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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Relocation of Headquarters Offices

Correction

In FR Doc. 81–33528 appearing on page 57263 in the issue of Monday, November 23, 1981, make the following correction:

In the middle column of page 57263, paragraph (c) of Appendix A to 5 CFR Ch. XIV, in the first and second lines, "The Office address of the Chief Administrator is:" should have read "The Office address of the Chief Administrative Law Judge is:".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Gladiolus Corms (Bulbs) [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes voluntary U.S. Standards for Grades of Gladiolus Corms (Bulbs). This action has been taken at the request of the North American Gladiolus Council (NAGC). These standards will provide industry with a uniform basis for trading. They reflect current industry quality and size specifications and will assist in the promotion of efficient and orderly marketing.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Francis J. O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2188.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as a non-major rule.

Effect on Small Entities

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) because it reflects current marketing practices.

Background

In July 1974 the North American Gladiolus Council (NAGC) formally requested the development of U.S. Standards for Grades of Gladiolus Corms (Bulbs). The Council had been informed by the Federal Trade Commission (FTC) that voluntary trade practices which had been established by FTC in 1952, would be withdrawn. NAGC requested that this action be delayed until a satisfactory substitute could be found. The delay was granted and lasted until August 5, 1977, when FTC officially rescinded the rules.

Soon after NAGC's request, a staff member of USDA's Fruit and Vegetable Division of the Agricultural Marketing Service met with the NAGC's Standards Committee. A study draft was developed which included quality and size requirements recommended by the Committee. This draft, with a comment period ending December 31, 1975, was widely distributed to interested persons. Three letters of comment were received supporting the development of the standards with recommendations for a few minor changes in the proposed standards.

In January 1976 at the request of NAGC, a representative of the Department met with the Standards Committee, Board of Directors, and the general membership of NAGC for a discussion of the study draft. At that time the general membership voted to request the Department to delay development of the standards until such time as they conducted further studies.

After conducting further studies of the proposed standards, the Standards Committee requested the Department to develop a revised study draft incorporating changes for certain requirements as outlined in the original study draft. On May 9, 1978, an Advanced Notice of Proposed Rulemaking was published in the **Federal Register** (43 FR 19857) noting the availability of the revised study draft with a comment period ending November 30, 1978. This draft was widely distributed to gladiolus industry members world-wide. Five letters of comment received generally supported the proposed standards. A few minor changes based on these comments were incorporated in the proposed rule.

The proposed rule for establishing voluntary grade standards for gladiolus corms (bulbs) was published in the **Federal Register** on April 28, 1981 (46 FR 23751). At that time the responsibility for U.S. grade standards was assigned to the Food Safety and Quality Service. The Agricultural Marketing Service now has this responsibility.

Comments

Twelve written responses were received during the period for comment which ended June 29, 1981. All commenters generally approved the proposed requirements of the standards. Five of these, in their opinion, were concerned that including both diameter and circumference measurements would be confusing to the trade and requested that the standards not contain circumference measurements. The majority, however, commented that as measurement by circumference is frequently used in international trade, it is essential that the standards include both means of measurement. Table I, at the request of some commenters, has been simplified to include diameter measurements in inches and metric circumference measurements. As

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

circumference measurements are used in both domestic and international trade, they have been retained in this rule.

This rule establishes quality and size requirements consistent with current industry marketing practices and will encourage uniformity in commercial trading practices.

Accordingly, United States Standards for Grades of Gladiolus Corms (Bulbs) are established and codified as 7 CFR 51.4240 through 51.4247, and are added to read as follows:

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS).

Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs)

Sec.

51.4240 General.
51.4241 Grades.
51.4242 Size.
51.4243 Tolerances.
51.4244 Application of Tolerances.
51.4245 Sample for Grade and Size Determination.
51.4246 Definitions.
51.4247 Classification of Defects.

Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs)[1]

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

§ 51.4240 General.

These standards apply to corms (bulbs) of the genus Gladiolus characteristically flattened in shape, consisting of solid corms (bulbs) propagated by a new corm which grows on top of the old corm (bulb) or by cormels (bulblets) which form between the old and new corms. (See Figure I)

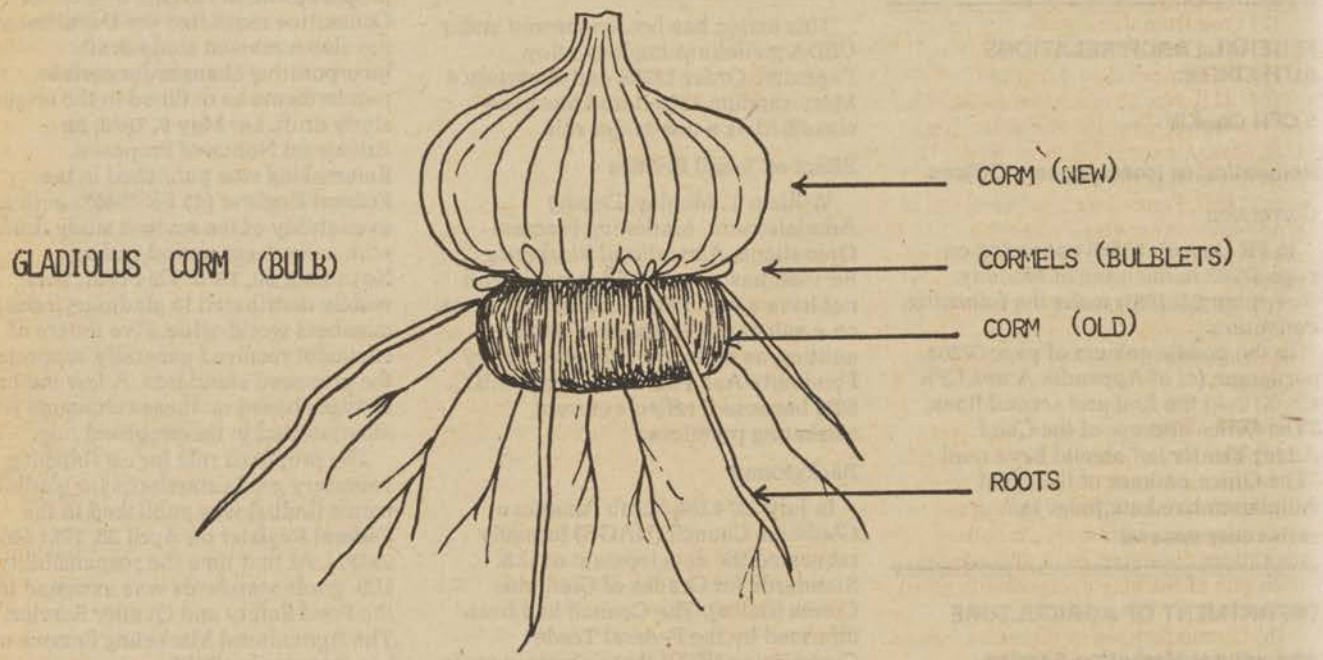


FIGURE I

§ 51.4241 Grades.

(a) "U.S. Fancy" consists of gladiolus corms which meet the following requirements:

(1) Basic Requirements:

(i) Mature and well cured;

(ii) Well filled;

(iii) Clean; and,

(iv) Well trimmed.

(2) Free From:

(i) Mold;

(ii) Shattered corms;

(iii) Thrips;

(iv) Freezing;

(v) Nut sedge;

(vi) Grass roots;

(vii) Rogues; and,

(viii) Decay.

(3) Free from damage by any means.

(4) Size. See § 51.4242

(5) Tolerances. See § 51.4243

(b) "U.S. No. 1" consists of gladiolus corms which meet the requirements of U.S. Fancy, except for increased tolerances specified in § 51.4243.

(c) "U.S. Fancy Mixture" consists of gladiolus corms which meet the requirements of U.S. Fancy, except for rogues.

(d) "U.S. No. 1 Mixture" consists of gladiolus corms which meet the requirements of U.S. No. 1, except for rogues.

§ 51.4242 Size.

(a) The size of corms may be specified in connection with the grade in terms of minimum circumference, maximum circumference, minimum diameter, maximum diameter, or in accordance with one of the size designations given in Table I.

(b) Circumference or diameter means the greatest dimension of the corm at right angles to a line running from the stem to the center of the basal portion.

TABLE I

Size designation	Diameter		Circumference	
	Minimum inches	Maximum inches	Minimum centimeters	Maximum centimeters
Jumbo	Over 1¾		Over 14	
1	1½	1¾	12	14.
2	1¼	1½	10	12.
3	1	1¼	8	10.
4	¾	1	6	8.
5	½	¾	4	6.
6	¼	½	2	4.
7		Under ¼		Under 2.
Large	1¼	1¾	10	14.
Medium	¾	1¼	6	10.
Small	¼	¾	2	6.

§ 51.4243 Tolerances.

In order to allow for variations incident to proper grading and handling, the tolerances, by count, given in Table II shall be permitted in any lot.

TABLE II

	U.S. fancy (percent)	U.S. No. 1 (percent)
Total defects	6	10
Included in total defects:		
Internal defects	2	3
Rogues	2	4
Thrips	1	1
Nut sedge, grass roots, freezing, and decay.	½ of 1	½ of 1

Not more than 10 percent of the corms in any lot may fail to meet a specified size, including therein not more than 5 percent for corms which fail to meet the specified minimum circumference or diameter.

§ 51.4244 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for the grade:

(a) Individual samples may contain not more than double the tolerance specified.

(b) One defective and one off-size specimen may be permitted in any package.

(c) Packages containing 10 specimens or less are not restricted as to the percentage of defects, except not more than one specimen which is affected by decay or otherwise seriously damaged and one off-size specimen may be permitted in any package.

§ 51.4245 Sample for grade and size determination.

Each sample shall consist of 50 corms, except when individual packages contain less than 50 corms the sample shall be the individual package.

§ 51.4246 Definitions.

"Mature and well cured" means corm is firm with a well-healed base scar and dry neck.

"Well filled" means compact and plump.

"Clean" means practically free from dirt and other foreign material.

"Fairly clean" means not materially caked with dirt or materially stained.

"Well trimmed" means tops are not more than 1 inch (2.5 cm) in length. New stem growth is not considered when determining trim.

"Fairly well trimmed" means tops are not more than 2 inches (5.1 cm) in length. New stem growth is not considered when determining trim.

"Rogues" means a distinctly different cultivar from that labeled for the entire lot. Corms of different cultivars usually vary in conformation and color.

"Shriveled" means a marked change in form, such as being shrunken, drawn or wrinkled.

"Soft" means gives readily to moderate pressure.

"Damage" means any specific defect described in § 51.4247—Table III; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the marketing quality of the corm.

"Serious damage" means any specific defect described in § 51.4247—Table III; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the marketing quality of the corm.

"Permanent defects" means defects which are not subject to change during shipment or storage, such as: cleanness, shape, trim.

"Condition defects" means defects which are subject to change during shipment or storage, such as: shriveling, softness, decay.

§ 51.4247 Classification of defects.

TABLE III

Defects	Damage	Serious damage
Bacterial spot	Aggregating more than ⅜ inch (.9 cm) in diameter on a corm 1 inch (2.5 cm), in diameter and correspondingly lesser or greater areas on smaller or larger corms.	
Discoloration	Aggregating more than ⅜ inch (.9 cm) in diameter on a corm 1 inch (2.5 cm), in diameter and correspondingly lesser or greater areas on smaller or larger corms.	
Cuts	Aggregating more than ½ inch (1.3 cm) in length and ⅛ inch (.3 cm), in depth on a corm 1 inch (2.5 cm) in diameter, and correspondingly lesser or greater areas on smaller or larger corms.	
Bruises	Aggregating more than ¾ inch (1.9 cm) in diameter and the area being soft or indented on a corm 1 inch (2.5 cm), in diameter and correspondingly lesser or greater areas on smaller or larger corms.	
Thrips		When any feeding on the corm is evident or when thrips are present.
Nut sedge		When present or penetrates the corm surface.

