December 31, 1983, the permittee is authorized to discharge from outfall(s) serial number(s) 002 (produced water).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations				Monitoring requirements	
	Kilograms per day (pounds per day)		Other units (specify)		Measurement frequency	Sample type
	Daily average	Daily maximum	Daily average	Daily maximum		
Flow-m ³ /day (MGD)				72.0	Once/month	Composite.
Oil and grease				0.032	do	Do.
Arsenic (milligrams per liter)				0.012	Once/year	Do.
Cadmium				0.008	do	Do.
Total chromium				0.020	do	Do.
Copper				0.020	do	Do.
Cyanides				0.032	do	Do.
Lead				0.00056	do	Do.
Mercury				0.080	do	Do.
Nickel				0.0018	do	Do.
Silver				0.080	do	Do.
Zinc				1.120	do	Do.
Phenols					do	Do.

¹ This limit is applicable after initial dilution within a mixing zone defined in Condition III.C.16. Compliance with these limits, shall be determined through the use of the following equation:

$C_e = C_o + D_m (C_o - C_s)$

where:

C_e = the maximum allowable concentration,

C_o = the concentration in Part I.A.2.a. which is to be met at the completion of initial dilution,

C_s = background seawater concentration (See Part III.C.19),

D_m = minimum probable initial dilution expressed as parts seawater per part wastewater.

b. Samples taken in compliance with the monitoring requirements specified in Condition A.2.a., above, shall be taken at the following location: at a point in discharge 002 prior to entry into the waters of the Pacific Ocean.

3. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through December 31, 1983, the permittee is

authorized to discharge from outfall serial numbers 003-007.

a. Such discharges shall be limited and monitored by the permittee as specified below:

Serial Nos./outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
003—Produced Sand ¹	Quantity (m ³)		Once/month	Estimate.
004—Well Completion and Treatment Fluids ¹	Volume (bbl/mo)		do	Do.
005—Deck Drainage ¹	Volume (bbl/mo)		do	Do.
006—Sanitary Waste	Flow Rate (MGD)		do	Do.
007—Domestic Waste	Residual Chlorine (milligrams per liter)	≥ 1.0	do	Discrete.

¹ There shall be no discharge of free oil as a result of this discharge. The permittee shall make visual observations for the presence of free oil on the surface of the receiving water in the vicinity of the discharge on each day of discharge.

² Minimum of 1 mg/l and maintained as close to this concentration as possible. This requirement is not applicable to facilities intermittently manned or to facilities permanently manned by nine (9) or fewer persons.

b. Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Pacific waters. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitation shown above for sanitary waste shall apply to the mixed waste stream.

4. a. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through the permittee is authorized to discharge from outfall(s) serial number(s) 008-014 (miscellaneous discharges).

Discharge:

008—Desalinization Unit Discharge
009—Cooling water
010—Bilge Water
011—Ballast Water
012—Excess Cement Slurry
013—Control Fluid From Blow-Out Preventer
014—Fire Control System Test Water

b. There shall be no free oil in the receiving waters as a result of these discharges.

5. *Reopener Clause.* In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

6. *Commencement and Termination of Operations—Notification Requirements.* Written notification of commencement of operations including name and address of permittee, description and location of operation and of accompanying discharges shall be provided to the Regional Administrator at least fourteen (14) days prior to initiation of discharges. Permittees shall also notify the Regional Administrator upon permanent termination of discharge from these facilities. The permittee shall be the owner of the exploratory drillship or offshore platform or the leaseholder upon certification, in writing, to the Regional Administrator, prior to commencement of operation, that he shall assume full responsibility for compliance with this general permit.

7. *Effective Date for Monitoring Requirement.* The monitoring requirements shall take effect upon commencement of discharge.

8. *Notification of Relocation by Exploratory Drilling Vessel.* No less than fourteen (14) days prior to any

relocation and initiation of discharge activities at an authorized discharge site the permittee shall provide to the Regional Administrator written notification of such actions. The notification shall include the parcel number and exact coordinates of the new site and the initial date and expected duration of drilling activities at the site.

B. Other Discharge Limitation

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

4. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Reporting Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form, EPA No. 3320-1 (DMR). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the year. The highest daily maximum sample taken during the reporting period

shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g., drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMR's.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be submitted to the Regional Administrator at the following address: Director, Enforcement Division, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least three (3) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

- The date, place, and time of sampling or measurements;
- The individual(s) who performed the sampling or measurements;
- The date(s) analyses were performed;
- The individual(s) who performed the analyses;
- The analytical techniques or methods used; and
- The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. Anticipated Noncompliance. The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Monitoring Reports. Monitoring results shall be reported at the intervals specified in Part I.C. of this permit.

3. Twenty-Four Hour Reporting of Noncompliance. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit;

b. Any upset which exceeds any effluent limitations in the permit; and

c. Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone #415-974-8050. The Regional

Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Part I.D.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part I.D.3.

5. Signatory Requirements. All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR § 122.6.

6. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

Part II—Permit No. CA0110516

A. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate permittee staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative

method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost.

3. Bypass of Treatment Facilities.

a. Definitions.

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which are reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section.

c. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I.D.3. (24-hour notice).

d. Prohibition of bypass.

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There was no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c. of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed above in paragraph d.(1) of this section.

(4). Upset Conditions. a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before and action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I.D.3. (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part II.B.4 (duty to mitigate).

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. Duty to Comply with Toxic Effluent Standards. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the

Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Penalties for Violation of Permit Conditions. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 303, 306, 307, or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. Duty to Mitigate. The Permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

5. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause, as provided in 40 CFR 122.7(f) and in 122.15, 122.16, and 122.17 (1980). The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Civil and Criminal Liability. Except as provided in permit conditions on "Bypasses" (Part II.A.3.) and "Upsets" (part II.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

8. State Coastal Zone Management Plan Consistency. Discharge from drilling vessels, production platforms or other facilities engaged in exploratory drilling or production of oil and gas within 1000 meters seaward of the territorial seas of California is prohibited until the plan of exploration or development, for each affected parcel, is determined to be consistent with the Coastal Zone Management Plan by the Coastal Commission of the State of California.

9. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or

regulation under authority preserved by Section 510 of the Act.

10. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

11. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Part III—Permit No. CA0110516

Part III Other Requirements

A. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this permit;

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

d. Effluent limitation guidelines are promulgated for point sources covered by this permit;

e. A Water Quality Management Plan containing requirements applicable to such point source is approved; or

f. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that a permit application is required.

B. When an Individual NPDES Permit May Be Requested

a. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The permittee shall submit an application together with the reasons supporting the request to the Regional Administrator.

b. When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of this permit to that owner or permittee is automatically terminated on the effective date of the individual permit.

c. A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

C. Definitions

1. "Cooling water" means once through non-contact cooling water.

2. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

3. "Deck Drainage" means all waste resulting from platform washing, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

4. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

5. "Domestic waste" includes discharges from galleys, sinks, showers, and laundries.

6. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

8. "Drilling muds" means any fluid sent down the well hole, including any specialty products, from the time a well is begun until final cessation of drilling in that hole.

9. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

10. "Produced sands" means sands and other solids removed from the produced waters.

11. "Sanitary waste" means human body waste discharged from toilets and urinals.

12. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

13. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

14. A "discrete sample" means any individual sample collected in less than fifteen minutes.

15. For flow rate measurements, a "composite sample" means the arithmetic mean of no fewer than eight individual measurements taken at equal intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

For oil and grease measurements, a "composite sample" means four samples taken over a twenty-four hour period analyzed separately and the four samples averaged. The daily maximum limitation for oil and grease is based on this definition of a composite sample.

For measurements other than flow rate or oil and grease, a composite sample means a combination of no fewer than eight individual samples obtained at equal time intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

16. Mixing Zone—the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge point or to the boundary of the zone of initial dilution as calculated by a plume model or other method approved by the Regional Administrator.

17. Limiting Permissible Concentration—that concentration which, outside the boundaries of a mixing zone as defined in Part III.C.16 above, will not exceed 0.01 of a concentration shown to be acutely toxic (96 hr. LC 50) to appropriate sensitive marine organisms in a bioassay carried out in accordance with Condition I.A.1.h. When there is reasonable scientific evidence on a specific waste material to justify the use of an application factor other than 0.01, the Regional Administrator may approve the use of such alternative factor in calculating the LPC.

18. Generic Drilling Mud. a. A drilling mud where the components and the

heavy metal concentrations in the whole mud do not exceed the below maximum values:

Drilling mud components	Num-ber per barrel	Maximum heavy metal concentration	
		Species	Concen-tration, parts per million
Barite	176.0	Arsenic	3.0
Bentonite	32.1	Barium	141,000
Chrome	4.0	Cadmium	1.0
lignosulfonate			
Lignite	5.0	Chromium (total)	265.0
Polyanionic cellulose	1.0	Copper	25.0
Salt	10.0	Lead	24.0
Caustic	1.5	Mercury	1.0
Cellex	0.1	Nickel	8.0
Extractable organics	(*)	Vanadium	35.0
Drill solids	52.0	Zinc	181.0
Lime	1.5		

*0.8 mg/g.

b. Alternatively, a drilling mud for which the 96 hour LC 50 concentrations, obtained via bioassay procedures defined in Part I.A.1.h of this permit, are equal to or greater than 53,000 ppm for the suspended particulate phase and 283,000 ppm for the liquid phase, or;

c. A drilling mud which, on the basis of information provided by the permittee, including the concentrations of components of the drilling muds, any bioassay data for similar drilling muds, and the rate and quantities of drilling muds discharged, as determined by the Regional Administrator, would not constitute, when discharged, a significant threat to the marine environment.

19. Background Seawater Concentration.

Waste constituent	Cs (milli-grams per liter)
Arsenic	0.003
Cadmium	0.000
Total Chromium	0.000
Copper	0.002
Lead	0.000
Mercury	0.00006
Nickel	0.00
Silver	0.00016
Zinc	0.008
Cyanide	0.000
Phenolic Compounds	0.0

[FR. Doc. 82-4309 Filed 2-17-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2175]

Cougar International Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean

freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Cougar International Corporation, P.O. Box 523356, Miami, FL 33152 was cancelled effective February 6, 1982.

By letter dated January 12, 1982, Cougar International Corporation was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2175 would be automatically revoked unless a valid surety bond was filed with the Commission.

Cougar International Corporation has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2175 be and is hereby revoked effective February 6, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2175 issued to Cougar International Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Cougar International Corporation.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-4291 Filed 2-17-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Ramon E. Delgado, d.b.a. Delgado, P.O. Box 3239, Carolina, PR 00628

Tedomiro J. Perez, d.b.a. Perez International, 608 Fannin, Suite 1703, Houston, TX 77002

Endo Freight Forwarders, Inc., 428 West Redondo Beach Blvd., Gardena, CA 90258, Officers: Yoshihisa Takeda, Vice President/Treasurer/Manager, Tsuguo Endo, President/Director, Satoru Iguchi, Secretary/Director
Terramar New Orleans Forwarders, Inc., 610 Poydras Street, Room 300, New Orleans, LA 70130, Officers: Rolf Wartenberg, President, Bruce Block, Vice President/Director, Lawrence Sturm, Secretary/Treasurer/Director, Roberto Mejia, 2nd Vice President/Director.

By the Federal Maritime Commission.

Dated: February 12, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-4290 Filed 2-17-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed 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 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *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 each application, 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 on an application 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.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings 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 March 12, 1982.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

First National Boston Corporation, Boston, Massachusetts (data processing activities; Florida): To engage, through its subsidiary, FBC, Inc., in providing bookkeeping and data processing services for the internal operation of a single named bank; and storing and processing banking, financial or related data (including demand deposit, savings, direct and indirect installment loans, commercial loans, mortgages, general ledger and central information account) for such bank and indirectly for institutions who may enter into a data processing agreement with such bank. These activities would be conducted from an office in Miami, Florida serving the State of Florida.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York 10045:

Citicorp, New York, New York (consumer finance and insurance activities; Colorado): To expand the activities and service area of an office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., engaged in the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the purchasing and servicing for its own account of sale finance contracts; 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 credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., to the extent permissible under applicable state insurance laws and regulations; and the servicing, for any person, of loans and other extensions of credit. The new activity in which the office proposes to engage *de novo* is: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. The proposed expanded service area for all aforementioned previously approved and proposed activities shall be the entire State of Colorado, except that the sale of credit related property and casualty insurance is not included in

this notification. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. Such activities would be conducted from an office in Denver, Colorado serving the entire State of Colorado.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bank America Corporation, San Francisco, California (investment advising and real estate appraisal activities; *de novo* offices; all fifty (50) states and the District of Columbia): To engage, through its proposed direct subsidiary, BA Appraisals, Inc., a proposed Delaware corporation, in the activities of providing portfolio investment advice (real estate) to any person; furnishing general economic information and advice; providing financial advice to state and local governments on methods of financing real estate development projects and performing real estate appraisals. These activities will be conducted from *de novo* offices located in Walnut Creek, California; El Monte, California; Miami, Florida; Chicago, Illinois; New York, New York; Houston, Texas and Washington, D.C., serving all fifty (50) States and the District of Columbia.

D. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4279 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

BNW Bancorp; Formation of Bank Holding Company

BNW Bancorp, Eugene, Oregon, 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 100 per cent of the voting shares of Bank of the Northwest, Eugene, Oregon. 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)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must

include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4272 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Fairfield Bancshares, Inc.; Formation of Bank Holding Company

Fairfield Bancshares, Inc., Fairfield, Texas, 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 100 per cent of the voting shares of Fairfield State Bank, Fairfield, Texas. 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)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4273 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

First San Benito Bancshares, Inc.; Formation of Bank Holding Company

First San Benito Bancshares, Inc., San Benito, Texas, 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 80 percent or more of the voting shares of First National Bank of San Benito, San Benito, Texas. 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)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4274 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Heart of Texas Bancshares, Inc.; Formation of Bank Holding Company

Heart of Texas Bancshares, Inc., Lampasas, Texas, 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 80 percent or more of the voting shares of The Peoples National Bank of Lampasas, Lampasas, Texas. 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)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4275 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Security Bancorporation, Inc.; Formation of Bank Holding Company

Security Bancorporation, Inc., Boulder, Colorado, 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 86.2 per cent or more of the voting shares of Security

Bank of Boulder, Boulder Colorado. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4276 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Texas Independent Bancshares, Inc.; Acquisition of Bank

Texas Independent Bancshares, Inc., Hitchcock, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Gulf National Bank, Texas City, Texas, a proposed new bank. 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)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4277 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

West Carroll Bancshares, Inc.; Formation of Bank Holding Company

West Carroll Bancshares, Inc., Oak Grove, Louisiana, 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 at least 80 percent of the voting shares of West Carroll National Bank of Oak Grove, Oak Grove, Louisiana. 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)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-4278 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Safety and Occupational Health Study Section; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Safety and Occupational Health Study Section

Date: March 9, 10, 11, 1982

Place: Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Time and type of meeting: Open—8:45 a.m. to 9:15 a.m.—March 9

Closed—9:15 a.m. to 5 p.m.—March 9

Closed—8:30 a.m. to 5 p.m.—March 10-11

Contact Person: Mark R. Green, Ph.D., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 8-63, Rockville, Maryland 20857

Telephone: 301/443-4493

Purpose: The committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting and administrative reports. Beginning at 9:15 a.m., March 9, through March 11, 1982, the Study Section will be performing the initial review of research, demonstration and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Public Law 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: February 11, 1982.

William H. Foege,
Director, Centers for Disease Control.

[FR Doc. 82-4392 Filed 2-17-82; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: New York Zoological Society, Bronx, NY—PRT 2-8817.

The applicant requests a permit to import two (2) female St. Vincent's parrots (*Amazona guildingii*) from the Jersey Wildlife Preservation Trust, United Kingdom for enhancement of propagation.

Applicant: Los Angeles Zoo, Los Angeles, CA—PRT 2-8810.

The applicant requests a permit to import one (1) male marbled cat (*Felis marmorata*) from the Rotterdam Zoo, The Netherlands, for enhancement of propagation.

Applicant: Rene Bollengier, U.S. Fish and Wildlife Service, Concord, NH—PRT 2-8797.

The applicant requests a permit to take Peregrine falcons (*Falco peregrinus anatum* and *F. p. tundrius*) in the New England region for banding, radio-telemetry, color-marking, holding eggs for artificial incubation, collect egg shells and shell fragments, and holding of eggs and/or birds indefinitely from eyries which are jeopardized. All activities are for enhancement of propagation and survival and scientific research.

Applicant: Refuge Manager, Kern National Wildlife Refuge Complex, U.S.

Fish and Wildlife Service, Delano, CA—PRT 2-8792.

The applicant requests a permit to take (capture) San Joaquin kit fox (*Vulpes macrotis mutica*) during a population density study using radio telemetry equipment or reflective neck collars. The study is for scientific research and enhancement of survival.

Applicant: Mr. Peter Conroy, Raptor Institute, Greenville, SC—PRT 2-8807.

The applicant requests a permit to acquire and possess injured endangered raptors for rehabilitation purposes and for enhancement of survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 10, 1982.

R. K. Robinson,
Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-4407 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Nevada; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby revoked as the Monte Neva Hot Springs known geothermal resources area, effective January 13, 1982:

(28) Nevada

Monte Neva Hot Springs Known Geothermal Resources Area

Mount Diablo Meridian, Nevada

T. 21 N., R. 63 E.,

Secs. 13 through 15, 22 through 27, and 34 through 36.

T. 21 N., R. 64 E.,

Secs. 18, 19, 30, and 31.

The revoked area described aggregates 10,301.56 acres, more or less.

Dated: January 13, 1982.

Richard M. Bloyd,

Conservation Manager, Western Region.

[FR Doc. 82-4410 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-MR-M

Nevada; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby revoked as the Salt Wells Basin known geothermal resources area, effective January 11, 1982:

(28) Nevada

Salt Wells Basin Known Geothermal Resources Area

Mount Diablo Meridian, Nevada

T. 17 N., R. 30 E.,

Secs. 1 through 4.

T. 18 N., R. 30 E.,

Secs. 22, 27, 28, and 32 through 36.

T. 17 N., R. 31 E.,

Secs. 1, 2, 3, 5, 6, 8, 10 through 15, 22 through 26, and 36.

The revoked area described aggregates 19,232.38 acres, more or less.

Dated: January 11, 1982.

Richard M. Bloyd,

Conservation Manager, Western Region.

[FR Doc. 82-4409 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Appointment of Members To National Public Lands Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Appointment of Members to National Public Lands Advisory Council.

SUMMARY: Secretary of the Interior James G. Watt has appointed 21 individuals to serve on the National Public Lands Advisory Council. The Council will offer advice and counsel on policies and procedures governing management of over 328 million acres of public lands administered by the Bureau of Land Management (BLM). The Council will report to the Secretary

through BLM national Director Robert F. Burford.

The new members were selected from 284 names submitted for Council membership. A nationwide call for nominations was published in the Federal Register on October 26, 1981.

Appointed to the Council for three-year terms were: Robert H. Adams, Valley Center, California; Ben Avery, Phoenix, Arizona; John E. Butcher, Logan, Utah; Raymond L. Friedlob, Denver, Colorado; Verna M. Green, Helena, Montana; Bob Jones, Alamogordo, New Mexico; and David Schaenen, Billings, Montana.

Appointed for two-year terms were: Calvin Black, Blanding, Utah; Paula P. Easley, Anchorage, Alaska; Ray B. Hunter, Jackson, California; David Little, Emmett, Idaho; Dr. Guy T. McBride, Jr., Golden, Colorado; Thomas F. Stroock, Casper, Wyoming; and Robert R. Wright, Clover Valley, Nevada.

Appointed for one-year terms were: David S. Herrington, Rancho Santa Fe, California; Lowell N. Jones, Klamath Falls, Oregon; Cecil Miller, Tolleson, Arizona; B. Wells O'Brien, Reno, Nevada; Marlene J. Simons, Beulah, Wyoming; J. William Swan, Rogerson, Idaho; and April Westbrook, Hobbs, New Mexico.

All meetings of the National Public Lands Advisory Council will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Karen Slater, Bureau of Land Management (150), Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343-2054.

February 12, 1982.

James M. Parker,

Acting Director.

[FR Doc. 82-4044 Filed 2-17-82; 6:45 am]

BILLING CODE 4310-84-M

[ES 27254, Survey Group 115]

Filing of Plat of Survey

1. On February 9, 1981, the plats representing the survey of one island in Susan Lake, one island in Sunset Lake and ten islands in Vermilion Lake, T. 63 N., R. 18 W., Fourth Principal Meridian, Minnesota, which were omitted from the original survey, were accepted. They will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m., on (90 days from date of publication).

T. 63 N., R. 18 W.,

Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48.

2. The character of Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 is

similar in all respects to that of the adjacent surveyed lands.

a. Elevations on the island Tract No. 37 range up to approximately 5 feet above the ordinary high water mark of Susan Lake. Timber consists of pine and alder. Borings of the pine trees showed several to be up to 110 years old.

b. Elevations on the island Tract No. 38 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir and birch. Borings of the pine trees showed several to be up to 85 years old.

c. Elevations on the island Tract No. 39 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine and birch. Borings of the pine trees showed several to be up to 80 years old.

d. Elevations on the island Tract No. 40 range up to approximately 15 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, birch, spruce and maple. Borings of the pine trees showed several to be up to 110 years old.

e. Elevations on the island Tract No. 41 range up to approximately 15 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch. Borings of the pine trees showed several to be up to 70 years old.

f. Elevations on the island Tract No. 42 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine. Borings of the pine trees showed several to be up to 100 years old.

g. Elevations on the island Tract No. 43 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, aspen and alder. Borings of the pine trees showed several to be up to 80 years old.

h. Elevations on the island Tract No. 44 range up to approximately 2 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar.

i. Elevations on the island Tract No. 45 range up to approximately 4 feet above the ordinary high water mark of Sunset Lake. Timber consists of pine, birch and spruce. Borings of the pine trees showed several to be up to 130 years old.

j. Elevations on the island Tract No. 46 range up to approximately 10 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar and birch. Borings of the pine trees showed several to be up to 105 years old.

k. Elevations on the island Tract No. 47 range up to approximately 7 feet

above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch.

l. Elevations on the island Tract No. 48 range up to approximately 30 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen, birch, spruce, maple and elm. Borings of the pine trees showed several to be up to 125 years old.

m. The undergrowth of Tracts Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 consists of hazel, willow, brush and native grasses. The soil composition of the above mentioned tracts is of a thin layer of organic matter on a base of glacial till.