TABLE III—Continued

Defects	Damage	Serious damage
Grass roots		When penetrating the corm surface.
Mold		When affecting the incipient root system (living tissue) or which penetrates below the epidermis.
Shattered		When corms are cracked, crushed or split.
Freezing		When corm is frozen or shows any amount of brown discoloration or is soft following freezing.
Decay		Soft, mushy or mummified condition or disintegration or breakdown of the tissue of the corm.

Done at Washington, D.C., on February 26, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-5884 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 543; Navel Orange Reg. 542, Amdt. 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 5–March 11, 1982, and increases the quantity of such oranges that may be so shipped during the period February 26–March 4, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective March 5, 1982, and the amendment is effective for the period February 26–March 4, 1982.

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

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on March 2, 1982 at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

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

PART 907—NAVAL ORANGES GROWN IN ARIZONA AND DESIGNATED AS PART OF CALIFORNIA

1. § 907.843 is added as follows:

§ 907.843 Navel Orange Regulation 543.

The quantities of navel oranges grown in Arizona and California which may be handled during the period March 5, 1982, through March 11, 1982, are established as follows:

(a) District 1: 1,450,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons.

2. § 907.842 Navel Orange Regulation 542 (47 FR 8151), is hereby amended to read:

§ 907.842 Navel Orange Regulation 542.

* * * * *

(a) District 1: 1,600,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons.

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

Dated: March 3, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-6108 Filed 3-3-82; 11:26 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 348; Lemon Reg. 347, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

Correction

In FR Doc. 82–5469, appearing on page 8319, in the issue of Friday, February 26, 1982, make the following change:

On page 8319, in the second column, change the part heading to read as follows: "PART 910–LEMONS GROWN IN CALIFORNIA AND ARIZONA."

BILLING CODE 1505-01-M

Commodity Credit Corporation

7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with comments requested.

SUMMARY: The purpose of this interim rule is to announce changes in the regulations which govern the farmer-owned Grain Reserve Program. These changes are necessary to simplify the terms and conditions of the program.

Changes in the Feed Grain Reserve Program include revision of: (1) Program availability provisions; (2) producer eligibility requirements; (3) interest rate provisions; (4) trigger release and call levels and procedures for determining such levels; (5) liquidated damages and the time period for which liquidated damages shall be assessed; and (6) reserve contract agreements.

DATES: This interim rule shall be effective as of October 6, 1981. Comments must be received by May 3, 1982.

ADDRESSES: Interested persons may send comments to the Director, Cotton, Grain, and Rice Price Support Division, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Steve P. Gill, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 382–9888. A final Regulatory Impact Analysis has been prepared and is available from Steve P. Gill.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified "major" since the rule will result in an annual effect on the economy of $100 million or more. However, this interim rule will not result in: (1) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (2) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Need for Immediate Action

Producers have completed harvest of their 1981-crop feed grains. Early in the harvest season it was evident that the current feed grain crop would achieve levels exceeding demand and, in addition, a large number of 1980-crop barley, corn, and sorghum regular price support loans were maturing as corn and sorghum harvest began. Thus, in the absence of prompt action to stabilize markets, it was anticipated that feed grain prices could become unreasonably depressed. Permitting producers of 1980-crop barley, corn, and sorghum currently under regular price support loan and 1981-crop barley, corn, and sorghum to place such feed grains into the farmer-owned Grain Reserve Program immediately lessened the impact of these crops on the market price.

Accordingly, due to the need for prompt action, it has been determined that it is not practical and is contrary to the public interest for the Commodity Credit Corporation (CCC) to comply with any further rulemaking requirements with respect to this rule. Therefore, these regulations shall become effective as of October 6, 1981, the date on which the Secretary of Agriculture announced the implementation of this reserve. However, comments with respect to this regulation are requested and should be submitted on or before May 3, 1982, in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

This action is not expected to have any significant impact on the quality of human environment, health, and safety.

The title and number of the Federal Assistance Program to which this interim rule applies are: Grain Reserve Program, Number 10.067 as filed in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Summary of Interim Rule

Section 110 of the Agricultural Act of 1949, as amended (7 U.S.C. 1445e), authorizes the Secretary of Agriculture to formulate and administer a producer storage program for feed grains in order to stabilize prices and to provide for the orderly marketing of the commodities. In carrying out the producer storage program, the Secretary is authorized to provide original or extended loans (extensions of regular price support loans) to feed grain producers. Among other terms and conditions, the producer storage program must provide for the following: (1) Repayment of extended price support loans by producers in not less than three nor more than five years, (2) payment to producers of storage costs, and (3) a rate of interest based on the rate charged CCC by the U.S. Treasury, except that the Secretary may waive or adjust such interest. Also, the Secretary is authorized to establish appropriate price levels at which: (1) Producers may, without penalty, redeem their commodity from the feed grain reserve and repay their extended price support loans, plus interest (i.e., trigger release level); and (2) producers are required to redeem their commodity from the reserve and repay their extended price support loans, plus interest, or forfeit the commodity serving as collateral for such loan to CCC (i.e., call level). This interim rule sets forth terms and conditions of the producer storage program for the 1981 and subsequent crops of barley, corn, oats, and sorghum, as well as crops of such commodities for prior crop years if entry into the program for such commodity is authorized by the Secretary.

Section 1421.723 of this interim rule permits producers to participate in the Feed Grain Reserve Program whenever the reserve program for a specified commodity is available. Producers will be permitted to place a commodity into the reserve only when the national average market price for such commodity is below the trigger release level for the commodity. Entry of an eligible commodity into the reserve will not be permitted when the national average market price for that commodity has reached or exceeds the trigger release level for the commodity. The Feed Grain Reserve Program for a commodity is terminated when the reserve for such commodity is called by the Secretary.

Section 1421.724(a) of this interim rule provides that in order to encourage the orderly marketing of feed grains, the Secretary may authorize producers to participate in a Feed Grain Reserve Program for a specified commodity prior to maturity of their regular price support loans.

Section 1421.731(a) of this interim rule provides that each feed grain reserve loan shall bear interest during the first year at the rate applicable to the Note and Security Agreement signed by the producer and at such subsequent interest rates as may be determined and announced by the Secretary. Normally, feed grain reserve loans will not bear interest after the first year (see § 1421.731(b)). However, notwithstanding any period during which interest on feed grain reserve loans would otherwise be waived as provided by § 1421.731(b), interest will accrue at the applicable rate between the day following the second consecutive CCC announcement that the national average market price for a commodity is equal to or exceeds the

trigger release level and the date of any subsequent announcement by CCC that the national average market price for such commodity is again below the trigger release level.

Section 1421.733(a) provides that the trigger release level for barley shall be $2.55 per bushel; corn, $3.15 per bushel; oats, $1.60 per bushel; and sorghum, $5.36 per hundredweight. Section 1421.733(b) also provides that the national average market price shall be determined to be at the call level when the national average market price is equal to or above the trigger release price prescribed in § 1421.733(a). The Secretary may, at his discretion, call feed grain reserve loans when the national average market price for a specified commodity is at or above the trigger release level for such commodity. If the commodity serving as collateral for a called loan is not redeemed within the time period prescribed by the Secretary, CCC may take title to the grain. If grain serving as collateral for a feed grain reserve loan is redeemed by a producer prior to an announcement by CCC that the trigger release level for the commodity has been reached (unless emergency release has been authorized), the producer is required by § 1421.733(a) of this interim rule to repay the loan principal and interest. Such producer is further required to repay to CCC with interest all previously received storage payments for the period during which liquidated damages are assessed as set forth below. In addition to the above, the producer is required to pay to CCC liquidated damages at a rate equal to 50 percent of the interest rate applicable to CCC price support loans at the time of redemption. Liquidated damages will be assessed for the period beginning on the later of: (i) The date following the last date the producer had an opportunity to repay the loan during a period when the reserve was in release; or (ii) the date the reserve agreement was approved (in the case of converted reserve agreements, the date the original reserve agreement was approved). The period during which such liquidated damages will be assessed will end on the date of repayment. If a producer voluntarily forfeits the commodity prior to the time CCC announces that the trigger release level for such commodity has been reached, such producer shall be required to repay to CCC all storage payments received by the producer with respect to such commodity for the period beginning on the date for which liquidated damages begin to accrue, with interest. In addition, the producer is required to pay liquidated damages at a rate equal to 50 percent of the interest rate applicable to CCC price support loans at the time of forfeiture. Liquidated damages will be assessed for the time period prescribed above.

All grain reserve agreements for a specific crop of a commodity approved prior to the effective date of this new Feed Grain Reserve Program will remain subject to the program regulations governing those agreements. However, producers with such prior grain reserve agreements for which the reserve has not been called may be authorized, in the discretion of the Secretary, to convert such prior grain reserve agreements to the new Feed Grain Reserve Program established by this interim rule by executing new agreements. This reserve differs from previous grain reserve programs in the following respects: (1) Only feed grains are eligible for entry into this reserve; (2) the trigger release and call levels are not based upon the price support loan rate in effect for the commodities but are expressed in specific amounts; (3) the trigger release level and call level are established at the same level; (4) the reserve will not be called when the national average market price reaches the call level, except in the case of an extreme emergency; (5) interest will be charged during the first year of the grain reserve agreement; and (6) computation of liquidated damages for repayment of a reserve loan when release is not in effect has been changed to more accurately reflect a producer's contribution to the success of the reserve.

Producers of corn and sorghum serving as collateral for previously called reserve loans under previous farmer-owned Grain Reserve Programs which were terminated as the result of a call will not be eligible for entry into the Grain Reserve Program. Because the national average market price as determined and announced by CCC is currently above the trigger release level of $1.60 per bushel, 1980 and 1981-crop oats will not be eligible for entry into the reserve at this time.

Several alternative actions were considered in developing this rule. Consideration was given to: (1) Increasing or decreasing the annual storage payment of 26.5 cents per bushel, (2) charging interest during the entire release period, (3) establishing different trigger release levels, and (4) extending the initial release period. These alternative actions are discussed more fully in the Impact Analysis.

The major alternative action considered was immediate entry versus delayed entry of 1981 corn into the feed grain reserve with a $3.15 per bushel trigger level. Corn prices have dropped $0.55 to $0.60 per bushel since July, mainly reflecting improved U.S. crop prospects and lagging export demand. As corn harvest approaches, prices could drop an additional $0.05 to $0.10 per bushel. Current farm prices average around $2.40 to $2.45 per bushel nationally, with some areas in the western Corn Belt experiencing prices $0.20 to $0.30 per bushel below the national average. These price levels are below release and call levels for previous reserve programs and below the loan redemption value in some areas.

Immediate entry will strengthen feed grain prices and help reduce budget exposure to fiscal year (FY) 1982 deficiency payments. Deficiency payments in FY 1982 are estimated to range from $143 million to $322 million, depending on reserve placements. Total nonrecoverable costs are estimated to range from $612 million to $706 million. Net loan and inventory outlays for FY 1982 are expected to range from $726 million to $1,223 million, most of which is expected to be repaid in FY 1983. Combining nonrecoverable and recoverable outlay estimates results in total FY 1982 outlays under immediate entry to range from $1,387 million (assuming a 300 million bushel corn reserve carryover) to $1,790 million (assuming a 600 million bushel corn carryover).

Because feed grain prices under delayed entry would be lower than under immediate entry, FY 1982 deficiency payments would be significantly higher. Deficiency payments under delayed entry are estimated to range from $382 million to $439 million, depending on reserve placements. Total nonrecoverable costs would range from $722 million to $750 million. Loan activity would be lower under delayed entry, resulting in net loan and inventory outlays for FY 1982 ranging from $135 million to $322 million. However, CCC loan forfeitures would be greater during FY's 1982 and 1983, resulting in increased government ownership and storage expenses. Total FY 1982 outlays under delayed entry would range from $840 million (assuming a 50 million bushel corn carryover) to $999 m[illegible] (assuming a 150 million bushel corn carryover).

Taking into consideration the above factors, it has been determined that immediate entry of 1981-crop feed grains into the reserve should be permitted.

Interim Rule

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, the regulations at 7 CFR Part 1421 are amended by adding a new "Subpart—Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops" to read as follows:

Subpart—Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

Sec.

1421.720 General statement.
1421.721 Length of reserve agreements.
1421.722 Limit on reserve quantity.
1421.723 Program availability.
1421.724 Eligibility requirements.
1421.725 Applicability of the general regulations governing price support for the 1978 and subsequent crops.
1421.726 Warehouse receipts.
1421.727 Quantity eligible for feed grain reserve loans.
1421.728 Quality eligibility requirements of feed grain reserve loans.
1421.729 Storage rates.
1421.730 Storage payments.
1421.731 Interest rates.
1421.732 Commingling and replacement of feed grains.
1421.733 Trigger release level, call level, redemption requirements, and early redemption charges.
1421.734 Maturity.

Subpart—Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714(b) and (c); sec. 110, 91 Stat. 951, as amended (7 U.S.C. 1445e).

§ 1421.720 General statement.

(a) The regulations in this subpart set forth the terms and conditions for the Feed Grain Reserve Program which provides for extended farm storage and warehouse storage loans (hereinafter called "feed grain reserve loan(s)") with respect to eligible commodities as provided by § 1421.724. Farm storage feed grain reserve loans will be evidenced by notes, security agreements, grain reserve agreements, and in certain cases chattel mortgages or financing statements. Warehouse storage feed grain reserve loans will be evidenced by notes, security agreements, and grain reserve agreements and will be secured by the pledge of warehouse receipts representing eligible commodities in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) To participate in the Feed Grain Reserve Program, a producer must request and enter into a grain reserve agreement with CCC at the local county ASCS office. Such agreement shall be for a period of time as specified in § 1421.721. Storage payments will be paid to the producer annually during the period of the grain reserve agreement for the time such commodity is eligible to earn such storage payments. Producers may redeem commodities under the Feed Grain Reserve Program without repaying earned storage payments when the national average market price reaches the trigger release level determined in accordance with § 1421.733. At the discretion of the Secretary of Agriculture (hereinafter the "Secretary") all loans on a commodity in the feed grain reserve may be called when the national average market price for such commodity reaches the call level determined in accordance with § 1421.733.

§ 1421.721 Length of reserve agreements.

Reserve agreements shall be for a period of not less than three years nor more than five years.

§ 1421.722 Limit on reserve quantity.

There is no specific limitation on the quantity of feed grains that may be stored under this program. However, the Secretary may limit the quantity of feed grains which may be stored under this program to that amount which he determines to be necessary in order to stabilize prices and to provide for the orderly marketing of such feed grains.

§ 1421.723 Program availability.

Producers with farm or warehouse-stored feed grain under CCC price support loan (hereinafter called "regular loan(s)") may participate in the Feed Grain Reserve Program any time a reserve is in effect and is available for their commodity. The program will be available when announced by the Secretary for a specified crop of feed grains for such period of time and under such terms and conditions as may be deemed to be appropriate by the Secretary. However, entry of eligible commodities into the reserve will not be permitted when the national average market price for such commodity has reached the trigger release level and the reserve is in release as provided for by § 1421.733(a). Producers will be permitted to place an eligible commodity into the reserve when the national average market price for such commodity is again below such release level and the reserve is no longer in release. In addition, entry of eligible commodities into the Feed Grain Reserve Program will not be permitted and such reserve will be terminated whenever the national average market price for such commodity is at or above the call level and the reserve has been called by the Secretary in accordance with the provisions of § 1421.733(b). A producer desiring to participate in the Feed Grain Reserve Program shall file a request to participate in the program at the county ASCS office which disbursed the regular loan. An approved cooperative marketing association shall request a feed grain reserve loan at the county ASCS office which disbursed the regular loan or at its servicing agent bank which disbursed the regular loan.

§ 1421.724 Eligibility requirements.

(a) *Producer.* Whenever the Secretary has announced pursuant to § 1421.723 that the reserve is available for a specified crop of feed grain, a producer may, upon maturity of a regular loan, place the eligible commodity serving as collateral for such loan into the Feed Grain Reserve Program by making application for and completing a grain reserve agreement. In order to encourage the orderly marketing of feed grains, the secretary may authorize producers with eligible commodities to participate in an announced Feed Grain Reserve Program prior to maturity of their regular loans with respect to a specified crop of feed grains. In such event, producers with eligible feed grains under purchase agreements may also be eligible to participate in such feed grain reserve upon conversion of their purchase agreements into regular loan agreements. Eligibility of producers to place eligible feed grains into the reserve will be on a first-come-first-served basis.

(b) *Feed grain.* Feed grains serving as collateral for feed grain reserve loans must meet the quantity and quality requirements set forth in § 1421.727 and § 1421.728 of this subpart. The total quantity of feed grains entering the reserve may not exceed the quantity specified by the Secretary when the Secretary announces the availability of the reserve.

§ 1421.725 Applicability of the general regulations governing price support for the 1978 and subsequent crops.

The provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, published at 44 FR 2353, corrected at 44 FR 6351, and any amendment thereto

(hereinafter referred to as "General Regulations"), which are not inconsistent with provisions of this subpart, shall apply to feed grain reserve loans.

§ 1421.726 Warehouse receipts.

(a) *General.* Warehouse receipts tendered to CCC under this program must meet all of the requirements of this section and any other requirements contained in the regulations in this subpart, the general regulations, and the regulations governing the loan and purchase program for the applicable commodity.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder of such receipts.

(c) *Requirements.* Warehouse receipts must: (1) Be issued by an approved warehouse; (2) represent a commodity which is deemed to be stored commingled; (3) be negotiable; (4) cover the eligible commodity actually in storage in the warehouse of original deposit, except that warehouse receipts may be issued by another warehouse if the eligible commodity was reconcentrated under a "Reconcentration Agreement and Trust Receipt" approved by CCC; (5) be registered or recorded with appropriate State or local officials when required by State law; and (6) show that storage charges have been paid through the end of the first year of the grain reserve agreement. In lieu of the latter requirement, the producer may provide evidence satisfactory to CCC that storage charges have been paid or otherwise provided for through the end of the first year of the grain reserve agreement.

(d) *Where a warehouseman is also owner.* If the warehouse receipt is issued for a commodity which is owned by the warehouseman, either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on their own commodity is invalid, the warehouseman may offer such commodity to CCC for loan only if such warehouse is licensed and operating under the U.S. Warehouse Act.

§ 1421.727 Quantity eligible for feed grain reserve loans.

(a) *Farm-stored.* The quantity eligible for a feed grain reserve loan is the measured quantity covered by the regular loan, as determined by the county committee.

(b) *Warehouse-stored.* The quantity eligible for a feed grain reserve loan is the quantity shown on the warehouse receipt or the supplemental certificate, if applicable, which secured the regular loan.

§ 1421.728 Quality eligibility requirements of feed grain reserve loans.

(a) *General.* Quality will be determined according to the Official United States Standards for Grain, Federal Grain Inspection Service (FGIS), USDA.

(b) *Feed grains.* Feed grains which enter the reserve must meet the quality eligibility requirements for securing a regular CCC price support loan. However, feed grains which grade "Sample Grade" will not be eligible to enter the reserve.

(c) *Farm-stored feed grain.* (1) Prior to approval of a feed grain reserve farm-stored loan, the commodity will be inspected by a representative of the county committee and the agreement will not be approved unless it is determined on the basis of such inspection that the commodity is such that it can reasonably be expected to be stored with safety until maturity of the loan.

(2) The producer is responsible for maintaining the quality and quantity of the farm-stored feed grain.

§ 1421.729 Storage rates.

(a) Producers will be paid per annum storage payments at the initial rate of 26.5 cents per bushel for barley and corn, 20 cents per bushel for oats, and 47.32 cents per hundredweight for sorghum. Such rates may be changed from time to time by announcement in a separate notice published in the **Federal Register** but will not be less than: (1) 26.5 cents per bushel for barley and corn; (2) 47.32 cents per hundredweight for sorghum; and (3) 20 cents per bushel for oats.

(b) When storage is computed for less than one year, appropriate daily rates announced in the **Federal Register** will be used, which will not be less than: (1) .0726 cents per bushel for barley and corn; (2) .1296 cents per hundredweight for sorghum; and (3) .0548 cents per bushel for oats. Annual storage payments shall be adjusted and paid in accordance with provisions outlined in § 1421.730.

§ 1421.730 Storage payments.

(a) *Time.* Advance storage payments shall be paid annually on the date the grain reserve agreement is approved and each anniversary date thereafter, except that storage payments will not be made when storage credit is not being earned as provided for in § 1421.730(d) due to the fact that the national average market price is at or above the trigger release level. If CCC subsequently determines that the price has fallen below the trigger release level, storage payments will be made for the remainder of the year. Storage payments for the second year and any subsequent year will not be made to a producer having a feed grain reserve warehouse loan until the producer furnishes written evidence to CCC that at least the next year's storage payment has been paid to the warehouseman or provided for with the warehouseman. If the producer fails to provide such written evidence within a reasonable period of time, the county ASCS office shall call such loans. If the loan is not repaid or evidence that storage has been paid or provided for is not furnished to CCC within 10 days after such call, title to the commodity shall vest in CCC on the eleventh day and the producer shall be considered to have voluntarily forfeited his commodity to CCC and shall be subject to the voluntary forfeiture provisions of § 1421.733(c).

(b) *Storage payments for farm-stored feed grain.* Storage payments for farm-stored feed grain reserve loans shall generally be based upon the quantity of such commodity serving as collateral for a regular loan which is converted to the reserve. However, such payments can be based on the quantity of such commodity measured for a feed grain reserve loan when such measured quantity is greater than the quantity of such commodity serving as collateral for a regular loan.

(c) *Storage credit.* Storage credit for less than one year will be computed on a daily basis.

(d) *Eligible storage credit.* Storage credit shall be allowed for the duration of the loan, except that no storage credit shall be earned between the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the trigger release level and the date of any subsequent announcement by CCC that the market price is again below the trigger release level for such commodity. Any unearned advance storage payments will be subtracted from any future storage payments or will be collected when the loan is redeemed or the collateral is forfeited to CCC.

(e) *Unearned storage credit.* No storage payment shall be earned if the producer: (1) Has made any false representation in the loan documents in

obtaining the loan or in settlement of the loan; (2) makes an unauthorized disposition of the commodity with intent to defraud CCC; (3) abandons the commodity; or (4) negligently or otherwise impairs the commodity.

§ 1421.731 Interest rates.

(a) As provided in the Note and Security Agreement signed by the producer, each feed grain reserve loan shall bear interest during the first year at the rate applicable to such Note and Security Agreement as well as any subsequent increased or decreased interest rates which may be determined and announced by the Secretary.

(b) Except as provided in this subsection, feed grain reserve loans shall not bear interest after the first year. However, notwithstanding any period during which interest may otherwise be waived, interest will accrue at the rate specified in § 1421.731(a) for any period beginning the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the trigger release level for such commodity and ending the date of any subsequent announcement by CCC that the market price for the commodity is again below the trigger release level for such commodity.

§ 1421.732 Commingling and replacement of feed grains.

(a) *Commingling.* In the case of farm storage, feed grains in the feed grain reserve may be commingled with other eligible or ineligible feed grains which are from the same or any other crop year and which are of the same class of feed grains if: (1) The county Agricultural Stabilization and Conservation (ASC) committee gives prior written approval of such commingling, and (2) the county ASCS office inspects and measures the feed grain at the producer's expense prior to commingling.

(b) *Replacement.* Farm-stored feed grain placed in the reserve may be replaced with other feed grain of the same kind which is of equal or better quality and which is produced by the borrower if: (1) The county ASC committee gives prior written approval of such replacement; (2) the quantity of feed grain to be used for replacement is in storage on the farm or the county ASC committee has authorized removal of the reserve feed grain to licensed storage before replacement in accordance with § 1421.732(c); (3) the county ASC committee inspects and measures, at the producer's expense, the quantity of feed grain which is to replace the reserve feed grain before removal of the reserve feed grain; and (4) the county ASC committee determines that the quality of feed grain which is to replace the reserve feed grain is equal to or better than the quality of feed grain serving as collateral for a feed grain reserve loan. Removal of farm-stored feed grain in the Feed Grain Reserve Program without prior written approval from the county ASC committee will be considered unauthorized removal.