3. The tracts mentioned above were found to be over 50 percent upland in character within the purview of the Swamp Land Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the land will not be subject to application, petition, location or selection under any public law until a further order is issued.

All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals Operations, Bureau of Land Management, 350 S. Pickett Street, Alexandria, Virginia 22304 on or before May 18, 1982.

Jeff O. Holdren,
Chief, Division of Lands and Minerals
Operations.

[FR Doc. 82-4254 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-84-M

Realty Action; Non-Competitive Occupancy Lease; Public Land in Benton County, Oregon

February 5, 1982.

The following described land has been examined and found suitable for lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732):

T. 13 S., R. 7 W., Willamette Meridian,
Oregon,
Sec. 19, portion of SE $\frac{1}{4}$ NE $\frac{1}{4}$.
Containing approximately 0.44 acres

The above-described land is presently improved with a portion of a residence and a fence owned by Mrs. Mary France. A proposal was submitted to Mrs. France to authorize her continued use of the land as a homesite until the land could be sold to her. Because of Mrs. France's improvements, the land will not be offered for lease through competitive bidding but will be offered for lease directly to her at the approved fair market rental value.

The lease will have a term of 10 years subject to periodic appraisal to reflect

changes in the fair market value. Mrs. France will have the right to renew the lease if the land is not conveyed to her before the end of the lease term.

Detailed information concerning the lease offer, including planning documents and environmental assessment, is available for review at the Salem District Office, (1717 Fabry Rd. SE.) P. O. Box 3227, Salem, Oregon 97302.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salem District Manager, Bureau of Land Management, P. O. Box 3227, Salem, Oregon 97302. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Joseph M. Dose,
District Manager.

[FR Doc. 82-4361 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-84-M

Colorado; Call for Expression of Leasing Interest in Oil Shale in Piceance Creek Basin, Colorado

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of call for expression of oil shale leasing interest.

SUMMARY: This call for expression of interest in oil shale leasing is to determine industry interest in prototype leasing of one or more of the six tracts the Department of the Interior is considering offering. These tracts are located in Piceance Creek Basin, Colorado, and are described by legal subdivision under Supplementary Information in this notice. The data received from this call will be used to determine which of the six described tracts (as identified in the White River Management Framework Plan) will be considered for possible competitive leasing.

DATE: Responses to this notice should be submitted by March 22, 1982.

ADDRESSES: Responses to this call should be sent to the following address: State Director (910), Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Robert E. Leopold, Bureau of Land Management (910), 1037 20th Street, Denver, Colorado 80202, 303-837-5435.

SUPPLEMENTARY INFORMATION: The six tracts being considered by the

Department of the Interior for possible prototype oil shale leasing in Piceance Creek Basin, Colorado, are described as follows:

Sixth Principal Meridian, Colorado

Rio Blanco County

Tract I

- T. 1 S., R. 97 W., 6th P.M.,
 Sec. 29: W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 30: Lots 1, 2, 3, and 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
 Sec. 31: Lots 1, 2, 3, and 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;
 Sec. 32: W $\frac{1}{2}$ W $\frac{1}{2}$.
 T. 1 S., R. 98 W., 6th P.M.,
 Sec. 34: NE $\frac{1}{4}$;
 Sec. 35: All;
 Sec. 36: All.
 T. 2 S., R. 97 W., 6th P.M.,
 Sec. 5: Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 6: Lots 1 through 7, inclusive,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 7: Lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 2 S., R. 98 W., 6th P.M.,
 Sec. 1: Lots 5 through 20, inclusive;
 Sec. 2: Lots 5 through 20, inclusive;
 Sec. 3: Lots 5, 6;
 Sec. 12: Lots 1, 2.

Tract II

- T. 1 S., R. 97 W., 6th P.M.,
 Sec. 2: Lots S $\frac{1}{2}$ 3, 4; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 3: All;
 Sec. 4: All;
 Sec. 5: All;
 Sec. 8: All;
 Sec. 9: All;
 Sec. 10: N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11: NW $\frac{1}{4}$.

Tract III

- T. 1 S., R. 99 W., 6th P.M.,
 Sec. 35: SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 36: S $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$.
 T. 2 S., R. 99 W., 6th P.M.,
 Sec. 1: All;
 Sec. 2: All;
 Sec. 11: E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 12: N $\frac{1}{2}$.
 T. 1 S., R. 98 W., 6th P.M.,
 Sec. 31: All;
 Sec. 32: All.
 T. 2 S., R. 98 W., 6th P.M.,
 Sec. 5: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 6: All;
 Sec. 7: All.

Tract IV

- T. 2 S., R. 98 W., 6th P.M.,
 Sec. 33: S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 34: All;
 Sec. 35: All.
 T. 3 S., R. 98 W., 6th P.M.,
 Sec. 2: Lots 1, 2, 3, 4; S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 3: Lots 1, 2, 3, 4; S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 4: Lots 1, 2, 3, 4; S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 5: Lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 8: All;
 Sec. 9: All.

Tract VIII

- T. 1 N., R. 98 W., 6th P.M.,
 Sec. 14: All;
 Sec. 15: All;

- Sec. 16: E $\frac{1}{2}$;
 Sec. 21: E $\frac{1}{2}$;
 Sec. 22: All;
 Sec. 23: All;
 Sec. 26: W $\frac{1}{2}$;
 Sec. 27: All;
 Sec. 28: E $\frac{1}{2}$;
 Sec. 33: NE $\frac{1}{4}$;
 Sec. 34: N $\frac{1}{2}$;
 Sec. 35: NW $\frac{1}{4}$.

Sodium Lease Tract

- T. 1 S., R. 98 W., 6th P.M.,
 Sec. 13: All;
 Sec. 14: All;
 Sec. 15: E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 16: W $\frac{1}{2}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 17: All;
 Sec. 19: SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20: N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 21: E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 22: All;
 Sec. 23: All;
 Sec. 24: All;
 Sec. 25: All;
 Sec. 26: All;
 Sec. 27: All;
 Sec. 28: All;
 Sec. 29: NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30: Lots 1, 2, 4, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33: All;
 Sec. 34: NW $\frac{1}{4}$.

The purpose of this call is to obtain information needed to complete the leasing phase of the prototype oil shale program by offering one or two tracts which would allow demonstration of certain recovery methods, specifically the combined development of oil shale and associated minerals in the saline zone as well as true *in situ* development if appropriate. Based on current data, one or more of the described tracts appears to contain appropriate mineral resources to meet these requirements.

The sodium lease tract is currently under lease for sodium. Before the sodium lease tract can be offered competitively for prototype oil shale leasing, it will be necessary for the present sodium lessee to enter into an agreement with the government to provide for the joint development of the sodium, dawsonite, and oil shale. Furthermore, because an oil shale lease is limited to 5,120 acres, any prototype oil shale lease tract would be limited to that maximum size after considering information received in response to this call.

Expressions of leasing interest should include the following data for each tract of interest:

1. Type of mine: a. Surface or Underground, b. Technique of Mining (i.e., room and pillar, strip mining, *in situ*, etc.).
2. Type of mineral separation.

3. Type of retorting.
 4. Type of waste disposal (spent shale, gangue, etc.).
 5. Proposed use of each of the three minerals (Nahcolite, Dawsonite, and Oil Shale).
 6. Transportation needs (i.e., railroads, pipelines, etc.).
 7. Proposed surface facilities.
 8. Proposed water needs and source.
- An expression of interest is not an application.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual or business entity may participate and submit expressions of leasing interest under this call.

Robert E. Leopold,
Oil Shale Program Manager, Colorado State Office.

[FR Doc. 82-4406 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-DES 82-6]

Closed Basin Division, San Luis Valley Project, Colorado; Availability of Draft Supplement to Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Supplement to the Final Environmental Statement for the Closed Basin Division, San Luis Valley Project, Colorado.

The supplement presents a revised plan to mitigate projects effects on wetlands in the Closed Basin and other project changes which have occurred since filing of the FES in 1979. The amount of wetlands to be affected is significantly less than believed in 1979. Also, the results of pump tests and the vegetation monitoring program are discussed. Updated information on waterfowl production and other bird use is presented. More extensive cultural resource investigations have been done to determine project impacts. Other project feature changes, such as conveyance channel alignment and additional wells, are also described. The nature of and probable impacts of the revised proposed action are presented.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Bureau of Reclamation, Department of the Interior, Room 7622, Washington, DC 20240, Telephone (202) 343-4991
 Library Branch, Division of Management Support, E&R Center, Denver Federal

Center, Denver, CO 80225, Telephone (303) 234-3019

Office of the Regional Director, Bureau of Reclamation, 714 South Tyler Street, Suite 201, Amarillo, TX 79101, Telephone (806) 378-5467

New Mexico Representative, Bureau of Reclamation, 505 Marquette Avenue, NW., Albuquerque, NM 87103, Telephone (505) 766-2272

Project Construction Engineer, Bureau of Reclamation Post Office Box 449, Alamosa, CO 81001

Carnegie Public Library, 120 Jefferson, Monte Vista, CO 81144

Adams State College Library, Alamosa, CO 81101

Library Center Branch, 400 South Worth Center, CO 81125

Public Library, 416 Gasper, San Luis, CO 81152

Ms. Ruth Tabor, Memorial Library, South Fork, CO 81154

Southern Peaks Library, 424 Fourth, Alamosa, CO 81101

Del Norte Public Library, Del Norte, CO 81132
Saguache County Public Library, Saguache, CO 81149

Single copies of the draft statement may be obtained on request to the Office of Environmental Affairs, Regional Director, or New Mexico Representative. Please refer to the statement number above.

Written comments may be submitted to the Regional Director within 60 days of this notice.

Dated: February 11, 1982.

Eugene Hinds,

Assistant Commissioner.

[FR Doc. 82-4308 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-09-M

Office of the Secretary

Privacy Act of 1974; Revision of System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise an existing system of records. The bureau of Reclamation records system being revised is titled "Payroll, Attendance and Leave Records (PAY/PERS)—Interior, Reclamation—24", and was previously published in the *Federal Register* on April 11, 1977 (42 FR 19102). The records system is being revised to add an additional disclosure to non-Federal auditors performing audits for the Bureau of Reclamation. The revised system notice is published in its entirety below.

5 U.S.C. 522a(e)(11) requires that the public be provided a 30 day period in which to comment. Therefore, written comments on this proposed change can be addressed to the Department Privacy

Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the *Federal Register* will be considered. This system shall be effective as proposed without further notice unless comments are received which would result in a contrary determination.

As required by Section 3 of the Privacy Act of 1974 (5 U.S.C. 552a(o)), the Director, Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this action.

Dated: February 10, 1982.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

Contents of System Notice:

INTERIOR/LBR—24

SYSTEM NAME:

Payroll, Attendance, and Leave Record (PAY/PERS)—Interior, Reclamation-24.

SYSTEM LOCATION:

(1) Division of Management Support, Engineering and Research Center, P.O. Box 25007, Denver Federal Center, Denver, Colorado 80225. (2) Input documents supplied by Commissioner's Office, Washington, D.C., all Regional and Field Offices. (See appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Reclamation employees with permanent, temporary, or indefinite appointments are maintained in the active files. Pay and leave information on all Reclamation employees who were paid during the year until the end of the calendar year.

CATEGORIES OF RECORDS IN THE SYSTEM:

An individual record is maintained and updated for each employee biweekly and lists basic historical and current pay, leave, and personnel data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary uses of the records are (a) for leave records and to prepare payrolls. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of payroll checks and payroll deduction and other checks to Federal, State and local government agencies, non-governmental

organizations and individuals; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (3) to the Office of Personnel Management in connection with the Civil Service Retirement system; (4) to other Federal agencies to which employees have transferred; (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license; (7) from the record of an individual in response to an Inquiry from a Congressional office made at the request of that individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (10) to non-Federal auditors under contract with the Departments of Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer media, with input forms and printed outputs in manual form.

RETRIEVABILITY:

Indexed by name and identifying number of the employee.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computer and manual records.

RETENTION AND DISPOSAL:

In accordance with approved Retention and Disposal Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Management Support, Bureau of Reclamation, Engineering and Research Center, Denver Federal Center, P.O. Box 25007, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

An individual may inquire whether or not the system contains a record pertaining to him/her from the System Manager or the head of the office at which he/she is (or was) employed. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as Notification. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employees, timekeepers and supervisors.

[FR Doc. 82-4439 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-09-M

Office of Surface Mining Reclamation and Enforcement**Reorganization of the Office of Surface Mining**

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

ACTION: Notice of address changes for Office of Surface Mining Operations; Correction.

SUMMARY: On January 8, 1982, 47 FR 1038, the Office of Surface Mining (OSM) issued a Federal Register Notice listing addresses and telephone numbers for Western State Offices and the Western Technical Service Center. Due to recent developments, three of the listings have change.

DATES: Effective date: February 18, 1982.

ADDRESSES:**New Mexico State Office**

FTS Telephone: 474-1486.
Commercial Telephone: (505) 766-1486.

Address: Office of Surface Mining, New Mexico State Office, 219 Central N.W., Albuquerque, New Mexico 87102.

Wyoming State Office

FTS Telephone: 328-5776.
Commercial Telephone: (307) 261-5551—Ext. 5776.

Address: Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644.

Denver Technical Service Center

FTS Telephone: 327-5421.
Commercial Telephone: (303) 837-5421.

Address: Office of Surface Mining, Technical Service Center, Brooks Tower, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT
Ray Booker, Program Evaluation Officer,
Office of the Director, (202) 343-4781.

Dated: February 11, 1982.

James R. Harris,
Director, Office of Surface Mining.

[FR Doc. 82-4307 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION**Agricultural Cooperative, Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers**

February 12, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

A. (1) Agate Elevator Agricultural and Livestock Cooperative Association; (2) P.O. Box 4, Agate, CO 80101; (3) Colorado 40984, Highway 40, Agate, CO 80101; (4) Robert L. Benjamin, P.O. Box 4, Agate, CO 80101.

B. (1) Dairy Valley Growers Association, Inc.; (2) Col. Cinco del Chenck, Valle de Mexicali, BC; (3) Col. Cinco del Chenck, Valle de Mexicali, BC; (4) Amado Solorzano L., Apartado Postal #1-124, Mexicali, Baja California, Mexico.

C. (1) Western Dairymen Cooperative, Inc.; (2) 7720 South 700 East, Midvale, UT 84047; (3) 7720 South 700 East,

Midvale, UT 84047; (4) Earl L. Teter, 7720 South 700 East, Midvale, UT 84047.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4323 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]**Motor Carriers; Expedited Procedures for Recovery of Fuel Costs**

February 10, 1982.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.8-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, or the 2.0-percent surcharge for United Parcel Service. However, the bus carrier surcharge is ordered reduced to 6.6-percent.

In our decision of January 27, 1982, we issued a revised compliance schedule for our decision in Ex Parte No. 311 (Sub-No. 4), *Modification of the Motor Carrier Fuel Surcharge Program*, served October 8, 1981.

Beginning February 12, 1982, and for the ensuing 60 days, carriers may fold into their base rates the lesser of the existing surcharge or that portion of the existing surcharge necessary (1) to cover increased fuel costs since January 1979, and/or (2) to cover the new mileage payment to owner-operators. Under the terms of the October, 1981 decision and the formula employed there, that payment will be 14 cents per mile for carrier-related business. The fold-in shall be filed to become effective on not less than 30 days' notice. Any fuel surcharge remaining in effect after April 13, 1982 will be null and void.

The revenue-based surcharge levels established in this decision are ordered frozen at the levels authorized above for the 60-day transition period. During this period and until the fold-in is effected each carrier shall continue to pay its owner-operators the 18-percent surcharge.

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 to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m., February 12, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,
Acting Secretary.

APPENDIX—FUEL SURCHARGE

Base date and price per gallon (including tax)	
Jan. 25, 1979	63.5¢
Date of current price measurement and price per gallon (including tax)	
Feb. 8, 1982	130.3¢

	Transportation performed by—			
	Owner-Operator ¹ (1)	Other ² (2)	Bus carrier (3)	UPS (4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.8	3.1	6.6	³ 2.8
Percent surcharge allowed	18.0	3.1	6.6	⁴ 2.0

¹ Apply to all truckload rated traffic.

² Including less-than-truckload traffic.

³ The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 25, 1979 (3.3 percent).

⁴ The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 82-4316 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an

application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for application will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of

effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 11, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC-F-14782, filed January 15, 1982, amended February 8, 1982. GEORGE L. CULLENS, SR., and GEORGE L. CULLENS, JR. d.b.a. GEORGIA TRAILWAYS (Cullens) (RFD No. 1 Harrison, GA 31035)—PUR (P)—TRAILWAYS TAMiami, INC. (Tamiami) (1500 Jackson Street Dallas, TX 75201). Representative; Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. Cullens, a partnership, d.b.a. Georgia Trailways, seeks to purchase a portion of the interstate and intrastate operating authorities of Tamiami. The operating rights sought to be purchased are contained in Certificate No. MC-74761 (Sub 23) and Deviation No. 14, and Georgia Certificate Nos. 1439, 2011, 2020, 4336, 4745, 1397, and 1249. The interstate operating rights to be purchased authorize the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Savannah and Macon, GA via U.S. Hwys 80 and 280, GA Hwys. 29, 57, and 18 and Interstate Hwy 16. Cullens is a newly formed partnership presently holding no operating authority from the Commission. George L. Cullens, Sr., one of the partnership members, is the president and principal shareholder of the C&N Bus Lines, Inc., a motor common carrier of passengers operating under Certificate No. MC-114957 (Sub-No. 1).

MC-F14792, filed February 1, 1982. CCG CORP. (CCG) (P.O. Box 500, Camden, SC 29020)—Control—J&M TRANSPORTATION CO., INC. (J&M) (P.O. Box 488, Milledgeville, GA 31061). Representative: K. Edward Wolcott and Paul M. Daniell, 1200 Atlantic Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. CCG, a non-carrier holding company, seeks authority to acquire control of J&M through the purchase of stock. Charles C. Gay, the sole stockholder of CCG, seeks authority to acquire control of said rights and property through the transaction. CCG controls Builders Transport Inc., a motor carrier operating under MC-124839 and MC-145219. J&M holds authority under MC-115311 to transport *general commodities* (except classes A and B explosives), between points in the U.S. as well as *numerous specified commodities* between specified points throughout the U.S. Condition: CCG

Corp., a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for these issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, CCG Corp. need only file such special reports as the Commission may from time to time require. CCG Corp. is not made subject to the accounting requirements of 49 U.S.C. 11142.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4321 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following

decision-notice within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79579. By decision of February 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TISCHLER EXPRESS, INC., of Philadelphia, PA, of Certificate No. MC-16634 (except that portion previously transferred to C. Harrell, Inc., in No. MC-FC-79182), and Certificate Nos. MC-16634 (Sub-Nos. 6, 8, 13, 14, 17, and 19), issued to STRANG TRANSPORTATION, INC., of Elmer, NJ, which authorize the transportation, as summarized, of (1) *filtering plant equipment and apparatus*, (2) *sand*, (3) *grain and grain products*, (4) *paper stock and waste paper*, (5) *ground fish meal and ground crab meal*, (6) *animal and poultry feed and ingredients*, (7) *agricultural commodities*, (8) *baker's supplies*, (9) *fertilizer and fertilizer materials*, and (10) *seed*, between specified points in DE, MD, NJ, NY, PA, and DC. Representatives: John E. Fullerton, 407 North Front Street, Harrisburg, PA 17101 and Martin Werner, 888 Seventh Avenue, New York, NY 10106.

Note.—Transferee holds authority as a common carrier under MC-60612.

MC-FC-79585. By decision of February 1, 1982, Review Board No. 3 approved purchase by GEETINGS, INC., (MC 34027 and Subs), Pella, IA, of a portion of the operating rights of BILL LITTLEFIELD TRUCKING, INC., Medford, OR. No application is being filed for temporary lease. The operating rights to be acquired are Certificates MC-144054 (Sub-Nos. 17 and 19), authorizing: (1) *horticultural equipment*, plastic articles, insecticides, plant foods, and fertilizer, between the facilities of Ross Daniel, Inc., in IA, on the one hand, and, on the other, points in the US, and (2) *general commodities (except class A and B explosives)*, between the facilities of Ralston Purina Company and its subsidiaries at points in the US, on the one hand, and, on the other, points in the US. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309.

MC-FC-79589. By decision of February 3, 1982 issued under 49 U.S.C.

10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to R.N.B., INC. of Flora, IL, of Certificate No. MC-116740 and sub-numbers 2, 3, 6, and 9F issued October 15, 1959; April 24, 1967; March 7, 1968, April 1, 1976; and December 11, 1980 to Lee N. Hickox of Flora, IL authorizing transportation of (1) *lumber, wood and wood and timber products* from named points in IL and IN to named points in KY and IN; (2) *fertilizer* from named points in IN to named points in IL; and (3) *Aluminum wire and rods, steel wire, strand, cable and empty reels*, from facilities of Southwire Co. at Hawesville, KY to Flora, IL, restricted to traffic originating at the named origin. Representative: Edward D. McNamara, Jr., 907 So. 4th St., Springfield, IL.