(c) *Licensed storage.* The producer may be authorized to move farm-stored feed grain in the Feed Grain Reserve Program to licensed warehouse storage before replacement if, prior to the movement of such commodity: (1) A written request to do so is filed in the county ASCS office; (2) approval of the county ASC committee is granted in writing; (3) the county ASCS office inspects and measures the grain, at the producer's expense, prior to removal; (4) the grain is moved to licensed storage within 30 days after approval is granted; and (5) and endorsed negotiable warehouse receipt for such grain is deposited with the ASCS County Executive Director (CED). The producer shall agree to remain liable for all charges incident to the storage of the grain in the warehouse and CCC in no way shall be liable for any such charges. When the feed grain which is used to replace the feed grain covered by the warehouse receipt is placed in farm storage and the county ASCS office has determined by inspection and measurement that: (i) There is a sufficient quantity of feed grain of the same kind in storage; and (ii) the quality is equal to or better than the feed grain represented on the warehouse receipt, the warehouse receipt shall be returned to the person who deposited it. Whenever a producer does not place feed grain in acceptable farm storage as provided in 7 CFR § 1421.7 prior to maturity of the feed grain reserve agreement, the producer's interest in the feed grain, represented by the warehouse receipt and held by the ASCS CED, shall transfer to CCC.

(d) *Release for sale or livestock feed.* The producer may be authorized to move farm-stored grain in the Feed Grain Reserve Program for delivery to a buyer for sale or for livestock feed thirty days before the producer intends to have replacement stocks in place if prior to the movement of the grain: (1) A written request to do so is filed in the county ASCS office; (2) approval of the county ASC committee is granted in writing; (3) the county ASCS office inspects and measures the grain, at the producer's expense, prior to removal; (4) the grain released for livestock feed will be fed to the producer's own livestock; and (5) an inspection, at the producer's expense, of the unharvested feed grain indicates there will be sufficient eligible unencumbered production of equal or better quality to replace the reserve commodity.

§ 1421.733 Trigger release level, call level, redemption requirements, and early redemption charges.

(a) *Trigger release level.* Commodities serving as collateral for feed grain reserve loans shall not be eligible for redemption without the producer incurring liability for liquidated damages unless the national average market price of the commodity as determined and announced by CCC is equal to or above the trigger release level established for such commodity. The trigger release level will be established and announced by the Secretary. The trigger release level for barley shall be $2.55 per bushel; corn, $3.15 per bushel; oats, $1.60 per bushel; and sorghum, $5.36 per hundredweight. The national average market price for each commodity, except barley, will be considered by CCC to have reached the trigger release level when the five-day national average price for the respective commodity at selected major markets published by the Agricultural Marketing Service (AMS), adjusted downward to reflect prices received by farmers by the difference between: (1) The midmonth prices published by the Statistical Reporting Service (SRS) for the respective commodity for the previous month, and (2) the average mid-month price for the same month at selected major markets published by AMS, equals or exceeds the trigger release level for the respective commodity. The national average market price for barley will be considered by CCC to have reached the trigger release level when the five-day average price for barley published by AMS for the major market which serves the area where the majority of the barley in the reserve is stored, adjusted downward to reflect prices received by farmers by the difference between (i) the midmonth price published by SRS for feed barley for the previous month in the area where the majority of the barley in the reserve is stored and (ii) the average midmonth price for barley published by AMS for the same month at the major market which serves the area where the majority of the barley in the reserve is stored, equals or exceeds the trigger

release level for barley.
Producers will be advised when the market reaches the trigger release level and that their loans are eligible for redemption without liability for liquidated damages and other applicable charges. Such determinations shall be made and announced by CCC and shall be applicable until a subsequent announcement is made. When the trigger release level is reached for a commodity, the initial release period shall be for the remainder of the month in which release is announced plus the next month. Subsequent announcements to continue or discontinue release will be made at the end of the initial or subsequent release period. Any subsequent announcement to continue release will be for the month following the preceding release period. If a subsequent announcement indicates that the national average market price for the commodity is below the applicable trigger release level, the terms of the reserve agreement and the regulations which are applicable prior to release shall again apply and the commodity will not be eligible for redemption without liability for liquidated damages and other applicable charges.

(b) *Call level.* CCC will determine that the national average market price is at call level and the Secretary may, in his discretion, call the loans when the national average market price for a commodity published by AMS is at or above the applicable trigger release level as determined in the manner prescribed in § 1421.733(a) of these regulations. If the called loan is not redeemed within the time prescribed by the Secretary, CCC may take title to the commodity.

(c) *Redemption or voluntary forfeiture.* (1) Except in case of emergency release as provided in paragraph (c)(2), if a producer redeems the commodity when the national average market price for such commodity is below the applicable trigger release level, such producer will be required to repay the feed grain reserve loan principal with interest. In addition, such producer will be required to repay with interest storage payments previously received by the producer with respect to such commodity for the period during which liquidated damages apply, as specified below. The producer is further liable for liquidated damages at the rate of 50 percent of the interest rate applicable to CCC regular loans at the time of redemption. Liquidated damages will be assessed for the period beginning on the later of: (i) The date following the last date the producer had an opportunity to repay the loan during a release period; or (ii) the date the reserve agreement was approved (in the case of converted reserve agreements, the date the original reserve agreement was approved). The period during which such liquidated damages will be assessed will end on the date of repayment. If a producer voluntarily forfeits the commodity to CCC prior to the time of any announcement that the applicable trigger release level has been reached, such producer shall be required to repay with interest all storage payments previously received by the producer with respect to such commodity for the period during which liquidated damages apply. In addition, the producer will be liable for liquidated damages at a rate equal to 50 percent of the interest rate applicable to CCC price support loans at the time of forfeiture. Liquidated damages will be assessed for the time period prescribed above.

(2) In the case of warehouse-stored loans, if it is determined by CCC that the storage space is no longer available, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments. In the case of farm-stored loans, if it is determined by CCC that there is insect infestation which cannot be controlled, the commodity is subject to damage by flood or fire, there is damage to the storage structure, the producer has lost control of the storage structure, or the commodity is going out of condition, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments.

§ 1421.734 Maturity.

Feed grain reserve loans mature and are due and payable on the last day of the 36th calendar month after the later of: (a) The date the regular loan matured, or (b) the month following the month in which the grain reserve agreement is approved. However, notwithstanding the foregoing, when the feed grain reserve loan is an extension of an unmatured regular loan, the feed grain reserve loan matures and is due and payable on the last day of the 36th month following the month in which the grain reserve agreement is approved.

Signed at Washington, D.C. on February 24, 1982.

John R. Block,

Secretary.

[FR Doc. 82-5488 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1435

Price Support Purchase Program for 1982 Crop Sugar Beets and Sugarcane

Correction

In FR Doc. 82-4898, appearing at page 8000, in the issue of Wednesday, February 24, 1982, make the following change: On page 8003, in the first column, in § 1435.80, the date in the ninth line now reading "March 31, 1981" should read "March 31, 1982".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 25 and 95

Requirements for Access to and Protection of National Security Information and Restricted Data; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to make needed clarifications and minor revisions in previously published requirements governing access to and control over National Security Information and/or Restricted Data. The amendments clarify the requirement that each NRC employee must have an access authorization before being allowed access to classified information, clarify certain requirements related to completing NRC forms and permit NRC to grant security facility approval prior to an initial security survey. The fee for licensee and license related "Q" access authorizations is also being updated due to increases in the Office of Personnel Management charges to NRC for full field security background investigations necessary for "Q" access authorization processing.

EFFECTIVE DATE: These amendments will be effective on April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Duane G. Kidd, Chief, Security Policy Branch, Division of Security, Office of Administration, United States Nuclear Regulatory Commission, Washington, DC 20555 (301) 427-4415.

SUPPLEMENTARY INFORMATION: 10 CFR Parts 25 and 95 were originally published as final rules in the Federal Register on March 5, 1980 (45 FR 14476) and became effective October 1, 1980. The Commission now recognizes that the following changes and amendments

as well as the annual revision to the access authorization fee schedule are needed for the reasons set out below.

The existing § 25.15 indicates that all NRC employees possess either an NRC "Q" or "L" access authorization and coupled with the "need-to-know" permits them access to National Security Information and/or Restricted Data. This change to § 25.15(c) notifies those affected by the rule that some individuals do, in fact, begin their NRC employment without an access authorization. These employees should not be permitted access to any classified information until their access authorization processing has been successfully completed.

Section 25.17(b) specifically identifies certain information which is required on NRC Form 237, "Request for Access Authorization." Reference to this specific data is being deleted since the necessary information is already requested on the form and in the instructions for completing the form. The reference to NRC Form 254A in § 25.17(c)(6) is being deleted since the form is no longer applicable to licensees and others affected by this rule. In order to conform to the style and format of other parts, the position and numbers of §§ 25.35 and 25.37 are being reversed.

Section 25.17 currently indicates that access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. The initial fee schedule for this Part was published in the **Federal Register** on July 3, 1980 (45 FR 45256) and was updated by a **Federal Register** Notice dated January 27, 1981 (45 FR 8436). These fees are charged for access authorizations processed and services rendered by the NRC at the request of an identifiable recipient of the service, and are authorized under Title V of the Independent Offices Appropriation Act of 1952 (65 Stat. 290; 31 U.S.C. 483a). The only revision to the fee schedule is the increased cost for the processing of an NRC "Q" access authorization which involves a full field background investigation conducted by the Office of Personnel Management (OPM). The charge to NRC by OPM for this investigation was raised July 1, 1981 from $1200.00 to $1350.00. The new fee, applicable immediately, recovers this cost plus a part of the NRC's overhead associated with the processing of these access authorizations. The fees for an NRC "L" access authorization have not been changed.

Section 95.17 currently permits NRC to grant security facility approval to licensees or others covered by this Part following receipt of an acceptable security facility request, but only after NRC has conducted an on-site initial security survey. Some licensees initially covered by this part have already been approved as a security facility by other Federal departments or agencies whose facility security programs contain similar, and in some cases nearly identical, security requirements to those of NRC. NRC may determine that granting an interim security facility approval prior to an initial NRC security survey would be consistent with the national security. This change to § 95.17 permits such a determination with a security survey to be performed as soon thereafter as practical. The security survey may result in the granting of a security facility approval or a continuation or withdrawal of the interim security facility approval.

Section 95.25(g)(1) currently specifies that the names, addresses and telephone numbers of the security container custodian and all alternates having knowledge of the container's combination be posted on the outside of the container. This revision to § 95.25 will permit this information, in accordance with NRC security procedures, to be posted inside the container.

None of the changes, except for the update in the fee schedule, will increase public burden in meeting the requirements of these regulations. The changes are of a clarifying and updating nature. When the original Part 25 fee schedule was developed, it was recognized that the actual amount charged to NRC by OPM for conducting investigations would be the decisive factor governing future fees charged by NRC. This relationship between the amounts charged by OPM and the resulting fees charged by NRC still exists and was affected by the increase by OPM. Since the public had the opportunity to comment on this aspect of Part 25 as a proposed rule, it is not felt that any further benefits would be accrued by additional public comment at this time. Under these circumstances, NRC, for good cause, finds that notice of proposed rulemaking and public procedure thereon are unnecessary.

For good cause, the Commission has decided to make Appendix A to Part 25, "Fees for NRC Access Authorization," effective immediately. Appendix A sets forth the revised fee schedule for calendar year 1982. Section 25.17(e) states that access authorization fees will be published in December of each year and are applicable during the following calendar year. An immediate effective date will fulfill this requirement and avoid any delay in implementing the revised fee schedule.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, the Independent Offices Appropriation Act of 1952 and Section 553 of Title 5 of the United States Code, the following amendments to Parts 25 and 95 of Title 10, Chapter 1, Code of Federal Regulations are published as a document subject to codification.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for Part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1243, as amended (42 U.S.C. 5841); E.O. 10865 and E.O. 12065.

Appendix A issued under Title V, Pub. L. 82–137, 65 Stat. 290 (31 U.S.C. 483a).