MC-FC-79590. By decision of February 3, 1982 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133.1 Review Board Number 3 approved the transfer to Sara Louise Spinetti of License No. MC-12675 (Sub-2) issued November 15, 1965, to Pauline E. Snodgrass authorizing the holder to engage in operations as a broker at Martins Ferry, OH, for the transportation of *passengers and their baggage*, in charter operations, beginning and ending at points in Belmont, Jefferson, and Monroe Counties, OH, and Brooke, Hancock, and Ohio Counties, WV., and extending to points in the United States, including AK and HI. Applicants are representing themselves: Pauline E. Snodgrass, 811 Elm Street, Martins Ferry, OH 43935; Sara Louise Spinetti, RD #1 Ferryview Road, Martins Ferry, OH 43935.

MC-FC-79601. By decision of February 4, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to F.E. Kerr Company of Certificate No. MC-123984 (Sub-Nos. 1 and 5) issued August 7, 1970 to Copey's Moving & Storage Co., Inc., generally authorizing the transportation of (1) *retail store commodities, general commodities, with certain exceptions*, between certain points in PA, on the one hand, and, on the other, certain points in PA and OH; and (2) *household goods* between certain points in PA, on the one hand, and, on the other, points in OH, WV, MO, NJ, NY and PA. Representative is: Martin Cusick, Esq., Cusick, Madden, Joyce, and McKay, First Federal Building, Sharon, PA 16146.

MC-FC-79610. By decision of February 4, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to Hatcher Trucking, Inc., of

Asley, IL, Permit No. MC-133822 (Sub-No. 2), issued on November 26, 1974, to Clarence C. Hatcher and Richard L. Hatcher, a partnership, d.b.a. C.C. and R.L. Hatcher, of Alsey, IL, authorizing the transportation of *brick, tile, clay products and refractory cements*, over irregular routes, between Alsey, IL, on the one hand, and, on the other, points in IA, IN, KY, MI, MO, NE, and WI, under a continuing contract with Alsey Refractories Company, of Alsey, IL. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transferee is not an ICC carrier.

MC-FC-78741 (supplemental publication) By decision of February 3, 1982, Review Board Number 3 modified the decision of former Review Board Number 5 and approved the transfer of Certificate No. MC-127238 Sub-11 to AIR DELIVERY SERVICE, INCORPORATED (Scranton, PA) from DORTHY R. ZUMMO, d.b.a. AIR DELIVERY SERVICE (Scranton, PA). See the prior publication of October 6, 1980. The certificate authorizes the transportation of general commodities with exceptions between Scranton, PA, and the Scranton-Wilkes Barre Airport, PA, on the one hand, and, on the other, Stewart Field Airport (Orange County), NY, restricted to traffic having a prior or subsequent movement by air. Representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006.

MC-FC-79547. By decision of February 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer of GORDON & FORANCE MOVING & STORAGE CO., of Acton, MA, of Certificate No. MC-63971 issued to James L. Wile, of Ipswich, MA, authorizing household goods, over irregular routes, between Haverhill, MA, and points in MA within 20 miles of Haverhill, MA, on the one hand, and, on the other, points in MA, NH, ME, VT, RI, CT, NY, and NJ. Applicant's representative: Gordon R. Cash, 3 Keefe Road, Acton, MA 01720. TA lease is not sought. Transferee is not a carrier.

MC-FC-79570. By decision of February 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JOYCE TRUCKING COMPANY of Certificate No. MC-119434 and Sub 5 issued to JOYCE TRUCKING CO. thereunder authorizing (1) *concrete slabs and articles and materials to be used in the installation of such slabs*, over irregular routes, from North Judson, IN, to points in IL and MI; (2) *petroleum and petroleum products*, in containers, and empty containers on

return, over irregular routes; and (3) *automobile parts*, over irregular routes, from the facilities of Ford Motor Company at Chicago Heights, IL, to O'Hare International Airport and Midway Airport at Chicago, IL, with specified restrictions. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. TA lease is sought. Transferee is not a carrier.

Note.—A directly related application seeking a conversion of the Certificate of Registration issued to Midland Transport, Inc. (an affiliate of transferee) in MC-97257 (Sub-1) into a Certificate of Public Convenience and Necessity has been filed in MC-97257 (Sub-2), published in this same Federal Register issue.

MC-FC-79578. By decision of February 1, 1982 Review Board 3 approved the transfer to ACE DELIVERY SERVICE, INC., of Wilmington, DE of Permit No. MC-113856 (Sub-2) issued to WILLIAM M. HAZZARD, JR., d.b.a. ACE DELIVERY SERVICE, of Wilmington, DE (Evelyn R. Hazzard, Administratrix), authorizing electrical appliances, sound equipment, household equipment and appliances, and musical instruments, from Wilmington, DE, to those points in Cecil County, MD, Chester and Delaware Counties, PA, and Cumberland, Salem, and Gloucester Counties, NJ, located within 25 miles of Wilmington, under contract(s) with retail stores specializing in household appliances. Applicant's representative: Stephen W. Spence, 200 W. 9th St., 3rd Fl., Wilmington, DE 19801. TA lease is not sought. Transferee is not a carrier.

MC-FC-79582. By decision of February 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to H. J. NOLL of Certificate No. MC-117836 (Sub-13) issued March 25, 1981 to EDWARD J. STINSON d.b.a. STINSON MOTOR LINES authorizing the transportation of bananas from (1) New Orleans, LA to points in TX, (2) Houston, TX to Albuquerque, NM, and (3) Galveston, TX to Albuquerque, NM, Monroe, LA, Little Rock, AR, Clovis, and Roswell, NM and points in TX, OK, and AR (except Little Rock). Applicants' representatives are: Clayte Binion, 623 South Henderson, 2nd Floor, Ft. Worth, TX 76104, Joe G. Ferder, 9601 Katy Freeway, Suite 320, Houston, TX 77024.

MC-FC-79592. By decision of 2/4/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to STEWART TRUCKING COMPANY, INC., of Manchester, NH, of Certificate No. MC-87523 (Sub-No. 119)X issued 10/8/81, which supersedes Certificate No.

87523 and Sub-Nos. 93, 95, 96F, 97F, 99F, 109F, 108F, 112, 113F, 114F, and 116 to STEWART TRUCKING COMPANY, INC., of Manchester, NH, authorizing the movement of named commodities between various points in the United States. Representative: Edward J. Kiley, Attorney, 1730 "M" Street NW., Suite 501, Washington, DC 20036, Phone: (202) 296-2900. TA lease is not sought. Transferee is not a carrier.

MC-FC-79598. By decision of 2/3/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to AMERICAN DELIVERY SYSTEMS, INC. of Kansas City, KS of Certificate No. MC-117327 Sub 9X (which supercedes No. MC-117327 and Sub-No. 8), and Subs 10 and 11 issued June 5, 25, and 29, 1981, respectively to AIR CARGO TERMINALS, INC. of Kansas City, KS authorizing transportation as a motor common carrier over irregular routes transporting (a) *general commodities* (except classes A and B explosives) between (1) Kansas City, KS and Kansas City, MO, and points in KS and MO, and (2) St. Louis, MO and East St. Louis, IL, on one hand, and, on the other hand, Kansas City, KS and Kansas City, MO; (b) *general commodities*, with exceptions, between points in the U.S. for the Federal government; and (c) shipments weighing 100 pounds or less between points in the U.S. Representative: Wilmer B. Hill, 6666 11th Street NW., Suite 805, Washington, DC 20001.

MC-FC-79602. By decision of 2-2-82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, and 1132.3(d) Review Board Number 3 approved the transfer by lease for one year only to Gumm Trucking, Inc. of Certificate No. MC-152736 (Sub No. 1) issued to Lucy Morningstar dba Morningstar Freight Lines authorizing the transportation over irregular routes of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Fayette County, KY, on the one hand, and, on the other, points in the United States. Applicants' representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602, Tel No. 1-502-875-3493.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special

Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved preceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically 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 protests in the form of verified statements as to the finance application or to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or

the application of a non-complying applicant shall stand denied.

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.

Dated: February 11, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 97257 (Sub-2), filed January 6, 1982. Applicant: MIDLAND TRANSPORT, INC. (formerly Chicago Heights Motor Freight, Inc.)—Conversion 56 E. 25th St., Chicago Heights, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. To operate as a *common carrier*, over irregular routes, transporting: *general commodities* (except class A & B explosives, commodities in bulk, and household goods); (1) between points in Lake, Cook, Kane, DuPage, Kendall, Grundy, Ford, Will, Kankakee, Livingston and Iroquois Counties, IL; and (2) between points in the counties specified in (1) on the one hand, and, on the other, points in IL.

Note.—The purpose of this application is to convert the certificate of registration in MC-79257 (Sub-No. 1) into a certificate of public convenience and necessity. This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 10926 in MC-FC-79570 published in this same Federal Register issue.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4324 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification

[Permanent Authority Decision Volume No. OP4-VOL-50]

February 11, 1982.

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the *Federal Register*.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this *Federal Register* notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 147886 (Sub-14) (republication) filed May 18, 1981; published in the

Federal Register issue of June 3, 1981; and republished this issue. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. In a decision by the Commission, Division 2, Acting as an Appellate Division, decided November 24, 1981, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *lumber and wood products*, between points in Alabama, Arkansas, and Mississippi, on the one hand, and, on the other, points in Tennessee; (2) *metal products*, between Jacksonville, FL, and points in Jefferson County, AL; Los Angeles County, CA; Troup and Bulloch Counties, GA; Jackson, Clinton, Eaton, and Ingham Counties, MI; Strafford County, NH; Montgomery County, NC; Mercer County, PA; and Anderson, Ector, Harris, Harrison, and Gray Counties, TX, on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (3) *lighting fixtures*, between points in Blair County, PA, on the one hand, and, on the other, points in the United States, will serve a useful public purpose, responsive to a public demand or need. That the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to modify the grant of authority in part (2) above.

MC 149497 (Sub-17) (republication) filed October 5, 1981; published in the *Federal Register* issue of October 22, 1982; and republished this issue. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), Phone: (715) 359-2907. In a decision by the Commission, Review Board Number 3, decided January 15, 1982, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *machinery*; (2) *snowmobiles*; and (3) *snow removal equipment* (not otherwise included in (1) above), between points in the United States, will serve a useful public purpose, responsive to a public demand or need. That the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to correct the commodity description in (1) above.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4322 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 233]

Motor Carriers Restriction Removals; Decision-Notice

Decided: February 12, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the *Federal Register* of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.
Agatha L. Mergenovich,
Secretary.

MC 4963 (Sub-129)X, filed February 5, 1982. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Road, Spring City, PA 19475. Representative: Robert C. Bamford, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Lead and Subs 61F, 62F, 64F and 124F: (1) broaden general commodities (with exceptions) to "general commodities (except classes A and B explosives, commodities in bulk and household goods)", lead and Subs 61F, 62F, 64F, and 124F; (2) allow services at all

intermediate points (except on alternate routes), lead and Subs 61F and 64F; (3) change one-way regular routes to two-way authority, and one-way irregular routes to radial authority, lead; (4) expand service to the entire commercial zone of Wilmington, DE, and Bristol and Bluefield, VA, lead; (5) expand Boroughs of Norristown and Bridgeport, Montgomery County, PA to Montgomery County, PA, lead; (6) remove delivery only and pickup only restrictions and ex-rail restriction, lead; (7) remove facilities limitations at Bridgeton, MO, Lititz, PA, Putnam County, IL, Seaford, DE, Farmington, NH, Fairfield, PA, Kingsport, TN, and Fairfield, PA, lead, and Cleveland, Shelby, Strongsville and Willard, OH, Westfield, MA, Brownsville, TN, and Indianola, MS, Sub 124F; (6) remove the originating at and destined to restriction, lead; and (7) expand off-route point authority to serve a portion of Chicago Commercial Zone to include all of the Chicago Commercial Zone, lead.

MC 28956 (Sub-26)X, filed December 14, 1981, previously noticed in the *Federal Register* of January 7, 1982, republished as follows: Applicant: MCKAY'S TRUCK LINE, INC., P.O. Box 634, Albany, OR 97321. Representative: Lawrence V. Smart, 419 N.W. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions in its lead certificate. This Board previously broadened the territorial description from "between points within 3 miles of Portland" to "Multnomah, Clackamas and Washington Counties, OR." This was an error on our part. Applicant had sought broadening from "between points within 3 miles of Portland, OR, including Portland" to "Multnomah, Washington, Clackamas and Columbia Counties, OR, and Clark County, WA." Therefore, the Restriction Removal Board has decided to republish this application with respect to the proposed expansion of applicant's Portland, OR authority contained in its lead certificate. Notice is hereby given that applicant seeks to expand "between points within 3 miles of Portland, OR, including Portland" to the aforementioned five counties.

MC 26825 (Sub-70)X, filed February 5, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Sub 11 certificate: Broaden household goods authority by adding "furniture and fixtures".

MC 69472 (Sub-7)X, filed February 8, 1982. Applicant: CORDIN MOTOR FREIGHT, 8600 Joliet Road, McCook, IL 60525. Representative: Scott Cordin (same address as applicant). Sub 5:

Change one-way authority to radial authority, between Chicago, IL, on the one hand, and, on the other, points in IN, IA, KY, MN, MO, NE, TN, and WI.

MC 72729 (Sub-9)X, filed February 4, 1982. Applicant: GOLDEN GATE VAN LINES, INC., P.O. Box 17005, San Antonio, TX 78217. Representative: Zoe Ann Pace, Suite 2373, One World Trade Center, New York, NY 10048. Sub 7G certificate broaden household goods to "household goods and furniture and fixtures."

MC 114132 (Sub-11)X, filed July 7, 1981, previously noticed in the *Federal Register* of July 30, 1981 and August 28, 1981, republished as follows: Applicant: CHURN'S TRUCK LINES, INC., P.O. Box 188, Eastville, VA 23347. Representative: James F. Flint, 406 World Center Bldg., 918-16th Street, N.W., Washington, DC 20006. Consistent with the Commission's decision in applicant's appeal served 1-25-82 and the decision in No. MC-114132 (Sub-No. 11)X, *Stewart Trucking Co., Inc.-Administrative Appeal* (not printed) served 12-24-81, the Board is republishing to provide notice of applicant's proposal to broaden Philadelphia, PA to "points in Philadelphia, Bucks, Montgomery, Chester, and Delaware Counties, PA, Gloucester, Salem, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ and New Castle County, DE"; Newark, NJ to "points in Essex, Middlesex, Somerset, Morris, Union, Hudson, Bergen and Passaic Counties, NJ"; Chicago, IL to "points in Cook, Will, DuPage, and Lake Counties, IL and Lake and Porter Counties, IN"; and points in that part of the NYC commercial zone to "New York, NY"; and those points in NJ within 5 miles of New York, NY and all of any municipality in NJ any part of which is within 5 miles of New York to "points in Monmouth, Middlesex, Somerset, Mercer, Union, Morris, Passaic, Bergen, Wayne, Essex, and Hudson Counties, NJ."

MC 117797 (Sub-8)X, filed January 29, 1982. Applicant: R. D. LEWIS BANANA CO., INC., P.O. Box 387, Fowler, CO 81039. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Lead and Sub-Nos. 2 and 7: Broaden (1) bananas and agricultural commodities exempt from regulations to "food and related products" in all Subs, (2) delete mixed loads restriction; (3) broaden (a) in the lead New Orleans, LA, to Orleans Parish; Denver, CO, to Adams, Arapahoe, Denver and Jefferson Counties; Galveston, TX, to Galveston County; Scottsbluff, NE, to Scottsbluff County; Casper, WY, to Natrona County; (b) in Sub 2 Freeport, TX, to Brazoria

County; Denver and Pueblo, CO, to Adams, Arapahoe, Jefferson and Pueblo Counties; (c) in Sub 7, Hueneme, CA, to Ventura County; and (4) to radial service in all authorities.

MC 119875 (Sub-15)X, filed January 28, 1982. Applicant: WAR-HUNT TRUCKING CO., INC., RD #8, P.O. Box 129, Allentown, PA 18104.

Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, D.C. 20036. Lead and Subs 2, 3, 4, 5, 6, 7, 8, 10, 11F, 12F, 13F and 14F certificates: (A) Broaden to (1) "food and related products" from (a) confectionery and/or confectionery products, and/or materials and supplies used in the manufacturing and distribution of confectionery products, Subs 2, 5, 10, 11F, 12F and 14F; and (b) foods, food products, food ingredients, animal foods, animal food ingredients and meat by-products, Sub 8; (2) "building materials" from (a) composition board, insulating materials, gutters, downspouts, soffits, roofing materials, construction materials and building materials and materials, supplies, and accessories, Sub 3; (b) poles, Subs 4 and 6; (3) "metal products and building materials" from metal roofing, including metal roofing combined with cellular or expanded plastic insulation and metal roofing backed with paper, foil or film, aluminum siding and aluminum suspension articles, Sub 7; (4) "pulp, paper and related products" from (a) waxed wrapping paper, Sub 5; and (b) paper and paper products, Sub 13F; (B) remove (1) all exceptions from the general commodities description, except classes A and B explosives, lead; (2) "mixed loads", "mechanical refrigeration" or "specified commodity" restriction, Subs 2, 3, 7, 10, 11F and 12F; (3) "commodities in bulk" restriction, Subs 2, 3, 8, 10, 11F, 12F and 14F; (4) "originating at or destined to" restriction, Subs 3, 5, 6, 8, 10 and 14F; and (5) restriction prohibiting service to Providence, RI, Sub 12F (part 1a); and, (C) broaden to (1) county-wide authority: (a) Steuben County, NY (Corning); Albany, Bronx, Broome, Chemung, Chenango, Columbia, Cortland, Delaware, Dutchess, Greene, Herkimer, Madison, Montgomery, Nassau, New York, Orange, Ostego, Putnam, Queens, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster and Westchester Counties, NY, (points in that part of N.Y. within 150 miles of Newark, NJ); and, Fairfield and New Haven Counties, CT (those points on U.S. Highway 1 between the New York-Connecticut State line and New Haven); lead; (b) Lancaster County, PA (facilities-

Elizabethtown), Sub 2; (c) Nelson County, KY (facilities-Bardstown); and Providence County, RI (East Providence), Sub 3; (d) Luzerne County, PA (facilities-Hazleton and/or Hazel Township), Subs 4, 5 and 6; (e) Franklin County, MA (Monroe Bridge), Sub 5; (f) Schuylkill County, PA (facilities-Port Carbon), Sub 7; (g) Lackawanna and Lehigh Counties, PA (facilities-Scranton and Allentown), Sub 8; (h) Warren County, NJ and Lancaster County, PA (facilities-Hackettstown, NJ and Elizabethtown, PA), Sub 10; (i) Dauphin, Lancaster, and Cumberland Counties, PA (facilities-Derry, East Hempfield and Hampden Townships), Sub 11F; (j) Warren County, NJ (facilities-Hackettstown); Lancaster County, PA (Elizabethtown); Baltimore County, MD (facilities-Cockeysville); Union County, NJ (Elizabeth); Norfolk County, MA (facilities-Foxboro); and Camden County, NJ (facilities-Gloucester City, NJ), Sub 12F; and (k) Norfolk, Suffolk and Hampden Counties, MA (facilities-Canton, Hyde Park, Palmer, Norwood and Springfield); Butler, Montgomery and Hamilton Counties, OH (Monroe, Dayton, Lockland, Middletown and Norwood); Grundy, Kane and Will Counties, IL (Morris, St. Charles, and Wilmington, IL), Sub 13F; and (2) radial authority, Subs 2, 3, 4, 5, 6, 7, 8, 10, 11F and 12F.

MC 121683 (Sub-14)X, filed February 8, 1982. Applicant: JACKSON EXPRESS, INC., P.O. Box 3310, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Sub 2 certificate, (1) remove all exceptions from general commodities except classes A and B explosives; (2) authorize service on all intermediate points (except on alternate routes); (3) remove restrictions on service at Memphis, TN, and at Tupelo, MS.

MC 123272 (Sub-54)X, filed August 13, 1981, previously noticed in the Federal Register of September 11, 1981, republished as follows: Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, Suite 2108, 33 North LaSalle Street, Chicago, IL 60602. Applicant seeks to remove restrictions in its lead certificate (sheet 2). This Board previously broadened the commodity description from malt beverages, and from empty malt beverage containers to "food and related products." Applicant had sought expansion of empty malt beverage containers to "metal products, and clay, concrete, glass or stone products," but was denied this authority on the assumption that the containers could be shipped under implied authority for food

and related products. However, the empty container authority is independent of food and related products. Therefore, the Restriction Removal Board has decided to renote this application with respect to the expansion of the container authority. Notice is hereby given that applicant seeks to expand empty malt beverage containers to the aforementioned description.

MC 134689 (Sub-7)X, filed Feb. 4, 1982. Applicant: LA ROSA DEL MONTE EXPRESS, INC., 1133-1135 Tiffany St., Bronx, NY 10459. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Subs 3F, 4F and 5F certificates: Broaden from used household goods to "household goods and furniture and fixtures" and remove "prior or subsequent movement by water or rail" restriction.

MC 138073 (Sub-4)X, filed Dec. 8, 1981, previously noticed in the Federal Register of Jan. 8, 1982, republished as follows: Applicant: BUF-AIR FREIGHT, INC., 495 Aero Drive, Cheektowaga, NY 14225. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. MC 128073 and Sub-Nos. 1 and 2 certificates, (1) remove all restrictions in the general commodities authority "except classes A and B explosives, household goods, and commodities in bulk"; (2) remove restrictions in: lead and Sub-No. 2, which limit transportation of traffic to that having a prior or subsequent movement by air; and (b) Sub-No. 1, which limit transportation of individual articles moving in shipments not exceeding 500 pounds in weight, on bills of lading of surface interstate freight forwarders; and (3) broaden airports to countywide authority: in the lead, (1) "Erie and Niagara Counties, NY" for the Greater Buffalo International Airport; "Livingston, Monroe, Ontario and Wayne Counties, NY" for Rochester-Monroe County Airport; "Bergen, Essex, Hudson, Middlesex, Morris, Passaic and Somerset Counties, NJ, and Kings, New York, Queens and Richmond Counties, NY" for Newark Airport; "Albany, Rensselaer, Saratoga and Schenectady Counties, NY" for Albany County Airport; "Broome County, NY, and Susquehanna County, PA" for Broome County Airport; "Cattaraugus County, NY" for Olean Municipal Airport; "Chautauqua County, NY" for Jamestown Municipal Airport; "Chemung County, NY and Bradford County, PA" for Chemung County Airport; "Jefferson County, NY" for Watertown Airport; "Herkimer and Oneida Counties, NY" for Oneida

County Airport; "Madison, Onondaga and Oswego Counties, NY" for Clarence E. Hancock Airport; "New York, NY", for La Guardia Airport and John F. Kennedy International Airport; "St. Lawrence County, NY" for Massena Airport; "Tompkins County, NY" for Tompkins County Airport; "Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit Counties, OH" for "Cleveland-Hopkins Municipal Airport, and "McKean County, PA, and Chautauqua County, NY" for Bradford-McKean County Airport; and (2) Sub No. 2, to "Erie and Niagara Counties, NY" for The Greater Buffalo International Airport.

MC 145338 (Sub-6)X, filed Feb. 5, 1982. Applicant: MEDICAL EMERGENCY TRANSPORTATION, CORP., d.b.a. METCOR, P.O. Box 386, Califon, NJ 07831. Representative: James F. Flint, 406 World Center Building, 918 Sixteenth Street NW., Washington, DC 20006. Subs 1, 3F, and 4F permits: broaden (1) to "medical and scientific equipment, materials, and supplies," from radiopharmaceuticals, medical isotopes, medical and diagnostic test kits, medical instruments and devices, radiochemicals, and accessories; (2) to "between points in the U.S.," under continuing contract with the named shippers; and (3) eliminate restrictions (a) limiting service to shipments having a prior movement by air; (b) precluding shipments from one consignor to one consignee on any one day exceeding 300 pounds; and (c) precluding transportation of packages or articles from one consignor to one consignee on any one day weighing in the aggregate more than 40 pounds.

MC 150211 (Sub-19)X, filed Feb. 8, 1982. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Lead: (1) eliminate except plastic pipe and commodities in bulk restrictions; and (2) remove the facilities limitation at Jackson, TN.

[FR Doc. 82-4320 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29835]

Rail Carriers; Burlington Northern Railroad Company—Merger—Walla Walla Valley Railway Company; Exemption

Decided: February 11, 1982.

On January 14, 1982, the Walla Walla Valley Railway Company (WWV) and Burlington Northern Railroad Company (BN) jointly filed a notice of exemption of the proposed merger of WWV into

BN, under 49 CFR 1111.5(c)(3), as amended by *Railroad Consolidation Procedure*, 363 I.C.C. 200, 244 and 266 (1980), 45 FR 6299 (September 23, 1980).

WWV is a wholly owned subsidiary of BN. BN operates the WWV as a freight line between Walla Walla, WA where connection is made with BN and Milton-Freewater, OR. Total trackage operated is 18 miles.

The BN-WWV merger is intended to simplify the BN corporate structure. It will involve no changes in operations and will have no impact on shippers or rail service. The merger benefits are limited to administrative and incidental savings resulting from corporate simplifications, the elimination of separate recordkeeping, intercompany billing and accounting, and the administrative burden of maintaining the separate corporate existence of WWV. The effect on corporate employees is limited as WWV employs only nine workers of its own.

This is a transaction within a corporate family which is exempt because it does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family (49 CFR 111.5(c)(3)).

Under 49 U.S.C. 10505, as amended by section 213 of the Staggers Rail Act of 1980, Pub. L. NO. 96-448 (1980), the Commission cannot exempt a transaction if it will relieve a carrier of its obligation to protect the interests of employees as required by 49 U.S.C. Subtitle IV. The Commission has determined that the employee protective provisions found in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for the protection of employees involved in merger transactions. Therefore, BN and WWV must comply with those provisions as a condition to exercise of this exemption.

By the Commission Reese H. Taylor, Jr., Chairman.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4319 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 47N)]

Rail Carriers; Conrail Abandonment Between Rand and Phillipsburg, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the

Consolidated Rail Corporation to abandon its rail line between Rand and Phillipsburg in the County of Warren, NJ, a total distance of 0.7 miles effective on January 6, 1982.

The Commission has decided that the net liquidation value of this line is \$10,115. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4317 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-31N)]

Rail Carriers; Conrail Abandonment Between Wharton and Mt. Hope, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Wharton and Mt. Hope in the County of Morris, NJ, a total distance of 2.7 miles effective on December 23, 1981.

The Commission has decided that the net liquidation value of this line is \$43,339. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4318 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 35 SDM]

Rail Carriers; Los Angeles & Salt Lake Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Los Angeles & Salt Lake Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 35 SDM. The Commission on February 3, 1982, received a certificate

of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting Docket No. AB 35 SDM.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4313 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 93 (Revised)]

Assistant to the Administrator for Management (AA/M); Functions and Authorities

Pursuant to the authority delegated to the Administrator by Delegation of Authority No. 1 of October 1, 1979 from the Director of the United States International Development Cooperation Agency and Executive Order 12163 of September 29, 1979, and in furtherance of my decision relating to the establishment of the Bureau for Management as announced in A.I.D. General Notice dated December 18, 1981, it is hereby ordered as follows:

Section 1. There is delegated to the Assistant to the Administrator for Management all of the authorities and functions which are specified in any regulation (published or unpublished), manual order, Handbook, policy directive or determination, circular or instruction or communication of any nature relating to the central responsibility for the planning, implementation and evaluation of the Agency for International Development's major management activities including personnel management, financial management, direct contracting, commodity management, management planning, management operations and data management.

Section 2. The title "Assistant Administrator for Program and Management Services" is deleted from each delegation of authority within the Agency for International Development, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof. These

delegations of authority shall include, but not be limited to:

- a. Delegation of Authority No. 36 dated April 8, 1964 (29 FR 5353) as amended;
- b. Delegation of Authority No. 40 dated February 20, 1981 (46 FR 15237 and 15238) as amended;
- c. Delegation of Authority No. 41 dated May 8, 1964 (29 FR 6892) as amended;
- d. Delegation of Authority No. 56 dated November 19, 1964 (29 FR 15928);
- e. Delegation of Authority No. 57 dated December 8, 1964 (29 FR 18392);
- f. Delegation of Authority No. 64 dated July 14, 1966 (31 FR 9811) as amended;
- g. Delegation of Authority No. 67 dated March 1, 1967 (32 FR 3781) as amended;
- h. Delegation of Authority No. 99 dated April 27, 1973 (38 FR 12834) as amended;
- i. Delegation of Authority No. 110 dated September 23, 1975 (40 FR 45451);
- j. Delegation of Authority No. 122 dated May 11, 1977 (42 FR 26496); and
- k. Delegation of Authority No. 137 dated October 9, 1980 (45 FR 70348 and 70349).

Section 3. Currently effective redelegations of authority issued by the Assistant Administrator for Program and Management Services shall continue in effect according to their terms until modified or revoked by appropriate authority. The Offices of Management Planning, Management Operations, Data Management, Contract Management, Commodity Management, and related activities which comprised the Bureau for Program and Management Services shall comprise the Directorate for Program and Management Services. The title "Assistant Administrator for Program and Management Services" is deleted from each redelegation of authority issued by that official, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof.

Section 4. The title "Director, Office of Personnel Management" is deleted from each delegation of authority within the Agency for International Development, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof. These delegations of authority shall include, but not be limited to:

- a. Delegation of Authority No. 27 dated October 25, 1978 (43 FR 52084-52086) as amended; and
- b. Delegation of Authority No. 137 dated October 9, 1980 (45 FR 70348 and 70349). The title to this delegation of authority shall read "Assistant to the

Administrator for Management;
Delegation of Authority."

Section 5. Delegation of Authority No. 27 dated October 25, 1978 (43 FR 52084-52086) as amended is further amended by adding a new paragraph to Section I after paragraph 24 as follows:

25. All authorities under the Foreign Service Act of 1980 which may properly be exercised and delegated by the Administrator of the Agency for International Development. References in this or any other delegation of authority to provisions of law superseded by this or other Acts shall be deemed to include reference to the corresponding provisions of the appropriate Act.

Section 6. Delegation of Authority No. 137 dated October 9, 1980 (45 FR 70348 and 70349) is amended by adding a new paragraph to Section 2 after paragraph (e) as follows:

All authorities under the Foreign Service Act of 1980 which may be exercised and delegated by the Administrator of the Agency for International Development. References in this or any other delegation of authority to provisions of law superseded by this or other Acts shall be deemed to include reference to the corresponding provisions of the appropriate Act.

Section 7. Delegation of Authority No. 98 dated January 15, 1980 (45 FR 9866 and 9867) is amended by deleting "(3) Assistant Administrator, Bureau for Program and Management Services" in its entirety.

Section 8. The titles "Controller, AID", "Controller", and "Office of the Controller" are deleted from each delegation of authority within the Agency for International Development, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof. These delegations of authority shall include, but not be limited to:

- a. Delegation of Authority No. 80 dated April 27, 1980 (45 FR 31239 and 31240);

- b. Delegation of Authority No. 85 dated April 27, 1980 (45 FR 31240);

- c. Delegation of Authority No. 135 dated April 27, 1980 (45 FR 31239) as amended; and

- d. Delegation of Authority No. 136 dated July 24, 1980 (45 FR 57604).

Section 9. The authorities delegated to the Assistant to the Administrator for Management may be exercised by an officer serving in an acting capacity and may be redelegated to the extent specified in the delegations of authority affected thereby, and shall be subject to

the same limitations or restrictions as are provided in such delegations.

Section 10. Actions heretofore taken by officials designated herein are ratified and confirmed.

Section 11. This Delegation of Authority shall be effective immediately.

Dated: January 19, 1982.

M. Peter McPherson,
Administrator.

[FR Doc. 82-4393 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 135.1]

Controller, Agency for International Development; Redelegation of Authority Regarding the Office of Financial Management

Section 1. Pursuant to the authority delegated to me by Agency for International Development Delegations of Authority Nos. 80, 85, 93, 135 and 136 I hereby redelegate to the Controller the following authorities:

(a) All of the authorities delegated to me by Delegations of Authority Nos. 80, 85, 135 and 136.

(b) All of the authorities delegated to me by Delegation of Authority No. 93 which are required for the efficient administration and proper functioning of the Office of Financial Management.

Section 2. The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity.

Section 3. This Redelegation of Authority shall be effective immediately.

Dated: January 22, 1982.

R. T. Rollis, Jr.,
Assistant to the Administrator for Management.

[FR Doc. 82-4396 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 93.1]

Deputy Assistant to the Administrator for Management Redelegation of Authority Regarding the Directorate for Program and Management Services

Section 1. Pursuant to the authority delegated to me by the Agency for International Development Delegations of Authority Nos. 36, 40, 41, 56, 57, 64, 67, 93, 99, 110, 122 and 137 I hereby redelegate to the Deputy Assistant to the Administrator for Management the following authorities:

(a) All of the authorities delegated to me by Delegations of Authority Nos. 36, 40, 41, 56, 57, 64, 67, 99, 110, 122 and 137.

(b) All of the authorities delegated to me by Delegation of Authority No. 93 which are required for the efficient administration and proper functioning of the Directorate for Program and Management Services.

Section 2. The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity. Currently effective redelegations of authority issued by the Assistant Administrator for Program and Management Services continue in effect according to their terms until modified or revoked by appropriate authority.

Section 3. This Redelegation of Authority shall be effective immediately.

Dated: January 22, 1982.

R. T. Rollis, Jr.,
Assistant to the Administrator for Management.

[FR Doc. 82-4394 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 27.3 (Revised)]

Director, Office of Personnel Management Redelegation of Authority Regarding Personnel

Section 1. Pursuant to the authority delegated to me by Agency for International Development Delegations of Authority Nos. 27, 93 and 137, I hereby redelegate to the Director, Office of Personnel Management the following authorities:

(a) All of the authorities delegated to me by Delegation of Authority No. 27;

(b) All of the authorities delegated to me by Section 2 of Delegation of Authority No. 137; and

(c) All of the authorities delegated to me by Delegation of Authority No. 93 which are required for the efficient administration and proper functioning of the Office of Personnel Management.

Section 2. The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity.

Section 3. Redelegation of authority No. 27.3 to the Director, Office of Personnel and Manpower, dated March 7, 1974 is hereby revoked.

Section 4. This Redelegation of Authority shall be effective immediately.

Dated: January 22, 1982.

R. T. Rollis, Jr.,
Assistant to the Administrator for Management.

[FR Doc. 82-4395 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-148, 149, and 150 (Preliminary)]

Carbon Steel Wire Rod From Brazil, Belgium, and France

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and the scheduling of a conference to be held in connection with the investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigations Nos. 701-TA-148, 149, and 150 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Belgium, and France of carbon steel wire rod. For the purposes of these investigations, carbon steel wire rod is defined as a coiled, semifinished, 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, and valued over 4 cents per pound. As defined, carbon steel wire rod is provided for in item 607.17 of the Tariff Schedules of the United States.

EFFECTIVE DATE: February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam A. Bishop, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street, NW., Washington, D.C. 20436; telephone 202-523-0291.

SUPPLEMENTARY INFORMATION:

Background: These investigations are being instituted in response to a petition filed on February 8, 1982, by counsel on behalf of Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan Steel Co., all of which are U.S. producers of carbon steel wire rod. The

Commission must make its determinations in these investigations within 45 days after the date of the filing of the petition, or by March 25, 1982 (19 CFR 207.17). The investigations will be subject to the provisions of Part 207 of the Commission's rules of practice and procedure (19 CFR 207, 44 FR 76457), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S.

International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before March 8, 1982.

Any business information which the submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions except for confidential business data will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10 a.m., on Wednesday, March 3, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for these investigations, Ms. Miriam A. Bishop (202-523-0291) not later than February 26, 1982 to arrange for their appearance. The conference in these investigations will be held concurrently with that for antidumping investigation No. 731-TA-88 (Preliminary), Carbon Steel Wire Rod From Venezuela. It is anticipated that parties in support of the petition for countervailing and antidumping duties and parties opposed to the petition will each be allocated one hour within which to make an oral presentation at the conference.

Inspection of the petition.—A copy of the petition filed with the Department of Commerce in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigations and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts

A through E (19 CFR 201). Further information concerning the conduct of the conference will be provided by Ms. Bishop.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

By order of the Commission.

Issued: February 11, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4397 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-88 (Preliminary)]

Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigation and the scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-88 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of carbon steel wire rod. For the purposes of this investigation, carbon steel wire rod is defined as a coiled, semifinished, hot-rolled, carbon steel product of approximately round, solid cross section, not under 0.20 inch or 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound. As defined, carbon steel wire rod is provided for in item 607.17 of the Tariff Schedules of the United States.

EFFECTIVE DATES: February 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Ms. Miriam A. Bishop, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street, N.W., Washington, D.C. 20436; telephone 202-523-0291.

SUPPLEMENTARY INFORMATION:

Background: This investigation is being instituted in response to a petition filed on February 8, 1982, by counsel on behalf of Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan Steel Co., all of which are U.S.

producers of carbon steel wire rod. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by March 25, 1982 (19 CFR 27.17). The investigation will be subject to the provisions of Part 207 of the Commission's rules of practice and procedure (19 CFR Part 207, 44 FR 76457), and particularly Subpart B thereof.

Written submission.—Any person may submit to the Commission a written statement of information pertinent to the subject of the investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S.

International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before March 8, 1982.

Any business information which the submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submission except for confidential business data will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., on Wednesday, March 3, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for this investigation, Ms. Miriam A. Bishop (202-523-0291) not later than February 26, 1982 to arrange for their appearance. The conference in this investigation will be held concurrently with those for countervailing duty investigations Nos. 701-TA-148, 149, and 150 (Preliminary), Carbon Steel Wire Rod From Brazil, Belgium, and France. It is anticipated that parties in support of the petition for countervailing and antidumping duties and parties opposed to the petition will each be allocated one hour within which to make an oral presentation at the conference.

Inspection of the petition.—A copy of the petition filed with the Department of Commerce in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation and rules of

general application, consult the Commission's rules of practice and procedures, Part 207, Subpart A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Ms. Bishop.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

By order of the Commission.

Issued: February 11, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4398 Filed 2-17-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Grant of Application for Interlocutory Review of Order No. 123, Reversal of Order No. 123, and Suspension of Investigation

AGENCY: International Trade Commission.

ACTION: Grant of application to review Order No. 123, reversal of Order No. 123, and suspension of investigation.

SUMMARY: Notice is hereby given that the Commission has granted an application for interlocutory review filed by respondents National Business Systems, Inc. (Canada), and National Business Systems, Inc. (U.S.), reversed the presiding officer's denial of a motion by respondents to suspend the investigation, and suspended the investigation for a limited period. The Commission has additionally denied motions by the Commission investigative attorney that respondents' application for interlocutory review be stricken (Motion 104-179C) and that review of Order No. 123 be denied (Motion 104-180C).

AUTHORITY: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 210.15 and 210.60(b) of the Commission's rules of practice and procedure (19 CFR §§ 210.15 and 210.60(b)).

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by AM International, Inc., and Bartizan Corporation the Commission instituted investigation N. 337-TA-104 to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of certain card data imprinters, alleged to infringe claim 7 of U.S. Letters

Patent 3,272,120 and claim 12 of U.S. Letters Patent 3,340,800. Notice of the Commission's investigation was published at 46 FR 31094 (June 12, 1981).

Respondents National Business Systems, Inc. (Canada) and National Business Systems, Inc. (U.S.) moved on December 18, 1981, for a limited suspension of the investigation until ten days after completion of trial in United States district court litigation involving the patents that are at issue in this investigation (Motion 104-130). The motion was opposed by complainants and the Commission investigative attorney. On January 19, 1982, the presiding officer denied the motion but granted respondents leave to file and interlocutory appeal with the Commission (Order No. 123).

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1626.

By order of the Commission.

Issued: February 9, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4399 Filed 2-17-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Change of the Commission Investigative Attorney

The Notice of Investigation published in the Federal Register on January 7, 1982, stated that Ralph Elsas-Patrick, Esq. of the Unfair Import Investigations Division would be the Commission Investigative Attorney in this case. M. Brooke Murdock, Esq. of the Unfair Import Investigations Division is now the Commission Investigative Attorney.

The Secretary is requested to publish this notice in the Federal Register.

Dated: February 5, 1982.

David I. Wilson,
Chief, Unfair Import Investigations Division.

[FR Doc. 82-4400 Filed 2-17-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-101]

Certain Hot Air Corn Poppers and Components Thereof; Settlement Agreements, Recommended Termination, and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of three

parties as respondents in the above-captioned investigation.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has issued an order recommending that the Commission grant three joint motions by the complainant and three respondents to terminate the investigation with respect to those respondents. The recommended termination is based on settlement agreements entered into by the parties. Before taking final action on the motions, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before March 22, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-101 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States of certain hot air corn poppers and components thereof, or in the sale of such articles, which are alleged to infringe claims 1, 2, 3, and 5 of U.S. Letters Patent 4,178,843 ('843 patent), the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On January 5, 1982, the complainant, Wear-Ever Aluminum, Inc. (Wear-Ever), and respondents Sunbeam Corp. (Sunbeam), Yamada Electric Industries Ltd. (Yamada), and Maxim Associates Corp. (Maxim) filed joint motions (collectively docketed as Motion No. 101-41) to terminate the investigation insofar as it concerns those respondents. The movants seek termination on the basis of settlement agreements. Supplements to the Wear-Ever/Yamada and the Wear-Ever/Maxim motions were filed on January 12, 1982. They contained supplemental settlement agreements embodying an additional release and discharge. The Commission investigative attorney supported the motions and recommended that they be granted. On January 19, 1982, the presiding officer issued an order recommending that Motion No. 101-41 be granted. The settlement agreements and the proposed termination are now before the Commission for final action.

The presiding officer has summarized the agreements as follows:

A. The Wear-Ever/Sunbeam agreement:

1. Sunbeam agrees not to place any further purchase orders with Yamada for the importation of the accused corn poppers.

2. Except for its stock of accused corn poppers now on hand and additional shipments made by Yamada under the outstanding purchase order, Sunbeam agrees not to import the accused corn poppers except pursuant to a license under U.S. Patent No. 4,178,843. It also agrees not to import any device which infringes the '843 patent, or any component thereof which constitutes a material part of the invention claimed therein and is not a staple article or commodity of commerce.

3. Sunbeam admits that the '843 patent is valid and enforceable.

4. Sunbeam agrees to pay a certain sum for the right to dispose of accused corn poppers on hand and those under the outstanding purchase order. However, no license is granted to Sunbeam under the '843 patent.

5. Wear-Ever waives all claims for damages for past infringement of the '843 patent as to Sunbeam and its customers.

6. Wear-Ever and Sunbeam agree to enter a joint motion to terminate this investigation and related civil action.

7. Sunbeam agrees to give Wear-Ever at least 4 months' notice of its intent to import hot air corn poppers, or components thereof which are not staple articles or commodities of commerce, and both agree to exert their best efforts to resolve any issues surrounding said importation. The agreement states that the burden of establishing infringement with respect to any product made, sold, or imported by Sunbeam shall remain on Wear-Ever or the owner of the '843 patent.

8. Sunbeam's obligation under this agreement relating to future imports will cease upon any determination by the U.S. International Trade Commission or any court that the '843 patent is invalid or unenforceable.

B. The Wear-Ever/Yamada agreement:

1. Except for the corn poppers covered by the outstanding purchase order mentioned above, Yamada agrees not to sell for importation into the U.S. any corn poppers substantially identical to those it has sold to Sunbeam or to G.E.