§ 25.17 and Appendix A [Amended]

2. The authority citations following § 25.17 and Appendix A to Part 25 are removed.

3. In § 25.15, paragraph (c) is revised to read as follows:

§ 25.15 Access permitted under "Q" or "L" access authorization.

* * * * *

(c) Each employee of the Commission is processed for one of the two levels of access authorization. Licensees and other persons will furnish National Security Information and/or Restricted Data to a Commission employee on official business when the employee has the appropriate level of NRC access authorization and need-to-know. Some individuals are permitted to begin NRC employment without an access authorization. However, no NRC employee shall be permitted access to any classified information until the appropriate level of access authorization has been granted to that employee by NRC.

4. In § 25.17, paragraph (b) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(b) The request must include a completed personnel security packet (see § 25.17(c)) and request form (NRC–237) signed by a licensee or licensee contractor official.

* * * * *

§ 25.35 [Redesignated as § 25.37]

5. Section 25.35 is redesignated as § 25.37.

§ 25.37 [Redesignated as § 25.35]

6. Section 25.37 is redesignated as § 25.35.

7. The Center headings which precede present §§ 25.35 and 25.37 are changed to read "Classified Visits" and "Violations", respectively.

8. Appendix A to 10 CFR Part 25 is revised to read as follows:

APPENDIX A—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization	$15
Reinstatement of "L" Access Authorization	[1] 15
Extension or Transfer of "L" Access Authorization	[1] 15
Initial "Q" Access Authorization	1550
Reinstatement of "Q" Access Authorization	[1] 1550
Extension or Transfer of "Q"	[1] 1550

[1] Full fee will only be charged if investigation is required.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

9. The authority citation for Part 95 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1243, as amended (42 U.S.C. 5841); E.O. 10865 and E.O. 12065.

10. Section 95.17 is revised to read as follows:

§ 95.17 Processing security facility approval.

Following receipt of an acceptable request for security facility approval, NRC will perform an initial security survey of the licensee or other facility to determine that granting a security facility approval would be consistent with the national security. If NRC makes such a determination, security facility approval will be granted. However, NRC may determine that granting an interim security facility approval prior to an initial security survey would be consistent with the national security. If NRC makes such a determination, interim security facility approval will be granted and a security survey performed as soon thereafter as practical. As a result of the security survey, NRC may grant a security facility approval or may continue or terminate interim security facility approval pending compliance with survey recommendations or until an exemption is granted pursuant to § 95.11.

11. Section 95.25 paragraph (g)(1) is revised to read as follows:

§ 95.25 Protection of national security information and restricted data in storage.

* * * * *

(g) Posted information. (1) The names, addresses, and telephone numbers of the custodian and all alternates having knowledge of the combination shall be posted on the outside or inside of each security container.

* * * * *

Dated at Bethesda, MD, this 16th day of February, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-5776 Filed 3-3-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-4-AD; Amendment 39-4319]

Airworthiness Directives; Helio H-250, H-295, HT-295, H-391, H-391B, H-395, and H-395A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) 81-26-07, applicable to Helio H-250, H-295, HT-295, H-391, H-391B, H-395, and H-395A airplanes and codifies the corresponding emergency AD letter dated December 21, 1981, into the **Federal Register**. This AD supersedes AD 81-24-05 which was transmitted by letter dated November 13, 1981. This superseding action is necessary because Helio H-295 airplanes S/N 1475 through 1479 were omitted from the earlier AD. This AD requires an initial and repetitive inspection of the P/N 295-030-401 carry-through assembly for cracks and replacement of those assemblies in which cracks are found. This action is necessary to preclude fatigue failure in certain components of the P/N 295-030-401 carry-through assembly and resulting in-flight separation of a wing.

DATES: Effective date: February 25, 1982, to all persons except those to whom it has already been made effective by priority letters from the FAA dated December 21, 1981.

Compliance: As described in the body of the AD.

ADDRESSES: Helio Service Bulletin No. 37 dated November 5, 1971, pertaining to this AD may be obtained from Helio Aircraft, Ltd., P.O. Box 604, Pittsburg, Kansas 66762; Telephone (316) 231-0200. Copies of this service letter are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: A recent in-flight wing separation on a Helio H-295 airplane was caused by fatigue in the lower, outer tube of the 295-030-401 carry-through assembly. The fatigue started at the intersection of a weld bead and the outer tube. In 1971, there was an in-flight wing separation caused by a fatigue failure of the 391-030-4072 end fitting. The fatigue in these fittings emanated from the bore of the fitting which had a conical shape with sharp corners. AD 71-21-11, and the related Helio Service Bulletin Nos. 36 and 37, were issued to correct this problem and called for inspections and modifications to certain areas of the carry-through assembly. The fatigue failure in the recent accident was inboard from that of the 1971 accident and is not directly related as to cause, and will not be precluded by the action required by AD 71-21-11.

Accordingly, the FAA determined that the fatigue problem described above was likely to exist on other airplanes of the same type design and that inspection and replacement of cracked P/N 295-030-401 carry-through assemblies in the Helio H-250, H-295, HT-295, H-391, H-391B, H-395 and H-395A airplanes were necessary in the interest of safety. Therefore, emergency AD 81-24-05 was issued and mailed to all known owners of the affected airplanes on November 13, 1981. Subsequent information disclosed that Helio Model H-295 airplanes (Serial Numbers 1475 through 1479) were omitted from this AD and the FAA issued and mailed to these owners superseding AD 81-26-07 dated December 21, 1981, to correct this omission.

Since the unsafe condition described herein may still exist on other Helio model airplanes described herein, AD 81-26-07 is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the

exemption provisions of Section 8(a)(1) of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553(b) were considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the **Federal Register.**

Adoption of the Amendment

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

Helio: Applies to all Models HT–295 airplanes, Model H–295 airplanes (Serial Numbers 1436, 1443 through 1479), and those Model H–250, H–295, H–391, H–391B, H–395 and H–395A airplanes on which the P/N 391–030–401 wing spar carry-through assembly was replaced with the P/N 295–030–401 assembly.

Compliance: Required as indicated unless already accomplished.

To ensure the integrity of the wing spar carry-through assembly, accomplish the following:

(A) Within the next 10 hours time-in-service after the effective date of this AD, and at intervals not to exceed 100 hours time-in-service thereafter, perform a dye penetrant inspection on each end of the lower horizontal tube around the welds and the adjacent area on the inboard end of the four 1.25 x 4.56 x .188 pads (2 each side) as follows:

1. Visually inspect each side of the wing spar carry-through assembly using Figures 1 and 2 to identify the areas to be inspected. On the side being inspected, jack up the wing at the wing tie-down ring. The wheel must clear the ground. Gain access to the wing spar carry-through assembly by opening the head liner and removing the P/N 295–030–3047 guard assembly (if installed). Conduct the inspection in accordance with the instructions accompanying the dye penetrant inspection equipment.

2. Throughly clean inspected surfaces both before and after the required inspections.

3. Remove all evidence of corrosion and renew the protective coatings. Corrosion may be removed from the horizontal tube to a maximum depth of .005 inches. If indications of cracks or evidence of corrosion beyond the .005 inch maximum depth are found during the inspections required herein, prior to further flight, replace the carry-through assembly with an airworthy part.

4. Apply zinc chromate primer to all surfaces which were cleaned for the required inspections.

Note.—Jacking of the wing so that the wheel clears the ground is necessary to put a tension load on the lower horizontal tube of the wing spar carry-through assembly to assist in exposing fatigue-type cracks that could exist in this component.

(B) The inspections required herein must be performed at an appropriately rated FAA certificated repair station using qualified technicians who must have recency of experience in performing dye penetrant inspections.

(C) Record compliance with this AD by an appropriate entry in the airplane maintenance records. This entry should include those airplanes where the provisions of this AD have previously been accomplished.

(D) Within 48 hours, report the results of the inspections required by this AD by submitting a written report to the FAA via an FAA Malfunction or Defect (M or D) Report (FAA Form 8330-2) or a letter to Wichita Aircraft Certification Office (formerly Aircraft Certification Program), Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209. This report must include the registration and serial number for the airplane, the time-in-service on the wing spar carry-through assembly and the location and description of the cracks and/or corrosion. (Reporting approved by Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 04–R0174.)

Note.—The actions required in this AD are considered interim as there is a possibility that additional inspections and modifications to the wing spar carry-through assembly may be required at a later date.

This AD, 81–26–07, supersedes emergency AD 81–24–05 on the same subject transmitted by letter from the FAA dated November 13, 1981.

This amendment becomes effective on February 25, 1982, to all persons except those to whom it has already been made effective by priority letters from the FAA dated December 21, 1981.

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

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

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 Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri on February 8, 1982.

Murray E. Smith,

Director, Central Region.