2. No license is granted to Yamada under the '843 patent.

C. The Wear-Ever/Maxim agreement:

1. Maxim agrees not to import or aid or abet the importation of corn poppers substantially identical to those sold by Yamada to Sunbeam or to General Electric Co. (G.E.).

2. No license is granted to Maxim under the '843 patent.

In each of the agreements, Wear-Ever has discharged the respective respondent from all claims relating to the sale of the accused corn poppers in

the past or under the outstanding purchase order.

Prior to the execution of the foregoing agreements, Wear-Ever entered into a settlement agreement with respondent G.E. That agreement concerned the accused hot air corn poppers which were made for G.E. by Yamada and those which Maxim aided Yamada in selling to G.E. or importing into the United States (46 FR 62342, Dec. 23, 1981). However, inasmuch as the Wear-Ever/G.E. agreement expressly provided that Yamada and Maxim could accept the release and discharge contained therein, Yamada and Maxim have each entered into supplemental settlement agreements with Wear-Ever which embody that release and discharge. The key provisions of the supplemental agreements are as follows:

1. Yamada agrees not to make or sell for importation into the United States, and Maxim agrees not to import or aid and abet the importation of, the hot air corn poppers and components thereof which constitute a material part of the accused hot air corn poppers and are not a staple article or commodity of commerce, identical to or substantially identical to those Yamada has made or sold to Sunbeam.

2. With respect to the accused hot air corn poppers which Yamada has previously made or sold to G.E. and which Maxim has aided Yamada in selling to G.E., Wear-Ever releases and discharges Yamada and Maxim together with their officers, directors, agents, and so forth from all causes of action and all claims for damage that Wear-Ever may have against them relating to unfair methods of competition and unfair acts arising out of importation, use, or sale of the accused corn poppers; Wear-Ever also agrees to take no action against Yamada and Maxim only to the extent that Yamada has made or sold, and Maxim has assisted Yamada in selling, accused corn poppers to G.E.

Nonconfidential versions of the settlement agreements are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

All comments must conform to the requirements of section 201.8 of the Commission's rules (19 CFR 201.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: P. N. Smith, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW.,

Room 224, Washington, D.C. 20436, telephone 202-523-0350.

By order of the Commission.

Issued: February 9, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc 82-4401 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-46 (Final)]

Certain Steel Wire Nails From Korea

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation.

SUMMARY: As a result of the affirmative preliminary determination on January 29, 1982, by the International Trade Administration, United States Department of Commerce, that certain steel wire nails provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS) from certain Korean companies are being sold in the United States, at less than fair value, within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 731-TA-46 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry is materially retarded by reason of imports of such merchandise. For purposes of this investigation, the term "steel wire nails" refers to nails of one-piece construction which are made of round steel wire and which enter the United States under item numbers 646.25 and 646.26 of the TSUS.¹ The Commission's investigation encompasses imports of nails as defined above from Korea, produced by all firms, except Samchok, which was found not to be selling at less than fair value.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck, Office of Investigations, U.S. International Trade Commission, (202-523-0339).

SUPPLEMENTARY INFORMATION: On August 11, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 731-TA-46 (Preliminary), that there was a reasonable indication that an industry in

¹ For purposes of this investigation, brads, spikes, staples and tacks are not included.

the United States is materially injured, or is threatened with material injury, by reason of imports from Korea of steel wire nails which were possibly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before April 15, 1982.

Written submissions: Any person may submit to the Commission a written statement of information pertinent to the subject of the investigation. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before April 15, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information". Confidential submissions and request for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of facts will be available to all interested parties on March 31, 1982.

Public hearing: The Commission will hold a public hearing in connection with this investigation at 10:00 a.m. on April 21, 1982, in the Hearing Room of the U.S. International Trade Commission Building. Request to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 25, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 9:30 a.m., on March 31, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules of practice and procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. All legal arguments, economic analysis, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22. Post hearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20).

By order of the Commission.

Issued: February 12, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4404 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[332-138]

Competitive Assessment of the U.S. Metalworking Machine Tool Industry

AGENCY: International Trade Commission.

ACTION: The Commission, on its own motion, instituted investigation No. 332-138, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of gathering and presenting information on the competitive position of the U.S. metalworking machine tool industry. This study will assess the impact of the growing competition from imports on the U.S. metalworking machine tool industry, explore the related development of further competition in the industry's overseas markets, and examine the steps that have been taken and may be taken to counteract these developments.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Donald M. Terry, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202-523-0262 or 202-523-0169).

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this

study, written statements should be submitted at the earliest practicable date, but no later than June 30, 1982. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: February 11, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4405 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-86 (Preliminary) Through 701-TA-93 (Preliminary) and Investigations Nos. 731-TA-53 (Preliminary) Through 731-TA-60 (Preliminary)]

Hot-Rolled Carbon Steel Plate

AGENCY: International Trade Commission.

ACTION: Amendment of the scope of captioned countervailing duty investigations and antidumping investigations being conducted in accordance with the provisions of the Tariff Act of 1930. The notice of the institution of these investigations was published in the *Federal Register* on Wednesday, January 20, 1982, at 47 FR 2955.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the amendment of the scope of investigations Nos. 701-TA-86 (Preliminary) through 701-TA-93 (Preliminary) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany of hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants are alleged to be paid. For the purpose of this investigation semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included within the scope of hot-rolled carbon steel plate.

The Commission also gives notice of the amendment of the scope of investigations Nos. 731-TA-53 (Preliminary) through 731-TA-60 (Preliminary) to determine whether

there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Belgium, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany of hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules, which are alleged to be sold in the United States at less than fair value. For the purpose of this investigation, semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included within the scope of hot-rolled carbon steel plate.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0312.

This notice is published pursuant to § 207.13 of the Commission rules of practice and procedure (19 CFR 207.13).

By order of the Commission.

Issued: February 10, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4402 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation Nos. 701-TA-100 (Preliminary), 701-TA-108 (Preliminary), and 731-TA-73 (Preliminary)]

Hot-Rolled Carbon Steel Sheet and Cold-Rolled Carbon Steel Sheet From the United Kingdom

AGENCY: International Trade Commission.

ACTION: Amendment of the scope of the countervailing duty investigations and the antidumping investigation as it appeared in the notices for the institution of these investigations on Wednesday, January 20, 1982, at 47 FR 2955 and 47 FR 2952.

SUMMARY: On January 15, 1982, the Commission issued a notice in investigation No. 701-TA-100 (Preliminary) concerning the institution of a countervailing duty investigation of imports of hot-rolled carbon steel sheet and strip from the United Kingdom. That notice stated that imports of hot-rolled carbon steel strip provided for in items 608.1920, 608.2120, and 608.2320 of the Tariff Schedules of the United States

Annotated (TSUSA), were within the scope of that investigation. The Commission hereby gives notice of the amendment of the scope of investigation No. 701-TA-100 (Preliminary) to exclude hot-rolled carbon steel strip.

On January 15, 1982, the Commission issued a notice in investigations Nos. 701-TA-108 (Preliminary) and 731-TA-73 (Preliminary) concerning the institution of a countervailing duty investigation and an antidumping investigation, respectively, of cold-rolled carbon steel sheet and strip from the United Kingdom. That notice stated that imports of cold-rolled carbon steel strip, provided for in TSUSA items 608.1940, 608.2140, and 608.2340, were within the scope of those investigations. The Commission hereby gives notice of the amendment of the scope of investigations 701-TA-108 (Preliminary) and 731-TA-73 (Preliminary) to exclude cold-rolled carbon steel strip.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission; telephone: 202/523-0379.

This notice is published pursuant to § 207.13 of the Commission's rules of practice and procedure (19 CFR 207.13).

By order of the Commission.

Issued: February 10, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4403 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-329 and 50-330]

Consumers Power Co.; Availability of Draft Environmental Statement for Midland Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0537) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Midland Plant, Units 1 and 2, located in Midland County, Michigan, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and in the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan. The Draft Statement is also

being made available at the Office of Intergovernmental Relations, Department of Management and Budget, Lewis Cass Building, Lansing, Michigan 48909 and at the East Central Michigan Planning and Development Region, 500 Federal Avenue, Post Office Box 930, Saginaw, Michigan 48606. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The applicant's Environmental Report, as supplemented, submitted by Consumers Power Company is also available for public inspection at the above-designated locations. Notice of availability of the applicant's Environmental Report was published in the *Federal Register* on May 4, 1978 (43 FR 19304).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by April 5, 1982. Comments by Federal, State and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the *Federal Register*.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of February 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-4356 Filed 2-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

**Indiana and Michigan Electric Co.;
Issuance of Amendments to Facility
Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-58, and Amendment No. 37 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments change the temperature requirements for the refueling water storage tank and make several editorial changes.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments 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 these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 26, 1981, (2) Amendment Nos. 52 and 37 to License Nos. DPR-58 and DPR-74, 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 Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. 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 10th day of February, 1982.

For the Nuclear Regulatory Commission.
Steven A. Varga,
Chief, Operating Reactors Branch No. 1,
Division of Licensing.

[FR Doc. 82-4352 Filed 2-17-82; 8:45 am]
BILLING 7590-01-M

[Docket No. 50-201]

**Nuclear Fuel Services, Inc. and New
York State Energy Research and
Development Authority (Western New
York Nuclear Service Center) Issuance
of Amendment to Facility License No.
CSF-1**

Nuclear Fuel Services, Inc. (NFS) and New York State Energy Research and Development Authority (as successor to the New York State Atomic and Space Development Authority) (the Authority) hold Provisional Operating License No. CSF-1. The license, issued under section 104b. of the Atomic Energy Act, had authorized the operation of a spent nuclear fuel reprocessing and radioactive waste disposal facility at the Western New York Nuclear Service Center in West Valley, New York (the Center).

Under the West Valley Demonstration Project Act, Pub. L. 96-368, the Department of Energy has been authorized to carry out a high-level radioactive waste management demonstration project at the Center for the purpose of demonstrating solidification techniques which can be used for preparing high-level liquid radioactive waste for disposal.

On September 30, 1981, the U.S. Nuclear Regulatory Commission (the Commission) issued an amendment to the license which would permit transfer of the facility to the Department of Energy for purposes of the project (46 FR 49237).

On October 6, 1981, the Commission received from NFS an application for amendment of License No. CSF-1 to relieve NFS of all operational responsibility under the license. Notice of receipt of this application was published in the *Federal Register* on November 13, 1981 (46 FR 56086). The Commission denied the application on January 11, 1981, without prejudice, in order to avoid adjudication before the Commission of issues of law and fact that are being litigated between NFS and the Authority in the Federal court system.

NFS submitted a further application to the Commission on February 1, 1982. The new application requests that the authority and responsibility of NFS under the license be terminated upon the occurrence of certain events. A supporting letter, dated February 9, 1982,

was filed by the Authority. The Department of Energy, by letter of February 10, 1982, advised the Commission that it has no objection to the issuance of the requested amendment.

In accordance with 10 CFR 2.106, notice is hereby given that the Commission has today issued an amendment to License No. CSF-1, substantially as requested by NFS, which provides for termination of the authority and responsibility of NFS under said license, effective upon 1) acceptance of surrender of the facility by the Authority from NFS, 2) DOE's assumption of exclusive possession of the facility, and 3) the Settlement Date of a Settlement Agreement in pending civil actions in the United States District Court for the Western District of New York. The Commission has determined that the application for the amendment complies with the requirements of the Atomic Energy Act and the regulations of the Commission (10 CFR Chapter I). The Commission has determined that this amendment involves no significant hazards consideration. Copies of the amendment to the license and the NRC staff's safety evaluation are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Local Public Document Rooms maintained at the Buffalo and Erie County Public Library, Lafayette Square, Buffalo, New York; and the Town of Concord Public Library, 23 North Buffalo Street, Springville, New York.

Dated at Silver Spring, Maryland, this 11th day of February 1982.

For the Nuclear Regulatory Commission.
Leland C. Rouse,
Chief, Advanced Fuel and Spent Fuel,
Licensing Branch, Division of Fuel Cycle and
Material Safety.

[FR Doc. 82-4355 Filed 2-17-82; 8:45 am]
BILLING CODE 7590-01-M

**Nuclear Power Plant Staff Working
Hours**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Publication of Policy Regarding
Nuclear Power Plant Staff Working
Hours.

SUMMARY: The Nuclear Regulatory
Commission has been concerned that
excessive work hours by personnel at
nuclear power plants could lead to
situations where fatigued personnel
might not be alert, might use poor
judgment, or might make poor decisions

affecting the safety of the nuclear plant, which could potentially jeopardize the health and safety of the public. In attempts to assure that utility organizations avoid situations where fatigued personnel might be on shift, the NRC has issued previous guidance regarding overtime restrictions. However, the policy has been evolving and it appears that earlier guidance should be revised.

On July 22, 1981, the NRC staff submitted a paper, "Nuclear Power Plant Staff Working Hours," SECY 81-440, for consideration by the Commissioners. The paper was intended to resolve the inconsistencies in the previous guidance and to serve the purpose of the NRC in protecting public health and safety while recognizing the practical aspects of working hour limitations as they affect nuclear power plant operation.

After consideration of this NRC staff paper, the Nuclear Regulatory Commission has now issued the following policy statement concerning fatigue at nuclear plants:

Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors

Licenses of operating plants and applicants for operating licenses shall establish controls to prevent situations where fatigue could reduce the ability of operating personnel to keep the reactor in a safe condition. The controls should focus on shift staffing and the use of overtime—key job-related factors that influence fatigue.

The objective of the controls would be to assure that, to the extent practicable, personnel are not assigned to shift duties while in a fatigued condition that could significantly reduce their mental alertness or their decisions making capability. The controls shall apply to the plant staff who perform safety-related functions (e.g., senior reactor operators, reactor operators, health physicists, auxiliary operators, and key maintenance personnel).

Enough plant operating personnel should be employed to maintain adequate shift coverage without routine heavy use of overtime. However, in the event that unforeseen problems require substantial amounts of overtime to be used, on a temporary basis, the following guidelines shall be followed:

- a. An individual should not be permitted to work more than 16 hours straight (excluding shift turnover time).
- b. An individual should be not permitted to work more than 16 hours in any 24-hour period, nor more than 24 hours in any 48-hour period, nor more than 72 hours in any seven day period (all excluding shift turnover time).
- c. A break of at least eight hours should be allowed between work periods (including shift turnover time).
- d. The use of overtime should be considered on an individual basis and not for the entire staff on a shift.

Recognizing that very unusual circumstances may arise requiring deviation from the above guidelines, such deviation shall be authorized by the plant manager or his deputy, or higher levels of management. The paramount consideration in such authorization shall be that significant reductions in the effectiveness of operating personnel would be highly unlikely.

In addition, procedures are encouraged that would allow licensed operators at the controls to be periodically relieved and assigned to other duties away from the control board during their tour of duty.

Utility holders of operating licenses and construction permits are being advised of this Commission policy. Utilities who hold operating licenses will be requested to amend the Administrative Section of the Technical Specifications for their operating plants to require administrative procedures regarding working hour restrictions which conform to the new Commission policy. Applicants for operating licenses will be requested to develop appropriate administrative procedures and Technical Specifications prior to fuel loading. At the same time, Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," and NUREG-0737 (Item I.A.1.3) are being revised to incorporate the guidance of the policy statement.

For Further Information Contact: Mr. Lawrence P. Crocker, (301) 492-8357.

Dated at Bethesda, Maryland, this 11th day of February 1982.

For the Nuclear Regulatory Commission.

Lawrence P. Crocker,

Acting Section Leader, Management Technology Section, Licensee Qualifications Branch, Division of Human Factors Safety.

[FR Doc. 82-4353 Filed 2-17-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. 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.

Regulatory Guide 3.1, Revision 1, "Use of Borosilicate-Glass Raschig Rings as a Neutron Absorber in Solutions of Fissile Material," describes procedures acceptable to the NRC staff for implementing the Commission's regulations concerning the prevention of criticality accidents in solutions of fissile material by the use of borosilicate-glass raschig rings as a

neutron absorber. The guide was revised after additional staff review to endorse ANSI/ANS 8.5-1979, "Use of Borosilicate-Glass Raschig Rings as a Neutron Absorber in Solutions of Fissile Material."

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. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publication Sales Manager.

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

Dated at Silver Spring, Md. this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-4354 Filed 2-17-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the White House Science Council is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, Office of Science and Technology Policy, by the Presidential Science and Technology Advisory Organization Act of 1976 and other applicable law. This determination follows consultation with the General Services Administration, pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and Office of Management and Budget (OMB) Circular Number A-63, Revised.

1. Name of Group: White House Science Council.

2. Purpose: The purpose of the White House Science Council is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern. The Council shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. Effective Date of Establishment and Duration: The establishment of the White House Science Council is effective upon filing of the charter with the Director, OSTP, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The White House Science Council will terminate on December 31, 1983, unless sooner extended.

4. Membership: Members of the White House Science Council will be appointed by the Director, Office of Science and Technology Policy. That appointment shall be subject to review every 365 days unless earlier terminated. The Council shall consist of no more than 15 members. Additional technical experts will be utilized as needed to constitute panels and study groups.

5. Advisory Group Operation: The White House Science Council will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OMB Circular No. A-63, Revised and other directives and instructions issued in implementation of the Act.

Robert D. Linder,
Executive Director.
February 16, 1982.

Charter

White House Science Council

1. Committee's Official Designation: White House Science Council (WHSC).

2. Objectives and Scope of Activities and Duties: • The Purpose of the WHSC is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern.

• In furtherance of this mission the WHSC shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. Duration: The Council will terminate on December 31, 1983, unless sooner extended.

4. Official to Whom the Council Reports: The WHSC will report to the Director, OSTP.

5. Agency Responsible for Providing Necessary Support for this Board: Office of Science and Technology Policy.

6. Description of Duties: The duties of the Council are solely advisory and are stated in paragraph 2 above.

7. Costs: The estimated annual operating cost of the Council is \$50,000.

8. Estimated Number and Frequency of Meetings: The White House Science Council shall normally meet six times each year at regular intervals, and at such other times as may be called by the Director, OSTP. In addition, 10-15 meetings each year by subgroups are anticipated.

9. Subgroups: Subgroups may be formed to conduct studies on specific issues assigned by the Director, OSTP.

10. Members: WHSC members will be appointed by the Director, OSTP. That appointment shall be subject to review every 365 days unless earlier terminated. The WHSC shall consist of no more than 15 members. The Council will utilize additional technical experts as needed to constitute its panels and study groups.

This Charter for the Advisory Committee named above is hereby approved on: February 16, 1982.

Date filed: February 16, 1982.
Robert D. Linder,
Committee Management Officer.

[FR Doc. 82-4476 Filed 2-16-82; 12:02 pm]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18481; File No. S7-787]

Filing of Proposed Transaction Reporting Plan for National Market System Securities

On February 5, 1982, pursuant to Rules 11Aa3-1 and 11Aa3-2 under the Securities Exchange Act of 1934 (the "Act"), the National Association of Securities Dealers, Inc. ("NASD") filed with the Commission its proposed transaction reporting plan for national market system ("NMS") securities.¹

I. Description of Plan

The proposed plan's transaction reporting system will be operated by the NASD's wholly-owned subsidiary, NASD Market Services, Inc. ("MSI"), and will make use of the existing

¹ As reported securities, NMS securities will be subject to, among other things, the Commission's last sale reporting rule, Rule 11Aa3-1 under the Act. Under that rule, the NASD is required to file with the Commission a transaction reporting plan for NMS securities. For a further discussion of NMS securities, see Securities Exchange Act Release No. 18397 (January 7, 1982) 47 FR 2079.

NASDAQ processing facilities and communications network. The system will parallel the existing Third Market Trade Reporting system and the NASDAQ quotation dissemination system. The NASD will be responsible for surveillance of its members to ensure compliance with all applicable rules.

The proposed plan requires that all NASD members report their transactions in NMS securities to MSI via NASDAQ Level II/III terminals, telephones, telex, TWX or by utilizing the NASD's Computer Assisted Execution System ("CAES") (which will automatically report CAES transactions to MSI). This information, in turn, will be made available to any interested parties, and in particular to vendors of securities information, NASDAQ Level II/III subscribers, and newswire services. The transaction report data will be transmitted to vendors over a separate communication line in a format substantially similar to that utilized by the Consolidated Tape Association. Vendors will not be charged for this information, but they will be responsible for costs incurred in accessing the service. In addition, subscribers will be subject to appropriate fees to be established, with Commission approval, at a later date.

II. Request for Comment

Publication of notice of the submission of the transaction reporting plan for NMS securities is expected to be made in the Federal Register during the week of February 15, 1982. In order to assist the Commission in determining whether to approve the transaction reporting plan, interested persons are invited to submit written data, views, and arguments concerning the submission to Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. The Commission has determined that it is necessary to limit the comment period until February 24, 1982 since the effective date for the designation of the first NMS securities is March 1, 1982. All comments should refer to File No. S7-787.

Copies of the submission, all written statements with respect to the transaction reporting plan which are filed with the Commission, and all written communications relating thereto between the Commission and any person, other than those which may be withheld from the public,² will be

² See 17 CFR 240.246-2.

available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

By the Commission.
Shirley E. Hollis,
Assistant Secretary.

February 10, 1982.
[FR Doc. 82-4286 Filed 2-17-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18480]

**Philadelphia Stock Exchange, Inc.;
Order Approving Proposed Rule
Change**

The Philadelphia Stock Exchange, Inc. 1900 Market Street, Philadelphia, Pennsylvania, submitted on December 30, 1981, 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, which narrows the exchange's opening price guideline for options. The guideline requires opening options transactions to occur at a price at or between the previous options session's closing bid or offer plus or minus any difference between the opening price and the previous day's closing price of the underlying security.