BILLING CODE 4910-13-M

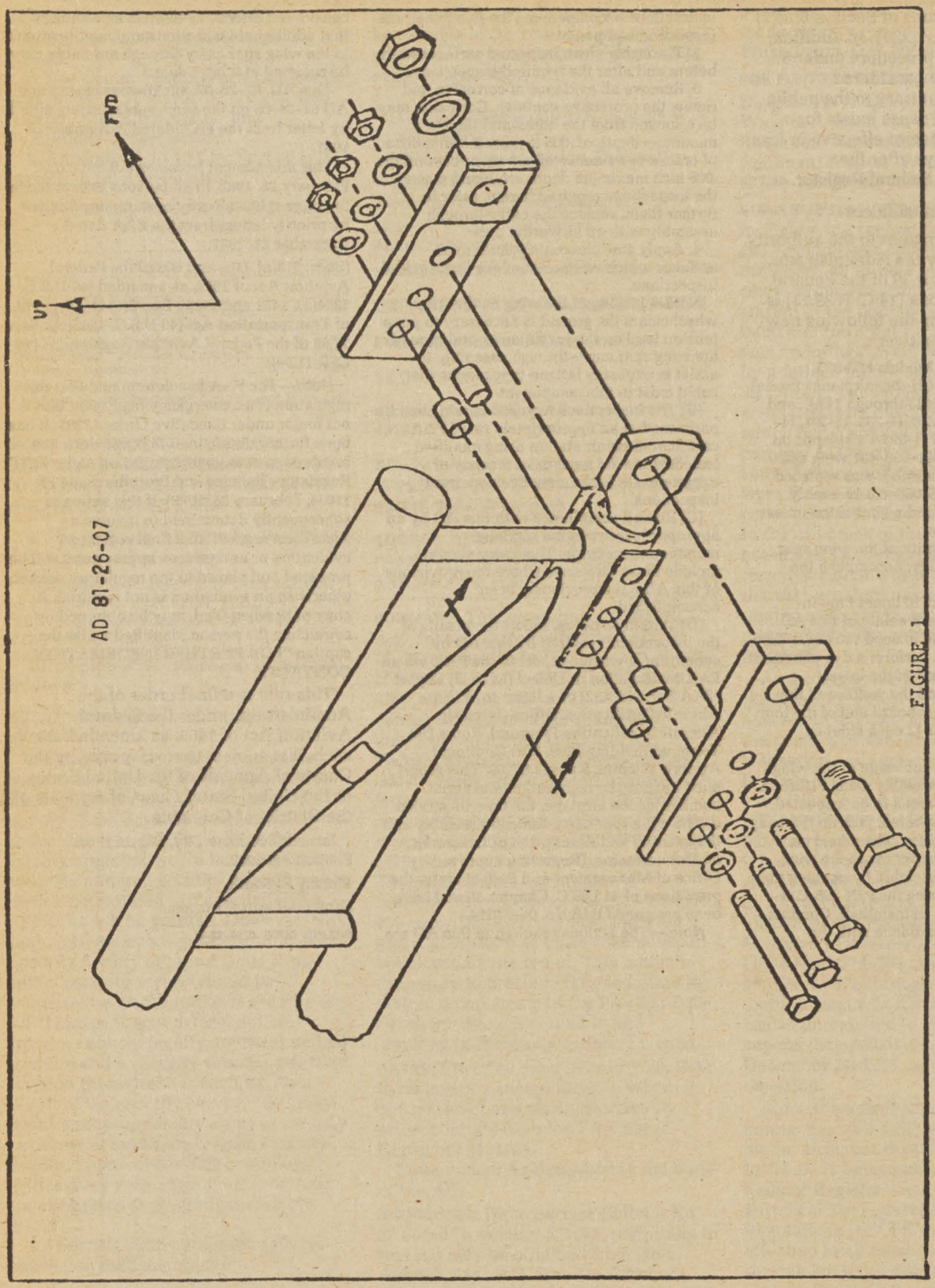


FIGURE 1

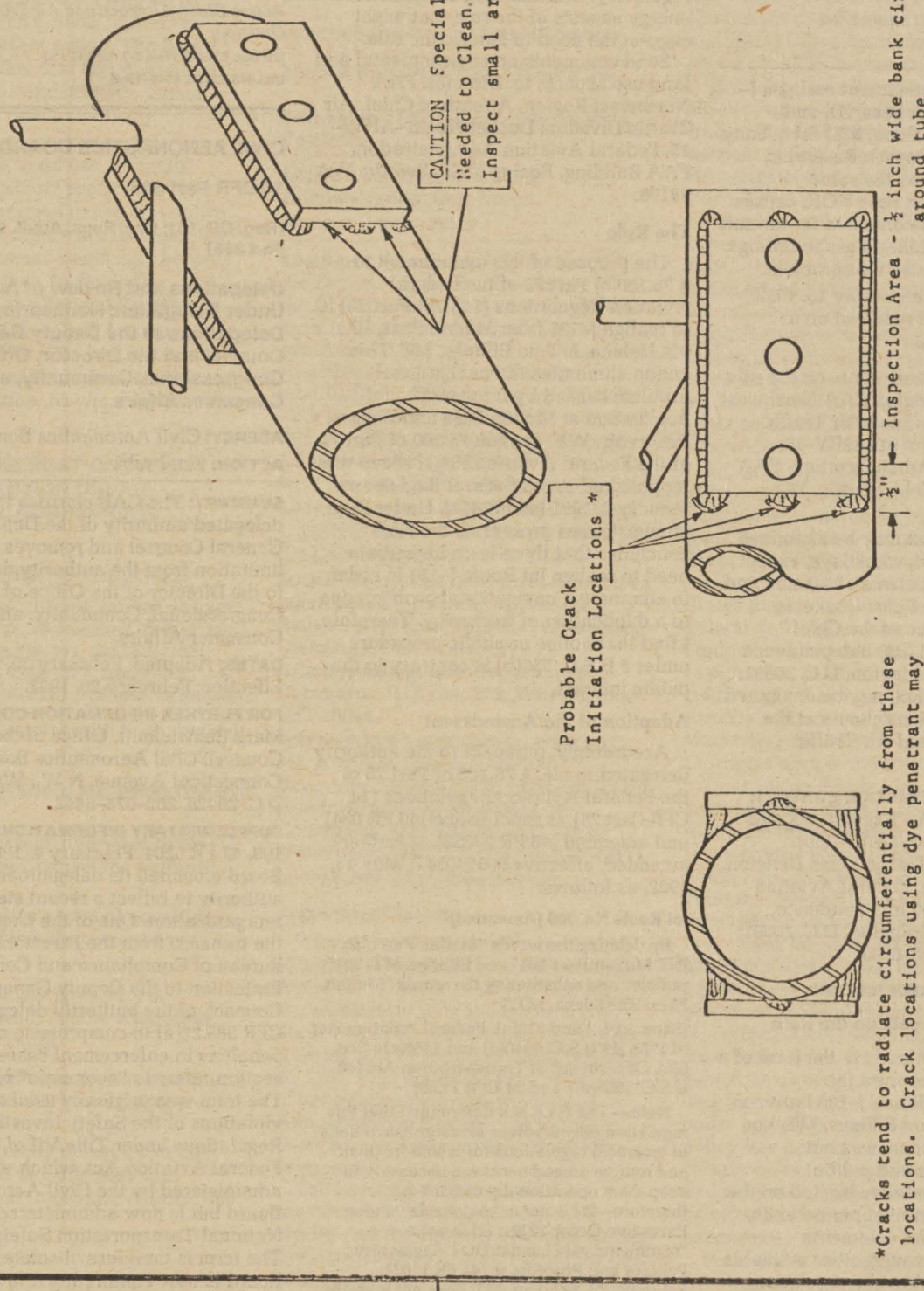


FIGURE 2

[FR Doc. 82-5943 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 75

[Airspace Docket No. 81-ANW-15]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment realigns J-136 between Mullan Pass, ID, and Billings, MT, via Helena, MT. Frequency interference from Boysen Reservoir, WY, VOR, which has the same frequency as Mullan Pass VOR, causes navigational signal confusion for aircraft proceeding from Mullan Pass to Billings. This action eliminates that problem.

DATES: Effective Date—May 13, 1982. Comments must be received on or before April 5, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 81-ANW-15, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The offical docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

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

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

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the realignment of Jet Route J-136 between Mullan Pass, ID, and Billings, MT, via Helena, MT, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

Send comments on environmental and land use aspects to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 81-ANW-15, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The Rule

The purpose of this amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to realign J-136 from Mullan Pass, ID, via Helena, MT, to Billings, MT. This action eliminates the navigational problem caused by frequency duplication at Mullan Pass and Boysen Reservoir, WY. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 834). Under the circumstances presented, the FAA concludes that there is an immediate need to realign Jet Route J-136 in order to eliminate a navigational problem due to a duplication of frequency. Therefore, I find that notice or public procedure under 5 U.S.C. 533(b) is contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 834) and amended (46 FR 27633), is further amended, effective 0901 GMT, May 13, 1982, as follows:

Jet Route No. 136 [Amended]

By deleting the words "Mullan Pass, ID; INT Mullan Pass 101° and Billings, MT, 301° radials" and substituting the words "Mullan Pass, ID; Helena, MT."

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

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

Issued in Washington, D.C., on February 23, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5846 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Reg. OR-191; Org. Regs. Amdt. No. 120 to Part 385]

Delegations and Review of Action Under Delegation; Nonhearing Matters; Delegations to the Deputy General Counsel and the Director, Office of Congressional, Community, and Consumer Affairs

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB clarifies the delegated authority of the Deputy General Counsel and removes a time limitation from the authority delegated to the Director of the Office of Congressional, Community, and Consumer Affairs.

DATES: Adopted: February 26, 1982. Effective: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: In OR-190, 47 FR 5204, February 4, 1982, the Board amended its delegations of authority to reflect a recent staff reorganization. One of the changes was the transfer, from the Director of the Bureau of Compliance and Consumer Protection to the Deputy General Counsel, of the authority delegated in 14 CFR 385.22(a) to compromise civil penalties in enforcement cases. That section refers to "economic" violations. The term was originally used to exclude violations of the Safety Investigation Regulations under Title VII of the Federal Aviation Act, which was then administered by the Civil Aeronautics Board but is now administered by the National Transportation Safety Board. The term is therefore obsolete, and the Board is now eliminating it to clarify that this delegation of authority extends to all enforcement cases within the Board's jurisdiction.

In OR–190 the Board also adopted a new § 385.30(c), delegating to the Director of the Office of Congressional, Community, and Consumer Affairs the authority to compromise civil penalties in the resolution of informal consumer complaints. As a transition measure, the delegation in § 385.30(c) was set to expire on March 1, 1982, unless the Board took further action. The Board has now decided that this delegation should continue indefinitely, and is amending the rule accordingly.

Since these amendments are administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendments may become effective less than 30 days after publication in the **Federal Register.**

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters,* as follows:

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION: NONHEARING MATTERS

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. In § 385.22, paragraph (a) is revised to read:

§ 385.22 Delegation to the Deputy General Counsel.

The Board hereby delegates to the Deputy General Counsel the authority to:

(a) Compromise any civil penalties being imposed in enforcement cases.

* * * * *

3. In § 385.30, paragraph (c) is amended by removing the expiration date, so that it reads:

§ 385,30 Delegation to the Director, Office of Congressional, Community, and Consumer Affairs.

The Board hereby delegates to the Director, Office of Congressional, Community, and Consumer Affairs, the authority to:

* * * * *

(c) Compromise civil penalties in the resolution of informal consumer complaints.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5868 Filed 3-3-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376, 379, 385 and 399

Extension of Foreign Policy Export Controls

AGENCY: International Trade Administration, Commerce.

ACTION: Interim rule.

SUMMARY: As required by section 6 of the Export Administration Act of 1979, the Secretaries of Commerce and State have reviewed foreign policy export controls and have determined that they should be continued, with some modification, through January 20, 1983. This issuance provides formal notice of this extension and revises the Export Administration Regulations to conform with the modifications in policy.

DATES: These rules are effective March 1, 1982. Comments must be received by the Department by April 30, 1982.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–5247 or 377–4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

Pursuant to the authority granted by section 6 of the Export Administration Act of 1979, the Secretary of Commerce, in consultation with the Secretary of State, has determined that foreign policy controls will be extended until January 20, 1983. This announces the extension of controls and amends the Export Administration Regulations to reflect those areas where modifications have been made.

The foreign policy controls for regional stability purposes (15 CFR 376.16) and the controls on North Korea, Vietnam, Kampuchea and Cuba (15 CFR 385.1) remain unchanged. Exporters are advised that nuclear non-proliferation controls also remain unchanged (15 CFR Part 378).

Human rights controls (15 CFR 376.14), while essentially unchanged, have been modified to remove certain dual-use items from coverage. This will now permit U.S. exporters to sell to countries subject to these controls several general purpose items readily available elsewhere but previously often denied. Extension of these controls signifies the continued U.S. commitment in support of internationally recognized human rights.

Anti-terrorism controls (15 CFR 385.4(d)) have been changed to delete Iraq and permit aircraft to scheduled carriers in Syria and South Yemen. The Secretary of State has determined that Iraq's improved record warrants removal from the list of countries covered by anti-terrorism controls. Permitting aircraft to scheduled carriers in Syria and South Yemen significantly lessens the earlier restrictions on U.S. aircraft exports to these countries and makes U.S. aircraft producers much more competitive with other suppliers, without materially enhancing the ability of those countries to support international terrorism.

U.S.S.R. controls (15 CFR 385.2) have been expanded to cover a broader range of equipment and technical data for truck manufacture, for both the Kama River and ZIL truck plants. This will make yet clearer to the U.S.S.R. United States displeasure with Soviet actions in Poland and Afghanistan. Controls on equipment and technical data for exploration, production, transmission, or refining of oil and gas and controls on exports and related payments supporting the Moscow Summer Olympics remain in effect.

Controls on South Africa and Namibia have been modified to remove controls that were detrimental to U.S. business while having little, if any, impact on South African adherence to apartheid. A validated license is no longer required for: (1) Food, nonmilitary clothing and items used for personal hygiene; (2) chemicals and general industrial equipment described in Interpretations 24 and 29 of Supplement No. 1 to § 399.2; (3) certain home electronics, personal communications, and computer equipment; and (4) commodities that may be shipped to Country Group Z under certain general licenses. Licensing policy has been modified to permit certain sales to the military and police and to specify government agencies to be affected by foreign policy controls on computers.

Pursuant to section 6 of the Export Administration Act of 1979 and following consultation with the Department of State, it has been determined that this rule is necessary to

further significantly the foreign policy of the United States. Appropriate persons in industry and the Congress have been consulted, and criteria set forth in section 6(b) of the Act have been considered.

Pursuant to section 4(c), it has been determined that, notwithstanding foreign availability, failure to take this action would be detrimental to the foreign policy of the United States.

Pursuant to section 6(d), it has been determined that there are no feasible alternative means of achieving the purpose of this action. As provided in section 6(g), efforts are being made to obtain cooperation of countries that produce comparable items.

Rulemaking Requirements

The Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2401 *et seq.* (Supp. III 1979) ("the Act")), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing any final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not alter any existing reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 3501 *et seq.*

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation," because it relates to a foreign affairs function of the United States.

The period for submission of comments will close on April 30, 1982. Comments received after the close of the comment period cannot be assured consideration in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature, or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations. All public comments to be considered in any revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review.