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. 18400, January 8, 1982) and by publication in the *Federal Register* (47 FR 2445, January 15, 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 national securities exchanges 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.

February 10, 1982.
[FR Doc. 82-4285 Filed 2-17-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12223]

**Stewardship Money Fund, Inc., Filing
of an Application Pursuant to Section
6(c) of the Act for an Order of
Exemption From Rules 2a-4 and 22c-1
Thereunder**

Notice is hereby given that Stewardship Money Fund, Inc. ("Applicant"), 104 East Jackson Street, P.O. Box 288, Bolivar, Missouri 65613, (812-5058) an open-end, diversified, management investment company, filed an application on December 28, 1981, and an amendment thereto on January 15, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the Applicant from the provisions of Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Applicant to compute its price per share to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by the Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). 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.

Applicant states that it expects to operate as a "money-market" fund whose investment objective is maximum current income and stability of principal and that its portfolio may, as a matter of fundamental investment policy, be invested only in short-term, fixed income securities issued by or guaranteed as to principal by the United States Government or its agencies or instrumentalities and repurchase agreements pertaining to such securities, all portfolio securities must mature in or have been called for redemption in twelve months or less from the date of purchase or be subject to repurchase agreements so maturing.

Applicant states that it expects that as a result of rounding the net asset value per share to the nearest \$0.01 on an \$1.00 price, Applicant's price per share for the purpose of sales, redemptions and repurchases should remain at \$1.00, but that this might not be the case if Applicant were required to value its shares at a $\frac{1}{10}$ of 1% accuracy under Release No. IC-9786.

Applicant represents that it expects that its stockholders will use its shares for investment of cash reserves or temporary cash balances and that the maintenance of a constant net asset value per share will be a crucial factor in their purchase and holding of Applicant's shares. By meeting the

conditions set forth below and valuing its shares to the nearest one cent on a share value of one dollar, Applicant states that it believes that it can maintain a constant value for its stockholders along with full liquidity and a satisfactory yield.

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In Release No. IC-9786 the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of \$1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and any rule or regulation thereunder, if and to the extent that such exemption is 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.

Applicant submits that, within the meaning of section 6(c) of the Act, the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and

provisions of the Act. Applicant also submits that the stockholders of Applicant who purchase its shares with the expectation of realizing its objective of maximum current income and stability of principal would not be fairly treated if the net asset value of their shares were to deviate from \$1.00 per share. Applicant also submits that Applicant's adherence to the conditions set forth below will substantially reduce the likelihood of significant variation from a constant share price and the likelihood of any dilution of the assets and returns of incoming or outgoing stockholders.

Applicant represents that, to the extent necessary, its board of directors will consider the advisability of temporarily suspending the payment of dividends or making a capital gains distribution (if and to the extent that capital gains have not been reflected in prior dividends) to maintain a \$1.00 price per share if the net asset value per share declines to a value below \$0.997 or rises to a value of above \$1.003, respectively. Applicant also represents that in order to attempt to assure the stability of its net asset value per share, it will (so long as it relies on the exemptive relief requested) also adhere to the following conditions:

(1) Applicant's board of directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes (as a particular responsibility within its overall duty of care owed to Applicant's stockholders) to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from \$1.00;

(2) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and Applicant will not (i) maintain a dollar-weighted average portfolio maturity in excess of 120 days; or (ii) purchase a portfolio security unless it matures, or has been called for redemption, in one year or less, or is subject to a repurchase agreement so maturing.¹

¹Applicant states that in the case of a security called for redemption in one year or less, the risk of that such redemption will not take place shall have been determined by Applicant's investment adviser to be minimal; in the case of a security subject to a repurchase agreement, such repurchase agreement shall be with a financial institution believed by

(3) Applicant will limit its portfolio investments, including repurchase agreements and securities called for redemption, to those instruments which are denominated in the United States dollars and which the directors of the Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or in the case of any instrument that is not rated, of comparable quality as determined by the directors.

Notice is hereby given that any interested person may, not later than March 8, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issued, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing on request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 82-4287 Filed 2-17-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6001]

The Tappan Co., 5½% Convertible Subordinated Debentures (Due 5/15/94); Application To Withdraw From Listing and Registration

February 11, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to

Applicant's investment adviser to present minimal credit risks.

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 New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The debentures of The Tappan Company ("Company") have been listed on the NYSE since 1969. As a result of a tender offer in October 1979, AB Electrolux purchased approximately 96% of the Company's outstanding common stock and subsequently the NYSE delisted the Company's common stock.

In addition, in July 1980 AB Electrolux offered to purchase any and all outstanding debentures leaving 250 recordholders of the debentures. In February 1981, the remaining shares of the Company's common stock were converted into the right to receive \$18 per share in cash as a result of a merger with a wholly-owned subsidiary of AB Electrolux. In conjunction with that merger, the holders of the debentures also were given the right to convert their debentures into cash.

Because of the above, there are 196 recordholders of the Company's debentures. The Company has determined that because of the continued expense of listing the debentures and the lack of sufficient trading on the NYSE, listing of the debentures is no longer suitable. The NYSE has posed no objection in this matter.

Any interested person may, on or before March 5, 1982, 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.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 82-4411 Filed 2-17-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION**United Oriental Capital Co.; Application for a License to Operate as a Small Business Investment Company**

[Application No. 09/09-5298]

An application for a license to operate as a small business investment company under the provisions 301(d) of the Small Business Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by United Oriental Capital, Co. (applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1981).

The officers, directors and shareholders are as follows:

Don Jeng Wang, 15915 River Roads Dr., Houston, Texas 77079, Director, President and 45% Stockholder

Jai Min Tai, 14 Robinwood, Houston, Texas 77024, Director, Vice President and 45% Stockholder

Kuan Chih Lee, 13900 S. Main Street, Houston, Texas 77040, Director, Treasurer and 5% Stockholder

Lien Chun Chen, 21307 Park York Dr., Katy, Texas 77450, Director, Secretary and 5% Stockholder

The Applicant, a Texas corporation, with its principal place of business at 13432 Hemstead Highway, Houston, Texas will begin operations with \$500,000 paid-in capital and paid-in surplus. The applicant will conduct its activities principally in the State of Texas.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than March 5, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any

such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-4412 Filed 2-17-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/488]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Saturday, March 6, 1982 at 10:00 a.m. in the Diplomatic Reception Rooms. The meeting will last approximately until 11:30 a.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in March 1981, the announcement of all gifts and loans in calendar year 1981 and a discussion of the role of the Fine Arts Committee in the decade ahead.

Public access to the Department of State is controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, March 1, 1982, telephone (202) 632-0298 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: January 25, 1982.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 82-4331 Filed 2-17-82; 8:45 am]

BILLING CODE 4710-06-M

[Public Notice CM-8/490]

Secretary of State's Advisory Committee on Private International Law, Study Group on International Child Abduction; Meeting

There will be a meeting of the Study Group on International Child Abduction, a study group of the subject Advisory Committee, at 10:00 a.m. on Friday, March 12, 1982 in Room 1408 of the Department of State. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to

instruction of the Chairman.

The purpose of the meeting will be to review the various aspects of eventual United States implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The Convention, signed by the United States on December 23, 1981, requires the advice and consent of the U.S. Senate before the United States could ratify it and before it can come into force for the United States.

Entry to the Department of State building is controlled and members of the general public should use the "C" Street entrance. As entry will be facilitated by advance arrangements, members of the general public planning to attend should, prior to March 12, 1982, notify Ms. Rochelle B. Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State (telephone (202) 632-8134), of their name, affiliation, address, and phone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law; Vice Chairman, Secretary of State's Advisory Committee on Private International Law.

February 1, 1982.

[FR Doc. 82-4332 Filed 2-17-82; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION**Coast Guard**

[CGD 82-014]

Towing Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Towing Safety Advisory Committee. The meeting will be held on Wednesday and Thursday March 10 and 11, 1982 in Room 3201, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. On both days the meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The agenda for the meeting consists of the following items:

New Discussion Items

1. Impact of Coast Guard Planned and anticipated reductions to district offices, licensing offices, documentation offices, VTS stations and the aids to navigation program
2. Status of new Rules of the Road Council
3. Marine transport of solids in bulk
4. Restricted gauging requirements for shipment of benzene hydrocarbon mixtures

5. NAPHTHALENE as a subchapter "O" commodity
6. Waterfront facilities (CGD 77-128)
7. Marine sanitation devices (CGD 81-097)

Old Items To Be Discussed/Reported On

1. Qualification of person in charge of oil transfer operations. (CGD 79-116 and 116a)
2. Coast Guard plans for noise level standards
3. Port and Tanker Safety Act Delegations
4. Ramifications of Moran Maritime vs. USCG
5. Modification of internal inspection interval for pressure vessel type cargo tanks holding hazardous cargoes
6. Oil tank barge construction standards
7. Computer generated COI's
8. User Fees
9. Signals for drawbridges (CGD 75-237)
10. Vessel casualty reporting (CGD-170)

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Additional information may be obtained from Commander A. D. Utara, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC), Washington DC 20593, telephone number (202) 426-1477.

Dated: February 11, 1982.

A. D. Utara,
Commander, Coast Guard, Executive
Secretary, Marine Safety Council.

[FR Doc. 82-4139 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Richmond County, Georgia and Aiken County, South Carolina

AGENCY: Federal Highway
Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Richmond County, Georgia and Aiken County, South Carolina.

FOR FURTHER INFORMATION CONTACT:
David H. Densmore, Development
Engineer, Federal Highway
Administration, Suite 700, 1422 West
Peachtree Street, NE, Atlanta, Georgia

30309, telephone (404) 881-4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal identified as F-117-1(7), Richmond County. The project extends the existing Bobby Jones Expressway in Augusta, Georgia, to the terminus of the approved Bobby Jones Expressway in Aiken County, South Carolina. Three alternatives are being proposed for the four lane, fully controlled access facility.

1. No-Build Alternate.
2. Alternate 'A' would begin at Old Savannah Road in Augusta, Georgia, and proceed 8.4 miles to its terminus on U.S. 1 in Aiken County, South Carolina. It would require some modification of a portion of the already completed expressway between Old Savannah Road and New Savannah Road. This alternate would also require a full diamond interchange at both Sand Bar Ferry Road and New Savannah Road and a full directional interchange at U.S. 1 in Aiken County, South Carolina. The State of South Carolina has received location approval of the Bobby Jones Expressway in South Carolina from U.S. 1 to I-20.

3. Alternate 'B' would be an extension of the existing Bobby Jones Expressway on new location. It would begin at New Savannah Road in Augusta, Georgia, and extend 7.5 miles to the same terminus on U.S. 1 in Aiken County, South Carolina. An interchange would be required at the New Savannah Road and at Sand Bar Ferry Road. Both interchanges are proposed as full diamonds. There would also be a full directional interchange at the project terminus on U.S. 1 in Aiken County, South Carolina. This alternate, in part, parallels the approved Southern Railway Corridor location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting will be held in mid-1982 to receive input from interested State and Federal agencies. Written notice will be given of the time and place of the scoping meeting. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are

addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(The catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction*. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: February 8, 1982.

David H. Densmore,
Development Engineer, Atlanta, Georgia.

[FR Doc. 82-4421 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. Ex 79-1; Notice 6]

Shay Motors Corp.; Grant of Petition for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standards

This notice grants the petition by Shay Motors Corp. (previously known as Model A and Model T Motor Car Reproduction Corp.) of Detroit, Michigan, ("Model A" herein) for renewal of certain 1-year exemptions from several Federal motor vehicle safety standards. The basis of the petition is that compliance would cause substantial economic hardship.

Notice of Model A's original petition was published on July 23, 1979 (44 FR 43135) and notice of grant of the petition on September 27, 1979 (44 FR 55687). Notice of its initial renewal petition was published on August 4, 1980 (45 FR 51700) and of its grant on January 29, 1981 (46 FR 9842). Notice of receipt of the current petition for renewal was published on August 17, 1981, and an opportunity afforded for comment (46 FR 41670).

Model A produces a replica of a 1928 Ford Model A roadster and pickup truck. It was exempted from all or a portion of seven Federal motor vehicle safety standards, expiring September 1, 1980. The petitioner was able to achieve compliance with three of these standards, but requested a further 1-year exemption from the four remaining standards for the reasons discussed below.

Standard No. 202, Head Restraints

The company has not succeeded in its efforts to conform. The petitioner's original request was based upon the

theory that design changes necessitated by conformance could destroy the character of the vehicle and its sales market. Model A said that it has considered several alternative designs since its last petition. It incorporated a "narrow integral head restraints" into the seat back, but found that it obstructed the driver's rearward vision. A horse-shoe style restraint was then designed but the structural components required interfered with the folding top resulting in "total blockage of the driver's rear vision." It also tried lowering the seat cushion but found that this made operation of the pedals awkward. The company, therefore, requested an additional year of exemption.

Standard 203, Impact Protection for the Driver From the Steering Control System

Petitioner employs the "energy absorbing" steering column and steering wheel used on Ford Fairmont vehicles that are certified as complying with Standard No. 203. The company thus believes it may comply, but it appears to consider testing costs prohibitive in seeking a further exemption.

Standard No. 214, Side Door Strength

In its original petition Model A argued that its configuration met the intent of the standard to provide protection against impacts from the side. The height above the pavement of the vehicle's 4-inch box frame approximates that of the front bumper heights required by the bumper standard 49 CFR Part 581, so that in a side crash, the bumper should impact Model A's frame, not its door. In granting the petition, NHTSA commented that a 1-year exemption would allow Model A to verify its theory or to take remedial measures. During the exemption period, the company prepared drawings of the frame system and Part 581 bumper systems which support its theory. Therefore, Model A feels that it meets the spirit of the standard. However, it appears to consider testing costs prohibitive in seeking a further exemption.

Standard No. 301, Fuel System Integrity

In 1979 petitioner explained that:

The fuel system was specially designed * * * utilizing Ford engine compartment components and a fuel tank of 14-gauge welded steel construction * * *. This same tank is being used on Ford, Chevrolet, Dodge, International Harvester and Jeep Truck products as an auxiliary tank and is located in the Model A replica forward of the rear axle between the steel frame of the vehicle.

Cost of testing was given as the primary argument for hardship. NHTSA provided a 1-year exemption with the

comment that this time would allow a better judgment both by the manufacturer and the agency of the actual state of the vehicle's compliance. Model A reported that engineering studies have been conducted and demonstrate a "close compliance" based upon Ford's previous testing. Presumably the cost of testing is still burdensome for the company.

Model A has produced 4,500 Model A cars as of June 25, 1981. From its second fiscal year of operation ending March 31, 1980, it had a net loss before taxes of approximately \$300,000, but it turned the corner in its third fiscal year with a net profit of over \$1,400,000. The company has invested substantial capital in its second product, the Shay 55 Bird, which was exempted from a single standard, and of which about 500 had been produced as of July 1981. The company argued that a renewal of its exemption would be in the public interest as providing continuing employment for its personnel, many of whom have been temporarily laid off because of the economic down-turn. It hopes to recall a number of these to build out the Model A run (scheduled by September 1, 1982) and to increase production of the Bird. Petitioner presented no new arguments that continued exemption would be consistent with traffic safety objectives, but its previous arguments were that the vehicles would be used only occasionally and their limited number would insure that no significant hazard to traffic safety would be presented.

No comments were received on the petition.

Pursuant to section 123(c)(1) (15 U.S.C. 1410(c)(1)), an exemption granted on a hardship basis may be renewed upon the same findings under which the original exemption was granted—that compliance would cause the petitioner substantial economic hardship, that the petitioner has in good faith attempted to conform, and that the renewal is consistent with the public interest and the objectives of the National Traffic and Motor Vehicle Safety Act.

The NHTSA notes with approval the ability of the manufacturer to achieve compliance with three safety standards from which it had been originally exempted in 1979. With respect to two of the four remaining standards, Standards Nos. 203 and 301, the manufacturer may, in fact, conform since it has employed hardware used in vehicles certified as meeting those standards. Although the manufacturer has a basis for certification of compliance with Standards Nos. 203 and 301 it has pursued the conservative but legally appropriate course of petitioning for temporary exemption. As for Standard

No. 214, a similarly conservative course is followed even though the drawings prepared while the exemption was in effect appear to verify its theory of compliance. Its problems of compliance with Standard No. 202 continue even though alternative designs have been considered. NHTSA notes also that petitioner's production to date of 4,500 units is far less than 10,000 anticipated and that funds which might have been used for testing have not been generated.

Since the Regulatory Flexibility Act may apply to a proceeding to exempt a single manufacturer, the agency certifies that the exemption does not have a significant economic impact on a substantial number of small entities. While, as noted above, denial of the exemption extension would cause substantial economic hardship, only a single small business, Shay Motors Corporation, is affected. Accordingly, a regulatory flexibility analysis has not been prepared.

In summary, to require compliance, or demonstration of compliance, at this time, with standards that the petitioner has in good faith attempted to meet, would cause substantial economic hardship.

In addition, the same public interest factors that supported the original petition continue to exist, principally, the necessity of providing continuing employment for people in an economically depressed area. The limited number of vehicles likely to be produced makes it unlikely that they will present a significant hazard to traffic safety.

Accordingly, petitioner has met its burden of persuasion, and NHTSA Exemption No. EX79-1 to Shay Motors Corp. is hereby extended to September 1, 1982, with respect to the following Federal motor vehicle safety standards: 49 CFR 571.203, Standard No. 203, *Impact Protection for the Driver From Steering Control System*, 49 CFR 571.202, Standard No. 202, *Head Restraints*, 49 CFR 571.214, Standard No. 214, *Side Door Strength*, and 49 CFR 571.301, Standard No. 301, *Fuel System Integrity*.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on: February 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-4088 Filed 2-11-82; 4:52 pm]

BILLING CODE 4910-59-M

[Docket No. EX81-2; Notice 3]

Vintage Reproductions, Inc.; Grant of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

This notice corrects a misstatement in the notice of grant of petition published on October 1, 1981 (46 FR 48382).

In that notice, the statement appeared that Vintage Reproductions had been granted an exemption from, among others, Federal Motor Vehicle Safety Standard No. "111". That statement was incorrect; Vintage did not apply for an exemption from the standard on rearview mirrors. The standard from which Vintage is properly exempted is the one on theft protection (Standard No. 114), and the notice of grant is hereby corrected to change "111" to "114".

(Sec. 102, Pub. L. 93-492, 49 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-4089 Filed 2-11-82; 4:52 pm]
BILLING CODE 4910-59-M

Research and Special Programs Administration

Technical Pipeline Safety Standards Committee; Advisory Committee Charter

This notice announces the renewal of the Technical Pipeline Safety Standards Committee under section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 1 section 10; Pub. L. 92-463) and sets forth the new charter of the Committee prepared in accordance with section 9 of that Act.

The purpose of the Technical Pipeline Safety Standards Committee is to review proposed gas pipeline safety standards and report to the Associate Director for Pipeline Safety Regulation, on the technical feasibility, reasonableness, and practicability of each such proposal. The Committee may propose safety standards to the Associate Director for his consideration for gas pipeline facilities.

It has been determined that renewal of the Technical Pipeline Safety Standards Committee is in the public interest in connection with the performance of duties imposed by law on the Department under section 4 of the Natural Gas Pipeline Safety Act of 1968, as amended by section 102 of the Pipeline Safety Act of 1979 (49 U.S.C. 1673).

The charter of the Committee is set forth below:

Charter—Technical Pipeline Safety Standards Committee

1. *Purpose.* This charter of the Technical Pipeline Safety Standards Committee is prepared and renewed in accordance with the Federal Advisory Committee Act enacted October 6, 1972.

2. *Background.* Section 4 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) authorizes the establishment and prescribes the duties of the Technical Pipeline Safety Standards Committee. The Committee was established on January 2, 1969, by the appointment of 15 members. Since its establishment, the Committee has met from time to time to review and report on proposed Federal gas pipeline safety standards submitted to it by the Department.

3. *Sponsor.* The Office of Pipeline Safety Regulation is the Committee sponsor. The Associate Director for Pipeline Safety Regulation of the Materials Transportation Bureau is designated the Executive Director of the Committee and shall be the Department of Transportation (DOT) official authorized to call or adjourn meetings, approve the agenda, and otherwise monitor the Committee's meetings and progress.

4. *Committee Objectives and Duties.* The Associate Director for Pipeline Safety Regulation shall submit to the Committee for its consideration any notice of proposed gas pipeline safety standards published in the Federal Register (including both new standards and amendments to existing standards). Within 90 days after receipt by the Committee of any such proposal, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of the proposal. Each report by the Committee, including any minority views, shall, if timely made, be published and form a part of the proceedings for the promulgation of standards. The Director, Materials Transportation Bureau, may prescribe a final standard at any time after the 90th day after a proposal's submission to the Committee, whether or not the Committee has reported on such proposal. The Committee may propose safety standards to the Associate Director for his consideration for gas pipeline facilities. The Associate Director shall not be bound by conclusions of the Committee, but in the event that the conclusions of the majority of the current members of the Committee are rejected, the reasons for rejection shall be incorporated in the preamble published with the final rule

(NGPSA, Section 4, and 49 CFR 1.53). The Committee may also review and report on other matters related to the Department's gas pipeline safety rulemaking function as are presented by the Associate Director.

5. *Membership.* a. The Committee shall be composed of 15 members, each of whom shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities. Members shall be appointed on the basis of their experience in the safety regulation of the transportation of gas and of pipeline facilities, or their training, experience, or knowledge in one or more fields of engineering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

(1) Five members shall be selected from Federal, State, or local governmental agencies, and two of the five shall be State commissioners selected after consultation with representatives of the national organization of State commissions;

(2) Four members shall be selected from the natural gas industry, after consultation with industry representatives, and not less than three of the four shall be currently engaged in the active operation of natural gas pipelines; and

(3) Six members shall be selected from the general public.

b. The membership shall be fairly balanced in terms of the points of view represented, and the advice and recommendations of the Committee shall be the result of its independent judgment (FACA, section 5(b)(2) and (3)).

c. Members are appointed for a term of 3 years except that a member may serve until his successor is appointed, but for not more than a total of 6 years.