Accordinlgy, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

§ 376.14 [Amended]

1. Paragraph 376.14(a) is amended by removing from the second sentence thereof "1505A," "1585A(f)(3), 4585B(e)," and "1746A(d) (protective garments and devices only)," and by inserting after "1502A" the words "(police-model infrared viewers only)."

PART 379—TECHNICAL DATA

§ 379.4 [Amended]

2. Section 379.4 is amended by:

a. Amending § 379.4(e) by removing "any products" in the first sentence and inserting, in its place, "the direct product" and removing the second sentence.

b. Revising the introductory text of § 379.4(f)(1) and adding paragraph (f)(1)(i)(*r*) to read as follows:

§ 379.4 General license GTDR: Technical data under restriction.

* * * * *

(f) *Written Assurance Requirements.* (1) Requirement of written assurance for certain data, services, and materials. No export of technical data of the kind described in § 379.4(f)(1)(i)(*a*) through (*o*) and (*q*) (not (*p*) or (*r*)) of this section may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product [1] thereof is intended to be shipped, either directly or indirectly, to Country Group P, Q, W,[2] Y, or Z or Afghanistan, except as provided in § 379.4(f)(1)(ii) below. No export of technical data of the kind described in § 379.4(f)(1)(i)(*p*) below may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product [1] thereof is intended to be shipped, directly or indirectly, to the U.S.S.R., Estonia, Latvia or Lithuania, except as provided in § 379.4(f)(1)(ii) below. No export of technical data of the kind described in § 379.4(f)(1)(i)(*r*) below may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product [1] thereof is intended to be shipped, directly or indirectly, to the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R., except as provided in § 379.4(f)(1)(ii) below. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement that restricts disclosure of the technical data to use only in a country other than Country Group P, Q, W, Y, or Z or Afghanistan, and prohibits shipments of the direct product [1] thereof by the licensee to Country Group P, Q, W, Y, or Z or Afghanistan or, for data of the kind described in § 379.4(f)(1)(i)(*p*), to the U.S.S.R., Estonia, Latvia or Lithuania, or, for data of the kind described in § 379.4(f)(1)(i)(*r*), to the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be

[1] The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition of direct product.

[2] Effective April 26, 1971, Country Group W no longer included Romania. Assurances executed prior to April 26, 1971, and referring to Country Group W continue to apply to Romania as well as Poland. Effective June 2, 1980, Hungary was added to Country Group W, which at that time included only Poland. Assurances executed prior to June 2, 1980 and referring to Country Group Y continue to apply to Hungary. Assurances executed on or after June 2, 1980 and referring to Country Group W apply to Hungary as well as Poland.

obtained. In addition, this general license is not applicable to any export of technical data of the kind described in § 379.4(f)(1)(i)(*a*) through (*o*) and (*q*) (not (*p*) or (*r*)) of this section if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or reexported, directly or indirectly, to Country Group P, Q, W, Y, or Z or Afghanistan, or for data of the kind described in § 379.4(f)(1)(i)(*p*), to the U.S.S.R., Estonia, Latvia or Lithuania, or, for data of the kind described in § 379.4(f)(1)(i)(*r*), to the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

(i) * * *

(*r*) Commodities used directly in production, assembly, or testing of trucks, truck components, or accessories at the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

* * * * *

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

3. Section 385.2(e) is revised to read as follows:

§ 385.2 Country Groups Q, W, and Y;[1] U.S.S.R., other Warsaw Pact Countries, Albania, Mongolian People's Republic, and Laos.

* * * * *

(e) As authorized by section 6 of the Export Administration Act of 1979, a validated license is required for export to the U.S.S.R. of technical data and equipment for the manufacture of trucks, as defined in CCL entry 6398G, at the Kama River (Kam AZ) and ZIL truck plants. Licenses for such exports will generally be denied.

* * * * *

4. Section 385.4(a) is revised to read as follows:

§ 385.4 Country Group V.

(a) *Republic of South Africa and Namibia.* In conformity with the United Nations Security Council Resolutions of 1963 and 1977 relating to exports of arms and munitions to the Republic of South Africa, and consistent with U.S. foreign policy toward the Republic of South Africa and Namibia, the Department of Commerce has established, as authorized by section 6 of the Export Administration Act of 1979, the following special policies for commodities and technical data under its licensing jurisdiction.

(1) An embargo is in effect on the export or reexport to the Republic of South Africa and Namibia of arms, munitions, military equipment and materials, and materials and machinery for use in the manufacture and maintenance of such equipment. Commodities to which this embargo applies are listed in Supplement No. 2 to Part 379.

(2) A validated export license is required for export or reexport to the Republic of South Africa or Namibia of any commodity, including commodities that may be exported to any destination in Country Group V under a general license, where the exporter or reexporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in these destinations or used to service equipment owned, controlled or used by or for such military or police entities, *except:*

(i) Food, nonmilitary clothing, and personal hygiene items;

(ii) Chemicals and general industrial equipment described in Interpretations 24 and 29, Supplement No. 1 to section 399.2;

(iii) Home electronics and personal communications as defined in CCL entry 1564A II(c)(ii)(22) (b) and (c); word processors; hand-held stand-alone calculators; electronic copy machines; personal computers (microprocessor based, single user, portable computer with limited memory size and performance (floppy disc drives)); of types *not* identified by a "1" in the "Reason for Control" column of the Commodity Control List;

(iv) Commodities that may be shipped to Country Group Z under General License *G-DEST, BAGGAGE, SHIP STORES, PLANE STORES, CREW,* or *GIFT.*

See § 385.4(a)(5) below for licensing policy.

(3) A validated license is required for the export or reexport to the Republic of South Africa or Namibia of technical data, except technical data generally available to the public that meets the conditions of General License *GTDA,* where (i) the technical data relate to the commodities listed in Supplement No. 2 to Part 379, or (ii) the exporter or reexporter knows or has reason to know that the technical data or the direct product of the data are for delivery to or for use by or for military or police entities of these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. In addition, users in the Republic of South Africa or Namibia of technical data that do qualify for export or reexport under the provisions of General License *GTDR* must be informed in writing at the time of the export or reexport of the data that the direct product of that data may not be sold or otherwise made available, directly or indirectly, to military or police entities in these destinations. (See § 379.4(e) for regulations on exports of technical data to South Africa and Namibia.) See § 385.4(a)(5) below for licensing policy.

(4) Parts, components, materials and other commodities originating in the United States, whether exported under a general or validated export license, may not be used abroad to manufacture or produce foreign-made end products, other than those excepted under (2) above, where it is known or there is reason to know the end products will be sold to or used by or for military or police entities in the Republic of South Africa and Namibia, without prior authorization from OEA. See § 385.4(a)(5) below for licensing policy.

(5) Authorizations for exports, reexports, or sales to or for use by or for military or police entities in the Republic of South Africa or Namibia will be denied for exports or reexports of U.S.-origin commodities or technical data, the South African direct product of U.S.-origin technical data, or foreign-origin goods incorporating U.S.-origin parts, components, or materials, except, on a case-by-case basis, for:

(i) Items *not* identified by a "1" in the "Reason for Control" column of the Commodity Control List, if the export would not contribute significantly to military or police functions;

(ii) Medicines, medical supplies, and medical equipment;

(iii) Commodities and technical data to be used in prevention of unlawful interference with international civil aviation;

(iv) Word processors, personal computers, electronic cash registers, hand-held stand-alone calculators, electronic copy machines, and personal communications of types identified by a "1" in the "Reason for Control" column of the Commodity Control List, if the export would not contribute significantly to military or police functions;

(v) Foreign-origin equipment incorporating 20 percent or less by value of U.S.-origin components;

(vi) Reexports or resales of insubstantial portions of commodities or technical data exported originally to parties other than the military or police, and sales of insubstantial portions of the South African-produced direct product of U.S.-origin technical data, if the

[1] See Supplement No. 1 to Part 370 for listing of Country Groups.

commodities, data, or product of the data would not contribute significantly to military or police functions.

(6) A validated export license is required for the export to the Republic of South Africa and Namibia of any instrument and equipment particularly useful in crime control and detection, as defined in § 376.14.

(7) General License *GIT* may not be used for any commodity destined for the Republic of South Africa or Namibia (See § 371.4(b)).

(8) A validated license is required for the export to all consignees of aircraft and helicopters. Applications for civil uses will generally be considered favorably on a case-by-case basis, subject to a license condition that the aircraft or helicopter will not be put to military, paramilitary, or police use.

(9) A validated license is required for the export to the Ministry of Cooperation and Development, the Department of the Interior, the Department of Community Development, the Department of Justice, and the Department of Manpower of computers as defined in CCL entry 1565A. Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of computers that would not be used to enforce the South African policy of apartheid.

* * * * *

5. Paragraph § 385.4(d) is amended as follows:

a. By removing "Iraq," in the title and first sentence (two removals);

b. By adding to the first sentence, immediately following "5460F" and before "and of good* * *" the phrase "except aircraft and helicopters for use by regularly scheduled airlines based in Syria or the People's Democratic Republic of Yemen for which assurances against military use have been submitted to OEA."

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

§ 399.1 [Amended]

6. The Commodity Control List (Supplement No. 1 to § 399.1) is amended as follows:

a. ECCN 6398G is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
6398G Machinery and equipment (including tools, fixtures, and jigs) specially designed or modified for the manufacture of automotive trucks and truck engines; and specially designed parts, components, and accessories therefor. (See Supplement No. 1 to § 399.2, Interpretation 32, for illustrative list of commodities included in this entry.).		SZ [2,4,5]		MG	3

[2] A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 371.2(c)(11) and § 385.4(a).

[4] A validated license is also required for export or reexport to the U.S.S.R. if the exporter knows or has reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games which began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979. This commodity control list entry as well as the other entries in this Group are subject to controls on the basis of the above criteria.

[5] Under the foreign policy authority contained in section 6 of the Export Administration Act of 1979, a validated license is also required for export to the U.S.S.R. of such commodities for the Kama River (Kam AZ) or ZIL truck plants. See § 385.2(e).

b. In ECCN 6399G, footnote 2, referenced after the entry number and in the "Validated License Required" column, is deleted.

c. ECCN 1460A is amended by removing "Iraq," from the footnotes each time it appears (two deletions).

d. ECCN 5460F is amended by removing "Iraq," from the "Validated License Required" column.

e. ECCN 1502A is amended by adding a new footnote "4" to the "Reason for Control" column, as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
1502A Communication, detection or tracking equipment of a kind using ultra-violet radiation, * * *.	[1]	PQSTVWYZ [2]	[3]0	EE	[4]1,4,5
* * * * * * *					

[1] Report equipment in "number."

[2] Airborne detection and tracking equipment using infrared radiation and other infrared imaging equipment have significant military as well as commercial uses. Prior to submitting applications, exporters should determine whether the item is under the licensing jurisdiction of the Office of Munitions Control (Department of State) or the Department of Commerce.

[3] The GLV $ value limit for the following countries is $500; Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey and the United Kingdom.

[4] Foreign policy controls apply only to police-model infrared viewers.

f. ECCNs 1505A, 1510A, 1585A(f)(3) and 4585B(e) are amended by removing "5" in the "Reason for Control" column.

g. ECCNs 5597B and 5680B are revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
5597B[1] Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint equipment and analyzers; fingerprint cameras and equipment; automated fingerprint and identification retrieval systems (whether or not computerized); psychological testing machines; and specially designed parts and accessories, n.e.s.	([2])	PQSTVWYZ[1]	0	EE	5
* * * * * * *					
5680B[2] Police helmets, leg irons, shackles, handcuffs, thumbcuffs, thumbscrews, and saps.		PQSTVWYZ[2]	0	MG	5

[1] Bullet and blast resistant garments and devices included in this sub-entry are controlled for crime control reasons.
[2] A validated license is *not* required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey and the United Kingdom.