6. *Appointment of Officers.* At the first meeting of each calendar year, the Associate Director shall appoint a Chairman and Vice-Chairman, and the Committee shall, by majority vote of the members present, elect a Secretary. These three officers, who will serve until their successors are appointed, shall constitute an executive committee.

Meetings and Procedures. a. *Calling meetings.* The Associate Director for Pipeline Safety Regulation shall approve in advance the scheduling and agenda of each Committee meeting (FACA, section 10(f)). The Committee may recommend agenda items to the Associate Director. A designated officer or employee of the Federal government shall attend each

Committee meeting, and is authorized to adjourn the meeting whenever he determines it to be in the public interest (FACA, section 10(e)).

b. *Presiding at meetings.* The Chairman shall preside at all meetings of the Committee and of the Executive Committee, except that the Associate Director or his delegate may preside whenever the Committee is, at the request of an official of the Department of Transportation, advising the Department on matters other than notices of proposed rulemaking. The Vice-Chairman shall assume and perform the duties of the Chairman in the event of his absence. A majority of the current member of the Committee must be present at a meeting to perform the Committee's statutory duties.

c. *Duties of Secretary.* The Committee Secretary shall, as directed by the Chairman, monitor records, summarize activities, prepare and process letter ballots, and prepare reports for submission to the Associate Director. In the absence of the Secretary, the Chairman appoints a member of the Committee to perform the duties of the Secretary.

d. *Notice of meetings.* Notice of each Committee meeting shall be published in the **Federal Register** at least 15 days in advance of the meeting, except in emergency situations. Other forms of notice are to be used to the extent practicable (FACA, section 10(a)(2)).

e. *Frequency of Committee meetings.* the Committee meets at least once every 6 months. In addition, Committee members may be polled or asked for comments on notices of proposed rulemaking or other matters at any time without formally assembling at one place.

f. *Public participation.* Each Committee meeting shall be open to the public, and interested persons shall be permitted to attend, appear before, or file written statements with the Committee, subject to the limitations contained in the exceptions to the Freedom of Information Act (5 U.S.C. 552(b)), and also subject to reasonable rules prescribed concerning availability of space, time, etc. (FACA, section 10(a)(1) and (3)).

g. *Minutes.* Detailed minutes of each Committee meeting shall be kept and certified to by the Committee Chairman. The minutes shall contain a record of the persons participating, a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Committee (FACA, section 10(c)).

h. *Availability of records.* The records, reports transcripts, minutes,

and other documents of the Committee shall be available for public inspection and copying at the Office of Pipeline Safety Regulation, 400 Seventh Street, S.W., Washington, D.C. 20590, subject to the limitations contained in the exceptions to the Freedom of Information Act, 5 U.S.C. 552(b) (FACA, section 10(b)).

8. *Compensation.* Members of the Committee other than Federal employees shall be compensated at the rate of \$150 per day (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

9. *Duration of the Committee.* Under the provisions of the NGPSA, the Committee's purposes are continuing in nature; therefore, the Committee has an indefinite duration. The Committee itself must be renewed at successive 2-year intervals by the appropriate action of the Secretary (FACA, section 14 (c)).

10. *Administrative Support.* The Associate Director for Pipeline Safety Regulation is responsible for providing office space, equipment, supplies, clerical help, and other administrative and financial support for the Committee.

11. *Annual Operating Cost.* Estimated annual operating cost is approximately \$40,000 for salaries, travel, and recording the proceedings, plus about one-eighth person-year of staff support.

12. *Public Interest.* The formation and use of the Technical Pipeline Safety Standards Committee is determined to be in the public interest in connection with the performance of duties imposed on the Department by law. In fact, the NGPSA specifically requires the DOT to submit all proposed gas pipeline safety standards to the Committee as part of the proceedings for the promulgation of such standards.

13. *Filing Date. December 16, 1981.* This is the effective date of the charter which will expire 2 years from that date unless sooner terminated.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 82-4422 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

[Notice No. 82-2]

Transfer of Services from Washington National Airport; Delay of Meeting

Note.—This document originally appeared in the **Federal Register** for Friday Feb. 12, 1982. It is reprinted in this issue to meet

requirements for publication on the Monday/Thursday schedule assigned to the Department of Transportation.

AGENCY: Department of Transportation.

ACTION: Notice of delay of meeting.

SUMMARY: A meeting of air carriers and other interested parties to discuss the transfer of services out of Washington National Airport originally scheduled for February 16, 1982, at the Departmental Headquarters in Washington, D.C., will be delayed approximately two weeks. The original schedule did not leave enough time for the participants to adequately prepare for the general negotiating session. The time and place of the rescheduled meeting will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Gregory Wolfe, Department of Transportation, C-10, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone: (202) 426-4710.

Issued in Washington, D.C., on February 11, 1982.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 82-4120 Filed 2-11-82; 1:02 pm]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

[Docket No. 82-A]

Rolling Stock Procurement: Additional Statutory Requirements and Program Guidelines

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is issuing these guidelines in order to establish interim procedures and to implement the new requirements affecting the procurement of rolling stock that were mandated by the FY 1982 Appropriation Act for DOT. The additional requirements affect the procurement of any rolling stock, including buses, under Urban Discretionary Grants or Urban Formula Grants programs.

DATES: 1. The guidelines in this notice are effective February 18, 1982.

2. Comments on these guidelines must be received by May 19, 1982.

ADDRESS: Comments on the guidelines should be submitted to UMTA Docket No. 82-A, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590. All

comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

for further information contact: Wilbur Hare, Office of Program Management, UMTA, Room 9306, 400 Seventh Street, SW., Washington, D.C. 20590, 202/426-1428.

SUPPLEMENTARY INFORMATION: On December 23, 1981, the President signed into law the DOT and Related Agencies Appropriation Act, 1982 ("the Act") (Pub. L. 97-102). The Act contained new requirements affecting the procurement of rolling stock under both the Urban Formula Grants (Section 5) and the Urban Discretionary Grant (Sections 3 and 16(b)(2)) programs.

Previously, both the fiscal years 1980 and 1981 DOT Appropriation Acts required that rolling stock be awarded based on *consideration* of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. The effect of that language was to require that UMTA be assured that the factors mentioned were taken into consideration by grantees prior to awarding contracts for rolling stock using FY 1980 or 1981 funds under sections 3, 5 or 16(b)(2).

The new legislative language affecting the capital grant programs for rolling stock, including buses, under section 3, section 16(b)(2), and section 5 states:

Provided, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

The effect of this language is to require that UMTA be assured that the factors mentioned in the Act are *evaluated* by a grantee prior to awarding a procurement contract for any type of rolling stock using FY 1982 section 3, 16(b)(2) or 5 funds. This requirement applies to the procurement of all rolling stock, including advanced design buses. Whenever requested by a grantee, UMTA will assist the grantee in developing the procedure during the process once it is in place, but not conducting an evaluation consistent with both the Act and OMB requirements.

It is UMTA's intent to encourage grantees to utilize procurement methods that will allow grantees maximum flexibility to make the most cost-effective purchases. UMTA encourages grantees to use procurement techniques which offer incentives for manufacturers to develop better products, offer new components, and invest in research and development programs. To this end, grantees may wish to consider using existing procurement methods, in which formally advertised bids are evaluated, based on data supplied by the bidders and the grantees, to determine which vehicle represents the lowest cost over the life of the vehicle. If this method is used, such an evaluation should be based on those cost factors which have a substantial effect on the life-cycle cost of the rolling stock. UMTA has conducted studies to find better means by which to implement the factors described in the Act, and will continue to look for ways to improve the procurement evaluation techniques. Since the currently developed techniques may not be appropriate in every instance, grantees are encouraged to modify them as appropriate to improve existing techniques, or to use alternative methods of implementing the legislative requirement. Such alternatives may include the use of methods other than conventional formally advertised procurements (single-step competitive sealed bids). Examples may include the use, where appropriate, of competitive negotiated or two-step formally advertised procurement methods. The latter procedure may provide for necessary technical proposal clarification discussions resulting from the life-cycle cost requirements prior to introducing competitive sealed bidding. Carefully documented evaluation of performance, standardization and life-cycle cost factors in the development of procurement specifications can meet this requirement.

Specific methods of implementing these requirements are not being prescribed in order to allow grantees the maximum flexibility possible in meeting these requirements.

However, regardless of the manner in which a grantee chooses to implement the new requirement, the method of evaluation should be clearly set out in the solicitation document so that all bidders can understand the basis upon which contract award will be made.

UMTA wishes to emphasize that the procurement cannot be designed in a manner which unduly restricts competition. UMTA is prohibited by section 3 of the Urban Mass Transportation Act of 1964, as amended,

from funding procurements which use exclusionary or discriminatory specifications. Grantees must therefore be prepared to demonstrate that they have not unduly restricted competition in structuring their procurement to evaluate performance, standardization and life-cycle costs and other factors. Furthermore, grantees will continue to be bound by the procurement requirements contained in Attachment "O" to Office of Management & Budget (OMB) Circular A-102.

Any protest involving the application of life-cycle cost procurement methods is considered a local issue, and should be resolved by the parties to the procurement. UMTA will not entertain protests involving life-cycle cost issues but will defer to the decisions of the grantees. However, UMTA will offer technical assistance when requested in connection with the development of the procedure.

All interested parties are invited to submit written views or comments concerning the guidelines. In particular, UMTA requests comments concerning three areas: (a) Suggestions regarding improvement of existing methods of implementing this statutory requirement; (b) suggested alternative methods of implementing the requirement which are discussed in this Notice; (c) identification of major or significant operating cost; (d) identification of major or significant standardization; (e) identification of major or significant life-cycle cost factors; and (f) identification of other potentially significant factors to be considered in the procurement decision process. With respect to the latter area, please note Exhibit 1, which is a sample list of operative cost factors for buses which was developed by an UMTA consultant on the basis of comments received from grantees. This list is not meant to be minimal or exhaustive and UMTA is interested in receiving information relative to other cost factors not listed, and in receiving comments concerning the relative importance of these factors. Each comment should include the name and address of the person submitting the comment, reference the docket number, identify the specific section of the guidelines to which the comment applies, and include sufficient detail to indicate the basis for each comment. All comments received before the expiration of the comment period will be considered before any changes are made to the guidelines.

The guidelines are being published in order to give notice to all interested and affected parties as well as to provide an opportunity to comment. The guidelines

have been carefully developed in such a manner as to fully implement the requirements of the Act without creating undue burden on transit authorities and equipment manufacturers, particularly with respect to procurements which have already been advertised. The Administrator has determined that these guidelines are effective immediately but has determined that it is in the public interest to solicit comments in order to assist UMTA in assessing the guidelines.

Guidelines: Rolling Stock Procurement Under the Section 3, 5, and 16(b)(2) Programs

In order to respond to the requirements of the DOT and Related Agencies Appropriation Act, 1982 (Pub. L. 97-102), a modification to the standard grant agreement has been developed for use in all affected procurements of rolling stock. The last part of this Notice describes the change to be incorporated into Part I of the standard grant agreement for all section 3, section 5, and section 16(b)(2), grants for rolling stock using FY 1982 funds. Additionally, grantees using FY 1982 funds under one of these sections for the procurement of rolling stock (as indicated below) will be required, as a condition of the grant agreement, to certify to UMTA after the procurement award that they have evaluated performance, standardization and life-cycle costs in awarding their procurement contracts. This amendment is immediately applicable to existing grant agreements covering procurements to which this Notice applies.

In order to explain best how this new provision affects UMTA's present and prospective grantees, several categories of grants under varying circumstances are described below.

1. *Capital Grants for Rolling Stock Using FY 1982 Funds.* All section 3, section 16(b)(2) and section 5 capital grants, that were approved after December 23, 1981, using FY 1982 funds for the procurement of rolling stock are subject to the new provision. With regard to grants using FY 1982 funds that were approved by UMTA prior to December 23, 1981, application of the requirement depends on when bids were advertised. If bids were solicited prior to December 23, 1981, the procurement is exempt from the requirements. If bids were solicited after December 23, 1981, the new requirements apply, and grantees must ensure that these factors will be evaluated in awarding the contracts.

2. *Holders of a Letter of No Prejudice (LONP) which Request Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock Using FY 1982*

Funds. Holders of an LONP who will request a FY 1982 section 3, section 16(b)(2) or section 5 grant from UMTA for the reimbursement of a procurement contract that has not yet been awarded, must evaluate the factors mentioned in the Act in making the award of a contract for rolling stock. Holders of a LONP that have already awarded a procurement contract must demonstrate that the factors were evaluated in the procurement award before UMTA may make a section 3, section 16(b)(2) or section 5 grant using FY 1982 funds. This applies even in those cases in which a procurement contract was previously concurred in by UMTA and awarded by the LONP holder prior to the Act. The important element in determining the applicability of the new provision is whether the grant will be financed using FY 1982 funds.

3. *Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock, That are Minor Amendments to Pre-FY 1982 Capital Grants, In Which the Project Scope is Not Changed.* Any grant made after December 23, 1981, for rolling stock using FY 1982 funds which supplements an existing pre-FY 1982 grant and is applied against a procurement initiated by the earlier grant is not governed by the new provision, as long as the scope of the original project is not changed by the grant amendment. Where a grant amendment changes the scope of the original project, the grantee must comply with the requirements of the provision and, in accordance with the amendment to Part I of the standard grant agreement, must certify that the factors were evaluated in the award of the procurement contract before UMTA may make the new grant.

4. *Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock Which are Amendments to Pre-FY 1982 Capital Grants for Multi-Year Phased Projects.* Any grant using FY 1982 grant funds to provide planned supplementary funding, subject to the availability of funds, for a multi-year phased project which was initiated by a pre-FY 1982 grant, is subject to the new requirements only in two instances: (1) If the initial contract has not been awarded or advertised prior to December 23, 1981, or (2) if the FY 1982 grant changes the scope of the multi-year phased project. In all other cases, the Act will not apply. UMTA does not believe that it was the intent of Congress to apply retroactively new legislative requirements for such multi-year procurement projects that were approved by UMTA, subject to the availability of funds, and actually initiated by grantees based upon the

legislative requirements in effect at an earlier time.

5. *Recipients of Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock Using Pre-FY 1982 Funds Which Have Yet to Award Procurement Contracts.* The new provision does not apply to grants made by UMTA using pre-FY 1982 funds, even in those cases in which grantees have not yet awarded or advertised procurement contracts. Because applicable law at the time did not require UMTA to ensure evaluation of the factors in the Act, any future procurement contracts awarded by grantees using these pre-FY 1982 funds are not subject to the requirements of the new provision. For these grantees, the DOT and Related Agencies Appropriation Acts for FY 1980 and FY 1981 required that such contracts shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary deemed relevant. Section 12(b)(2) of the Urban Mass Transportation Act of 1964, as amended, allows grantees to consider these factors in the procurement award, if the grantees so desire, and UMTA encourages them to do so.

The following change will be made both to existing and future grants, and will be included in Part I of UMTA's standard grant document for any section 3, section 16(b)(2) and section 5, grant:

In accordance with guidelines issued by UMTA, the grantee/recipient shall make third party contract awards for the acquisition of rolling stock, including buses, only after evaluation of performance, standardization, and life cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. The grantee/recipient shall also submit a certification to UMTA, following the award of any contract for rolling stock, that these factors have been evaluated in accordance with the Act. Where necessary, the Secretary will assist the grantee/recipient in making such evaluations.

Issued on February 4, 1982.

Arthur E. Teele, Jr.,
Administrator.

Exhibit 1—LCC Cost Factors

This list is not meant to be minimal or exhaustive and UMTA is interested in receiving information relative to other cost factors not listed, and in receiving comments concerning the relative importance of these factors.

Body

Shell

Exterior and Applied Panels
Finish
Skirt Aprons
Floors

Steps and Stepwells
Wheel Housing
Passenger Doors
Service Compartment Service Doors

Operating Components

Door Actuators
Windshield Wiper/Washer
Light Control and Instruments
Fare Box
Loading System
Signals

Interior

Mirror
Passenger Seats
Driver Seats
Floor Covering
Panels and Bulkheads
Access Doors
Stanchions and Handrails

Windows

Driver's Windows
Side Windows

Chassis**Propulsion System**

Engine
Cooling System
Transmission
Engine Accessories
Hydraulic Drive

Final Drive

Rear Axle
Drive Shaft

Suspension

Springs and Shocks
Front Axle
Kneeling

Steering**Brakes**

Hubs and Drums
Air System
Friction Material

General Chassis

Wheels
Fuel System
Bumper System
Frame

Electrical System
Electrical Components

Climate Control

Heating
Air Conditioning
Ventilation

Radio and Public Address System

Mobile Radio System
Public Address System

Road Calls**Preventive Maintenance**

Oil Change
Tuneup
Inspections
Lubrications
Cleaning and Washing

Operating Factors

Fuel
Tires
Oil

[FR Doc. 82-4423 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-57-M**DEPARTMENT OF THE TREASURY****Customs Service****[T.D. 82-34]****Reimbursable Services—Excess Cost of Preclearance Operations**

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning March 7, 1982.

Installation	Biweekly excess cost
Montreal, Canada.....	\$18,917
Toronto, Canada.....	29,629
Kindley Field, Bermuda.....	11,765
Nassau, Bahama Islands.....	11,284

Installation	Biweekly excess cost
Vancouver, Canada.....	10,368
Winnipeg, Canada.....	3,267
Freeport, Bahama Islands.....	9,534
Calgary, Canada.....	8,689
Edmonton, Canada.....	3,912

Mitchell A. Levine,*Acting Comptroller.*

[FR Doc. 82-4328 Filed 2-17-82; 8:45 a.m.]

BILLING CODE 4820-02-M**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE****Notice of Section 22 Tobacco
Investigation Decision**

On August 21, 1981, the International Trade Commission (ITC) submitted a report to the President on its investigation of certain tobacco under Section 22 of the Agricultural Adjustment Act of 1933, as amended. The ITC found that tobacco imports did not materially interfere with the domestic price support program and that the conditions for imposing restrictions under Section 22 of the Agriculture Adjustment Act did not exist.

The ITC tobacco investigation was instituted on January 18, 1981, to determine whether imported tobacco provided for in terms 170.3210, 170.3500, 170.6040 and 170.8045 of the Tariff Schedules of the United States is materially interfering with or rendering ineffective the domestic tobacco program of the U.S. Department of Agriculture.

In view of the investigation and report by the ITC, the Administration will take no further action regarding the Section 22 investigation of tobacco imports.

C. Michael Hathaway,*Deputy General Counsel.*

[FR Doc. 82-4280 Filed 2-17-82; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 33

Thursday, February 18, 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).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Monday, February 22, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Urea-Formaldehyde Foam Insulation*
The Commission will consider whether to finalize or withdraw a proposed consumer product safety rule that would declare urea-formaldehyde foam insulation to be a banned hazardous product under section 8 of the Consumer Product Safety Act.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Room 342, 5401 Westbard Ave., Bethesda, Maryland 20207; Telephone (301) 492-6800.

[S-234-82 Filed 2-16-82; 10:34 am]

BILLING CODE 8355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 9, 1982, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, N.W. Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open:

1. Freedom of Information Act Appeal No. 81-11-FOIA-74-DA, concerning a request for certain documents from a closed Title VII file and a closed Equal Pay file.

2. Freedom of Information Act Appeal No. 81-12-FOIA-069-MK, concerning a request for certain documents from a closed ADEA file.

3. Freedom of Information Act Appeal No. 81-12-FOIA-57-NO, concerning a request for access to records in a charge file.

4. A report on Commission Operations by the Executive Director.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

FOR MORE INFORMATION CONTACT: Treva McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued February 2, 1982.

[S-232-82 Filed 2-16-82; 9:37 am]

BILLING CODE 6570-06-M

3

FEDERAL COMMUNICATIONS COMMISSION Deletion of Agenda Item From February 11th Closed Meeting

The following item has been deleted at the request of the Office of Chairman Fowler from the list of agenda items scheduled for consideration at the February 22, 1982, Closed Meeting and previously listed in the Commission's Notice of February 3, 1982.

Agenda, Item No., and Subject

Hearing—3—Applications for Review in the Gulf Coast Communications, Inc., Tampa, Florida Public Coast III-B Maritime Mobile Radio proceeding. (PR Docket No. 78-259-60).

Issued: February 11, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-235-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION Deletion of Agenda Item From February 11th Open Meeting

The following item has been deleted at the request of the Private Radio Bureau from the list of agenda items scheduled for consideration at the

February 11, 1982, Open Meeting and previously listed in the Commission's Notice of February 3, 1982.

Agenda, Item No., and Subject

Private Radio—2—*Title:* Report and Order to provide for the use of automatic aviation weather observation systems at certain airports. *Summary:* The FCC will consider whether to amend Part 87 to provide for the use of automatic weather observation systems at airports with neither a full-time control tower nor a full-time FAA flight service station. These automatic observation systems are designed to provide pilots with such aeronautical information as the wind, weather, visibility, altimeter setting and other pertinent information.

Issued: February 11, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-236-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION Deletion of Agenda Item From February 11th Open Meeting

The following item has been deleted at the request of the Office of Commissioner Rivera from the list of agenda items scheduled for consideration at the February 11, 1982, Open Meeting and previously listed in the Commission's Notice of February 3, 1982.

Agenda, Item No., and Subject

Aural—1—*Subject:* Memorandum Opinion and Order in re petition for review filed by ICBC Corporation, New York, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in declining to waive Section 73.37(a) so as to accept for filing the applicant's request to change frequencies and operate on an unlimited time basis.

Issued: February 10, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-237-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION Rescheduling of a Previously Deleted Item for the Open Meeting of February 11, 1982

Due to an Administrative Error the Federal Communications Commission announced on February 5, 1982, the deletion of the item listed below from the list of items scheduled for the February 11, 1982 Open Meeting. This previously deleted item will be considered at this meeting.

Agenda, Item No., and Subject

Television—1—Title: Applications for review of the Broadcast Bureau's action denying the Joint Request for Production of Documents filed by Channel 50, Inc., STVGW and New Vision, Inc. *Chesapeake Television, Inc.*, Mimeo No. 003696, released October 1, 1981. **Summary:** Channel 50, Inc., licensee of WCQR(TV), Washington, D.C., STVGW (Channel 50's STV franchisee), and New-Vision, Inc., permittee of WNUV-TV, Baltimore, Maryland, seek review of the Bureau's denial of their Joint Request for Production of Documents whereby they requested that Chesapeake Television, Inc., licensee of WBFF(TV), Baltimore, Maryland, be ordered to produce certain documents referred to by Chesapeake in its opposition to a petition to deny Chesapeake's STV proposal filed by applicants herein. The issue is whether applicants have made a showing justifying grant of their application for review.

Deletion of Agenda Item From February 11th Closed Meeting

The following item has been deleted at the request of the Office of the General Counsel from the list of agenda items scheduled for consideration at the February 11, 1982, Closed Meeting and previously listed in the Commission's Notice of February 4, 1982.

Agenda, Item No., and Subject

Hearing—5—Exceptions to the Initial Decision in the Simon Geller, WVCA-FM comparative renewal proceeding, Gloucester, Massachusetts (Docket Nos. 21104 and 21105).

Issued: February 9, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-238-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION

Special Open Commission Meeting,
Thursday, February 18, 1982

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Thursday, February 18, 1982, at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—Title: In re application for the establishment of interim direct broadcast

satellite systems in the 12.2-12.7 GHz frequency band. **Summary:** The Commission will consider petitions for reconsideration of Commission decision to reject certain DBS applications.

General—2—Title: Report of the United States Delegation to the Regional Administrative MF Broadcasting Conference (Region 2), Second Session, Rio de Janeiro, 1981. **Summary:** The United States participated in a conference in Rio de Janeiro which developed an agreement and master assignment plan governing AM broadcasting in the Western Hemisphere. The Chairman of the U.S. Delegation will report on the outcome of the Conference and its potential effect on the AM broadcasting service in the U.S.

Common Carrier—1—Title: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. **Summary:** The Commission will consider whether or not to adopt a Notice of Proposed Rulemaking soliciting comments on the manner of record carrier interconnection mandated by the Record Carrier Competition Act of 1981.

Common Carrier—2—Title: Application by AT&T and United for Section 214 authority to provide 1.344 Mbps data service to R. R. Donnelley & Sons. **Summary:** The Commission will consider requests for earth stations authorization at the midwestern locations, and for terrestrial facilities between ML and an existing AT&T earth station in Coram, New York. The carrier has also submitted proposed tariff revisions to govern the service if authorized.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: February 11, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-239-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:55 p.m. on Friday, February 12, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Metropolitan Bank and Trust Company, Tampa, Florida, which

was closed on February 12, 1982 by the Comptroller of Florida; (2) accept the bid for the transaction submitted by Great American Bank of Tampa, Tampa, Florida, a subsidiary of Great American Banks, Inc., subject to approval of the appropriate court; and (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 16, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-242-82 Filed 2-16-82; 3:10 pm]

BILLING CODE 6714-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, February 16, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,108-NR—United States National Bank, San Diego, California

Memorandum and Resolution re: Monthly Report of Income of Selected Mutual Savings Banks

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: February 16, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-243-82 Filed 2-16-82; 3:10 pm]

BILLING CODE 6714-01-M

10

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Tuesday, February 16, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Requests for consent to elect trustees:

Buffalo Savings Bank, Buffalo, New York
Harlem Savings Bank, New York, New York

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Surety Bank and Trust Company, Wakefield, Massachusetts

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(B), and (c)(10)).

Dated: February 16, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-244-82 Filed 2-16-82; 3:11 pm]

BILLING CODE 6714-01-M

11

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 23, 1982 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: Wednesday, February 24, 1982 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:
Continuation of executive session of February 23, 1982, if necessary.

* * * * *

DATE AND TIME: Thursday, February 25, 1982 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:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:

Draft AO 1981-54: David H. Stoughton,
Fairchild Industries

Draft AO 1981-56: John J. Duffy, Satellite
Business Systems

Appropriations and budget
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-245-82 Filed 2-16-82; 3:42 pm]

BILLING CODE 6715-01-M

12

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 8, 1982.

Amendment to Previously Announced Meeting

TIME AND DATE: 10 a.m., Thursday, February 11, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: This meeting was previously scheduled for Wednesday, February 10, 1982. The Commission will consider and act upon the following.

1. Eastover Mining Company, Docket No. VA 80-145. (Issues include interpretation and application of 30 CFR 75.1710-1.)

2. U.S. Steel Corporation, Docket No. BARB 76-95, IBMA 77-1. (Issues include whether imminent danger order was properly issued to operator under the 1969 Coal Act.)

It was determined by a unanimous vote of Commissioners that Commission business required that the above change be made and that no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen; (202) 653-5632.

[S-231-82 Filed 2-16-82; 9:36 am]

BILLING CODE 6820-12-M

13

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 10, 1982.

TIME AND DATE: 10 a.m., Wednesday, February 17, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Frederick G. Bradley v. Belva Coal Co., Docket No. WEVA 80-708-D. (Issues include the effect be given to state board's finding of no discrimination under the state statute).

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen; (202) 653-5632.

[S-240-82 Filed 2-16-82; 2:28 pm]

BILLING CODE 6820-12-M

14

FEDERAL RESERVE SYSTEM (Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, February 24, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. 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: February 16, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-246-82 Filed 2-16-82; 3:51 pm]

BILLING CODE 6210-01-M

15

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-4]

TIME AND DATE: 9 a.m., February 25, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594

STATUS: The first three items will be open to the public; the fourth will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Miller Transporters, Inc., Tractor Cargo Tank-Semitrailer/Southern Railway System Freight Train Collision and Fire, Huntsville, Alabama, September 15, 1981, and *Recommendations* to the State of Alabama, City of Huntsville, and Miller's Transporters, Inc.

2. *Marine Accident Report:* Collision of the Washington State Ferry *Klahowya* and the Liberian Freighter *Sanko Grain* in Seattle Harbor, Washington, January 13, 1981, and *Recommendations* to the U.S. Coast Guard and Washington State Ferries.

3. *Recommendation* to the Federal Aviation Administration regarding takeoff and landing minimums and associated visibility observations.

4. *Opinion and Order:* Administrator v. Moore, Dkt. SE-4776; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming 202-382-6525.

February 12, 1982.

[S-241-82 Filed 2-12-82; 3:42 pm]

BILLING CODE 4910-58-M

16

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 15, 1982 (revised) and Week of February 22, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, February 16:*

10:00 a.m.:

Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting) (as announced)

1:30 p.m.:

Continuation of Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting) (as announced; time changed)

Friday, February 19:

10:00 a.m.:

Presentation by GE on BWR Mark III Containment Design Basis (public meeting) (as announced)

2:00 p.m.:

Affirmation/Discussion Session (public meeting) (items revised)

Items to be affirmed and/or discussed:

a. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations (postponed from February 11)

b. Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System

c. Final Rule (1) to Eliminate Requirements with Respect to Financial Qualifications for Power Reactor Applicants, and (2) to Require Power Reactor Licensees to Maintain Property Damage Insurance

Thursday, February 25:

2:00 p.m.:

Briefing and Possible Vote on Staff Recommendations on Diablo Canyon Program Plan and Independence of Audit (public meeting) (approximately 2 hours)

4:00 p.m.:

Affirmation/Discussion Session (public meeting)

Items to be affirmed and/or discussed:

a. Proposed Rule Change on Technical Specifications

b. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings (postponed from February 11)

c. FOIA Appeal (81-A-21)

Friday, February 26:

9:30 a.m.:

Discussion of Management-Organization and Internal Personnel Matters (closed meeting) (approximately 1 hour)

10:30 a.m.:

Discussion of Regulatory Reform Task Force Proposals (public meeting/portions may be closed)

2:00 p.m.:

Discussion of Revised Licensing Procedures (closed meeting)

ADDITIONAL INFORMATION: By a vote of 5-0 on February 5, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Pending Litigation (closed meeting), held that day, be held on less than one week's notice to the public. By a vote of 5-0 on February 9, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Phase II of Diablo Canyon Report (closed meeting), held that day, be held on less than one week's notice to the public. By a vote of 5-0 on February 11, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Affirmation of West Chicago Order, held at 10:00 a.m. that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should verify the status on the day of the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

February 12, 1982.

Walter Magee,
Office of the Secretary.

[S-233-82 Filed 2-16-82; 9:37 am]

BILLING CODE 7590-01-M

Federal Register

Thursday
February 18, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and
Enforcement

Erosion and Attendant Air Pollution;
Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Erosion and Attendant Air Pollution

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement proposes to amend §§ 816.95 and 817.95 of 30 CFR relating to air resources protection for surface and underground coal mining operations, respectively. The office also is proposing to delete 30 CFR 816.106 and 817.106 relating to regrading or stabilizing rills and gullies for surface and underground coal mining operations, respectively.

Sections 816.95 and 817.95 were remanded to the Secretary of the Interior for revision to reflect the finding that Congress only intended to regulate air pollution related to erosion, not air pollution from the entire surface coal mining operation.

The proposed revisions to §§ 816.95 and 817.95 would delete specified fugitive dust control measures and would require only that all exposed surface areas be protected to control erosion and attendant air pollution.

DATES: The comment period for the proposed amendments will extend until March 22, 1982. Public hearings are scheduled for March 11, 1982. Public meetings may be held between February 18, 1982 and March 22, 1982.

ADDRESS: Written comments must be mailed to the Office of Surface Mining, Administrative Record Room TSR-24.18, 1961 Constitution Ave., NW., Room 5315-L, Washington, D.C. 20240, or hand-delivered to room 240 South Interior Bldg, 1951 Constitution Ave., NW., or Room 5315, 1100 L Street, NW., Washington, D.C. All comments, notices of public meetings and summaries of the meetings will be available for inspection at Room 5315, 1100 L Street, NW., Washington, D.C.

Public hearings will be held on March 11, 1982 at the following locations:

Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW., Washington, D.C. 20240, from 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m.

Lexington, Kentucky—Hilton Inn, Keeneland Hall, I-74 and Newton Pike, Lexington, Kentucky 40505, from 4:00 p.m. to 7:00 p.m. and 8:00 p.m. to 10:00 p.m.

Denver, Colorado—Brooks Tower, 2nd Floor Conference Room 1020, 15th Street, Denver, Colorado 80202, from 4:00 p.m. to 7:00 p.m. and 8:00 p.m. to 10:00 p.m.

For addresses where additional copies of these proposed amendments are available, see "AVAILABILITY OF COPIES" under "SUPPLEMENTARY INFORMATION."

FOR FURTHER INFORMATION CONTACT:

Robert Goldberg, P.E., Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior: 202-343-4022.

SUPPLEMENTARY INFORMATION:**I. Procedural Matters***Public Comment Period*

The comment period on the proposed revisions will extend until March 22, 1982. All written comments must be received by 5:00 p.m. on that date. Comments received after that time may not be considered or included in the Administrative Record for the final rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than those specified above will be considered and included in the Administrative Record for the final rulemaking.

Public Comments

Written comments should be as specific as possible. Comments not pertaining to the issues proposed cannot be considered under this rulemaking. OSM appreciates any and all comments, but those most useful and likely to influence decisions on these revisions will be those which include citation to legislative history, case law, technical literature or other relevant reasons for any given recommendation. Written comments will be accepted until 5:00 p.m. on March 22, 1982 at the addresses indicated above under "ADDRESSES."

Availability of Copies: Copies of the proposed regulations may be obtained at the following offices:

OSM Headquarters, U.S. Department of the Interior, Room 5315, 1100 L Street, NW., Washington, D.C. 20240 202-343-4728.

OSM Region I, 603 Morris Street, Charleston, West Virginia 25301, 304-342-8125.

OSM Region II, Suite 500, 539 Gay Street, SW., Knoxville, Tennessee 37902, 615-637-8060.

OSM Region III, Room 502, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, 317-269-2600.

OSM Western Technical Center, Brooks Tower, 1020 15th Street, Denver, Colorado 80202, 303-837-5511.

Public Hearings

Public hearings on these proposed rules will be held on March 11, 1982 to hear all those who wish to testify. Persons wishing to testify at the public hearings on this proposed revision should contact the person listed under "For Further Information Contact" on or before March 4, 1982. Individual testimony at the hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearings would greatly assist OSM officials who will attend the hearings. Advance submission will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

Public hearings will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. Hearings will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

The public hearing may be cancelled unless there are a significant number of requests for a hearing during the comment period. If time permits, a notice of cancellation of public hearing will be published in the *Federal Register*.

Public Meetings

Representatives of OSM will be available to meet between February 18, 1982, and March 22, 1982 at the request of members of the public, State representatives, and other organizations to listen to advice and recommendations concerning the content of these proposed amendments. Persons wishing to meet with representatives of OSM during this time period may request a meeting at the Washington office, any of the three regional offices or the Western Technical Center. Persons to contact to schedule such meetings are as follows:

Washington—Robert Goldberg, P.E. 202-343-4022.

Charleston—Jesse Jackson, 304-345-4720.

Knoxville—William Thomas, 605-637-8060 ext. 200.

Indianapolis—Allen Perry, 317-269-2656.

Denver—Richard Dawes, 303-837-4072.

OSM representatives will be available at the Washington office, the three regional offices and the Western Technical Center for these meetings between 9:00 am and noon, and 1:00 pm and 4:00 pm local time, Monday through Friday excluding holidays. The location of such meetings will be publicly posted in advance in Room 5315, 1100 L Street, NW., Washington, DC. A written summary of the meetings will be made a part of the Administrative Record and will be available to the public.

II. Background

Section 515(b)(4) of the Surface Mining Control and Reclamation Act of 1977 (hereinafter referred to as the Act), 30 U.S.C. 1201 *et seq.*, requires that all surface coal mining and reclamation operations:

Stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution.

Section 516 of the Act imposes similar requirements on underground coal mining operations.

Sections 816.95 and 817.95 of the permanent program regulations in 30 CFR were promulgated by the Office of Surface Mining (OSM) in accordance with Sections 515(b)(4) and 516 of the Act, respectively. Section 816.95 of the regulations, addressing surface coal mining operations, and § 817.95, addressing the surface effects of underground coal mining operations, now contain identical language and describe measures to be used in controlling fugitive dust emissions. Such measures include, but are not limited to: periodic watering and chemical stabilization of unpaved roads, restricting travel and speed of vehicles on unpaved roads, paving of unpaved roads, stabilizing surface areas of adjoining roads and revegetation or regarded and disturbed lands. These regulations additionally specify that for those operations requiring an air monitoring plan pursuant to 30 CFR 780.15 and 784.26, monitoring equipment shall be installed and operated.

Sections 816.106 and 817.106 address the regrading or stabilizing of rills and gullies for surface and underground coal mining operations, respectively, and require the stabilization of rills or gullies

deeper than 9 inches which form in areas that have been regraded or stabilized.

In "In Re: Permanent Surface Mining Regulation Litigation," CA 79-1144 (D.D.C.), May 16, 1981, Sections 816.95 and 817.95 of the regulations were remanded to the Secretary of the Department of the Interior for revision because Section 515(b)(4) of the Act, quoted above, was found to be ambiguous with respect to whether the phrase "attendant air and water pollution" applied only to erosion or to all surface areas affected by a surface coal mining and reclamation operation.

Judge Flannery found that the legislative history to Section 515(b)(4) of the Act indicated that Congress only intended to regulate air pollution related to erosion, not air pollution from the entire surface coal mining operation. The regulations were remanded to the Secretary for revision to reflect this finding.

III. Explanation of Proposed Amendments

Sections 816.95 and 817.95 currently require that each person who conducts surface and related underground mining activities plan and employ fugitive dust control measures as an integral part of the total coal mining operation. The regulatory authority, pursuant to Section 508(a)(9) of the Act, possesses the authority to approve the control measures appropriate for use in such planning in accordance with applicable Federal and State air quality standards, climate, existing air quality in the area affected by mining, and available control technology. The measures to control fugitive dust emissions by the person conducting surface or underground mining activities are required to be submitted to the regulatory authority pursuant to Sections 508(a)(9) and 516 of the Act and §§ 780.15 and 784.26 of the permanent program regulations.

OSM proposes to delete the portions of §§ 816.95(a) and 817.95(a) pertaining to planning and development of fugitive dust control measures as these measures exceed the scope of "erosion and attendant air pollution" of Section 515(b)(4) of the Act. OSM would substitute the requirement that all exposed surface areas must be stabilized and protected to effectively control erosion and attendant air pollution. These revisions properly limit the scope of air resources protection under Section 515(b)(4) of the Act to erosion and attendant air pollution in order to comply with Judge Flannery's decision in "In Re: Permanent Surface Mining Regulation Litigation, *supra*."

Fugitive dust emissions would not be specifically addressed.

The regulatory authority may require the submission of a fugitive dust control plan as part of an air pollution control plan required under §§ 780.15 and 784.26 of the permanent regulatory program.

OSM proposes to delete §§ 816.95(b) and 817.95(b) which enumerate specific control measures that may be used to control fugitive dust emissions. This deletion would not alter the requirement to control fugitive dust emissions in accordance with applicable Federal and State air quality standards, but rather would allow the regulatory authority to specify the control measures necessary pursuant to Section 508(a)(9) of the Act and §§ 780.15 and 784.26 of the permanent program regulations.

OSM proposes to delete §§ 816.95(c) and 817.95(c), which authorize the regulatory authority to require additional measures to control fugitive dust emissions when the measures in existing subsection (b) of each section are inadequate. The regulatory authority already has the authority to determine the appropriate control measures to be used to control erosion and attendant air pollution, which may include fugitive dust emissions, under the proposed revisions to §§ 816.95 and 817.95 and pursuant to §§ 780.15 and 784.26.

OSM proposes to delete §§ 816.95(d) and 817.95(d), which currently provide that air monitoring equipment be installed if required in the air monitoring plan. Air monitoring equipment may be installed if the regulatory authority determines that the criteria of §§ 780.15 and 784.26 require such equipment in the air pollution control plan.

A significant source of erosion and attendant air pollution for an underground mining operation is roads used to facilitate such operation. The classification and maintenance of these roads are governed by §§ 817.150 through 817.176 of the permanent program regulations. However, OSM suspended §§ 817.150 through 817.176 in response to Judge Flannery's decision in "In Re: Permanent Surface Mining Regulation Litigation, *supra*," which remanded § 816-150 through 816-176 to the Secretary of the Department of the Interior, 45 FR 51547 (August 4, 1980). OSM currently is working on revisions to the roads regulations which will include provisions relating to erosion and attendant air pollution.

In proposing these revisions to § 817.95, OSM is aware that the requirements to control erosion and attendant air pollution relating to underground mining activities may overlap with the following revision of

§§ 817.150 through 817.176 addressing the classification and maintenance of roads. If this occurs the proposed revisions to § 817.95 may not be adopted and § 817.95 instead may be deleted.

Additionally, OSM proposes to delete §§ 816.106 and 817.106 of the permanent regulatory program which require the regrading or stabilizing of rills and gullies. This would not eliminate entirely the requirement that rills and gullies be regraded or stabilized because the proposed revisions to §§ 816.95 and 817.95 would require that all exposed surface areas must be stabilized and protected to effectively control erosion. Since rills and gullies would be exposed surface areas they would be required to be stabilized and protected pursuant to that section.

A draft of earlier proposed revisions to §§ 816.95 and 817.95 was distributed for public comment and several comments were received.

A comment was received that air pollution controls should take into account "the potential impact of dust on persons residing near or travelling by the minesite, taking particular note of the proximity of dwellings and public roads to dust sources in the permit area." When proper dust erosion control methods are proposed and implemented, the amount of dust pollution travelling off the minesite should be reduced to the point where it will not affect receptors outside the permit area.

Two comments were received stating that OSM had not considered the remand by the District Court of §§ 816.95, and 817.95, Air Resources Protection, to make them applicable only to erosion related air pollution. OSM is proposing that these regulations apply "to control erosion and attendant

air pollution," thus complying with the remand by the District Court.

Determinations Under Executive Order 12291, the Regulatory Flexibility Act and the National Environmental Policy Act

The Department of the Interior (DOI) has examined these proposed rules under the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed regulations emphasize the use of performance standards instead of design criteria which will allow operators to utilize the most cost-effective means of achieving the performance standards.

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed regulations will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an interim finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Records Office at the address listed in the "Addresses" section of the preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule. OSM also is preparing an EA of the cumulative impacts on the human

environment of this rulemaking and related rulemakings under SMCRA. This cumulative EA also will be completed before this rule is made final.

Accordingly, 30 CFR Parts 816 and 817 are proposed to be amended as set forth herein.

Dated: February 1, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

(Pub. L. 95-87, 30 U.S.C./ 201 *et seq.*)

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

1. Part 816 is amended by revising § 816.95 to read as follows:

§ 816.95 Erosion and attendant air pollution.

Each person who conducts surface mining activities shall stabilize and protect all exposed surface areas to effectively control erosion and attendant air pollution.

§ 816.106 [Removed]

2. Section 816.106 is removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

3. Part 817 is amended by revising § 817.95 to read as follows:

§ 817.95 Erosion and attendant air pollution.

Each person who conducts underground mining activities shall stabilize and protect all exposed surface areas to effectively control erosion and attendant air pollution.

§ 817.106 [Removed]

4. Section 817.106 is removed.

[FR Doc. 82-4446 Filed 2-17-82; 8:45 am]

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