* * * * * * * *

h. Footnote "4" to ECCN 6599G is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
6599G[4,5] Other electronic and precision instruments, including photographic equipment and film, n.e.s.; and parts and accessories, n.e.s.		SZ[4,5]		EE	3

[4] A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities, except word processors, personal computers, hand-held stand-alone calculators, electronic copy machines, home electronics, and personal communications. See § 371.2(c)(11) and § 385.4(a).
[5] A validated license is also required for export or reexport to the U.S.S.R. if the exporter knows or has reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games which began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979. This commodity control list entry as well as the other entries in the Group are subject to controls on the basis of the above criteria.

i. ECCN 1746A(d) is amended by removing the footnote reading: [1] Bullet and blast resistant garments and devices included in this sub-entry are controlled for crime control reasons.

j. ECCN 4799B is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
4799B Chemical agents, including tear gas formulations containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloracetophenone (CN), *except in individual containers with a net weight of 20 grams or less;* smoke bombs; and fingerprint powders, dyes and inks. (Specify by name.) (See § 376.14.).		PQSTVWYZ[3,6]	0	MG	5
* * * * * * *					

[3] A validated license is *not* required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom.
[6] All other forms of tear gas are controlled by the U.S.

k. In ECCN 6799G footnote "7" in the "Validated License Required" column is deleted.

l. ECCN 5999B is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
5999B[3,4] Saps, straight jackets, police helmets and shields, and parts and accessories, n.e.s.		PQSTVWYZ[3]	0	MG	5

[3] A validated license is *not* required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom.
[4] Gas masks designed for protection against tear gas and other chemical agents are controlled by the Office of Munitions Control. See § 370.10.

m. Footnote "1" to ECCN 6999G is revised to read as follows:

[1] A validated license is also required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities, except food, nonmilitary clothing, and personal hygiene items. See § 371.2(c)(11) and § 385.4(a).

§ 399.2 [Amended]

7. A new Interpretation 32 is added to Supplement No. 1 to § 399.2, to read as follows: *Interpretation 32: Automotive Truck and Truck Engine Manufacturing Equipment.*

The following is an illustrative list of automotive, truck, and truck engine manufacturing machinery and equipment subject to validated license control for export to the U.S.S.R. for either the Kama River or ZIL truck complexes. This list is illustrative only. It does not include all commodities that are covered by CCL entry No. 6398G.

(1) All truck chassis and truck engine manufacturing process lines, including conveying and assembly equipment.

(2) Truck engine and truck power train transfer lines.

(3) Automatic control systems for the supervision and monitoring of truck manufacturing processes.

(4) Specialized vehicle and vehicle component test and checking equipment including but not limited to:

a. Vehicle and component shock and vibration test equipment;

b. Vehicle dynamometric test systems; and

c. Specially designed truck suspension component test machinery.

(5) Truck tire manufacturing equipment and machinery.

(Secs. 4, 6, 13, 15, and 21, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

February 26, 1982.

[FR Doc. 82–5848 Filed 3–1–82; 3:12 pm]

BILLING CODE 3510–25–M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Basin Regulations—Water Quality; Technical Amendment

Correction

In FR Doc. 82–5148, appearing at page 8343, in the issue of Friday, February 26, 1982, make the following change:

On page 8343, in the second column, change the heading now reading "§ 401.1 Basion regulations-Water quality." to read "§ 410.1 Basin regulations—Water quality."

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–82–835]

Revision of Use of Materials Bulletin No. 79—Acrylonitrile—Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings; Correction

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

ACTION: Correction to final rule; effective date.

SUMMARY: This notice will correct the effective date of the HUD Use of Materials Bulletin No. 79a (UM 79a) published November 17, 1981 at 46 FR 56413. Section 7(o)(3) of the Department of Housing and Community Development Act, as amended, requires that "no rule or regulation may become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the day on which a rule or regulation is published as final" in the **Federal Register.** Congressional adjournment and recesses will now preclude the passage of 30 continuous session days until March 7, 1982. Therefore, the effective date of this rule is being changed from January 28, 1982 to March 7, 1982.

FOR FURTHER INFORMATION CONTACT: Richard H. Kolodin, Materials Acceptance Division, Office of Architecture and Engineering Standards, Room 6178, Department of Housing and Urban Development, Washington, D.C. 20410. Telephone: (202) 755–5929. (This is not a toll-free number.)

(Sec. 7(d), Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d); sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: February 26, 1982.

Richard Lasner,

Assistant General Counsel for Regulations.

[FR Doc. 82–5805 Filed 3–3–82; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 885

[Docket No. R–82–967]

Loans for Housing for the Elderly or Handicapped; Fiscal Year 1982 Interest Rate

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

ACTION: Final rule.

SUMMARY: This rule amends 24 CFR Part 885 to establish the interest rate for direct loans for housing for the elderly or handicapped made during Fiscal Year 1982 at the same rate as was applicable to loans made during Fiscal Year 1981. The Secretary has determined to maintain the Fiscal Year 1981 interest rate of 9¼ percent per annum in order to assure that previously approved projects can proceed to construction during Fiscal Year 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Facilities Division, 451 7th Street SW., Room 6136, Washington D.C. 20410, Telephone (202) 755–6528. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 202(a)(3) of the Housing Act of 1959, as amended, provides that a loan for housing for the elderly or handicapped shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one percent, plus an allowance adequate in the judgment of the Secretary of HUD to cover administrative costs and probable losses under the program. The existing regulation provision (24 CFR 885.410(g)) incorporates a determination by the Secretary that the allowance for administrative costs and probable losses should be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods, which for Fiscal Year 1981 resulted in an interest rate of 9¼ percent per annum.

Application of this formula to loans made during Fiscal Year 1982 would yield an interest rate of 11¾ percent per annum. In order to avoid the adverse effect on the feasibility of previously approved projects that would result from application of that higher interest rate, the Secretary has decided to use his statutory authority to establish an interest rate lower than the statutory maximum interest rate and to maintain the Fiscal Year 1981 interest rate of 9¼ perent per annum for projects reserved prior to Fiscal Year 1982 and initially closed during Fiscal Year 1982. The Secretary's decision was made in response to numerous requests for such regulatory relief from organizations presently developing section 202

projects. Additionally, a number of Members of Congress have indicated that they endorse the provision of this relief.

Since this amendment would provide regulatory relief without imposing any new regulatory burden, the Secretary has determined that it is in the public interest to implement his decision as soon as possible, so that projects previously approved as feasible under the Fiscal Year 1981 interest rate can proceed to construction without delay. Providing an opportunity for notice and public procedure on this amendment and delaying its effective date for a period of at least 30 days would delay the implementation of the Secretary's decision for a substantial period of time. The Secretary has determined that such delay would be contrary to the public interest, for the reasons stated above, and that notice and public procedure on this amendment would therefore be impracticable. Accordingly, good cause exists for publishing this amendment as a final rule, without providing a prior comment period, and for making it effective less than 30 days after such publication.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers and they have been granted. Accordingly, this amendment shall become effective on the effective date set forth above.

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

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act of August 17, 1981 (45 FR 41708).

The Catalog of Federal Domestic Assistance Program title and number is Housing for the Elderly or Handicapped, 14.157.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, 24 CFR 885.410(g) is revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(g) Except for loans made during Fiscal Year 1982, which shall bear an interest rate of nine and one-fourth percent (9¼) per annum, loans shall bear interest at a rate established by the Secretary by adding:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made; plus (2) an allowance to cover administrative costs and probable losses under the program, which allowance has been determined by the Secretary of HUD to be one-fourth of one percent (.25%) per annum for both the contruction and permanent loan periods.

* * * * *

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: February 10, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-5803 Filed 3-3-82; 8:45 am]

BILLING CODE 4210-01-M

PANAMA CANAL COMMISSION

35 CFR Part 10

Access to Information Concerning Individuals; Exemption From Access of a System of Records Under the Privacy Act

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: On December 9, 1981, the Panama Canal Commission published in the **Federal Register** (46 FR 60216) a proposed rule to exempt a system of records called "Ombudsman Investigation Files, PCC/OM–1" from certain provisions of the Privacy Act of 1974. No comments were received in connection with this proposed rule; therefore, the rule is now adopted without change. The rule exempts material contained in this system from disclosure to the subjects of the records, if such disclosure could render the efforts of the Office of Ombudsman ineffective.

EFFECTIVE DATE: March 4, 1982.

ADDRESSES: Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004; or Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

FOR FURTHER INFORMATION CONTACT: Assistant to the Secretary, Panama Canal Commission, 425 13th Street NW., Washington, D.C. 20004 (Telephone 202–724–0104).

Dated: February 22, 1982.

D. P. McAuliffe,

Administrator, Panama Canal Commission.

PART 10—ACCESS TO INFORMATION ABOUT INDIVIDUALS

Under the Privacy Act of 1974, 5 U.S.C. 552a, the Panama Canal Commission amends Part 10 of 35 CFR by adding a new paragraph (xxviii) to 35 CFR 10.22(a)(2), as follows:

§ 10.22 Specific exemptions.

(a) * * *

(2) * * *

(xxviii) Ombudsman Investigation Files, PCC/OM–1.

[FR Doc. 82-5871 Filed 3-3-82; 8:45 am]

BILLING CODE 3640-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 46

Waiver of Requirements as Applied to Medicaid Demonstration Projects Involving Cost-Sharing (Copayments, Deductibles, Coinsurance)

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of waiver.

SUMMARY: The Department of Health and Human Services hereby gives notice that, pursuant to 45 CFR 46.101(e), the Secretary has decided to waive the requirements set forth in Part 46, relating to protection of human subjects, as they pertain to demonstration projects, approved under section 1115 of the Social Security Act, which test the use of cost-sharing, such as deductibles, copayment and coinsurance, in the Medicaid program (Title XIX of the Social Security Act). The Secretary believes that waiver of Part 46 requirements is appropriate since it will facilitate the timely efficient operation of demonstration projects which are likely to assist in promoting the objectives of the Medicaid program.

DATE: Effective: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Pelovitz, (301) 597–3195.

SUPPLEMENTARY INFORMATION:

The rapid escalation of Medicaid costs in recent years makes it imperative for the Department and the States to conduct research which would explore ways to provide optimum medical care while controlling costs that would otherwise make the program unaffordable. Provisions of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) which, beginning in Fiscal Year 1982, imposes certain new restrictions on the amount of Federal reimbursement which will be available to States for the Medicaid program, make it critical that this research proceed expeditiously. Cost-sharing demonstration projects are likely to be an important part of this research and, without a waiver of the Part 46 requirements, each otherwise approved project would have to go through the process of review by an Institutional Review Board (IRB) before it could be implemented.

Under Part 46, the primary functions of IRB review are to assure that the human subjects of research are not exposed to risk which is unreasonable in light of the benefit to be gained, and that their appropriate informed consent has been obtained (§ 46.111). However, in the case of research conducted to study Federal or State benefit programs, such as a copayment or other cost-sharing demonstration projects, where participation of a large number of individuals would make it impractical to proceed if informed consent had to be obtained from each one, the provisions of Part 46 contemplate IRB waiver of the informed consent requirements. Further, in research such as a Medicaid cost-sharing demonstration project, the possibility of any risk arises solely from the modification of benefits or the means of obtaining benefits available through the governmental assistance program. Modifications of this nature are clearly authorized by, and inherent in the concept of demonstration projects conducted under section 1115. Therefore, the Secretary has concluded that the only appropriate standard by which to assess a cost-sharing demonstration project, including its potential effect on Medicaid beneficiaries, is the standard established by section 1115 itself—whether the project is "likely to assist in promoting the objectives" of the Medicaid program. On the basis of that standard, and pursuant to the waiver authority contained in 45 CFR 46.101(e), the Secretary believes that a waiver is appropriate since IRB review would constitute an inappropriate and unnecessary step in the evaluation and approval of section 1115 Medicaid cost-sharing demonstration projects.

Since there are important reasons for expediting the conduct of research on the use of Medicaid cost-sharing, and it is this Department's policy generally to eliminate unnecessary procedures in the administration of its programs, the waiver announced in this notice is effective immediately (March 4, 1982).

Dated: February 25, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-5723 Filed 3-3-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

Completion of the Move From Washington, D.C., to Gettysburg, Pa., by the Private Radio Bureau's Applications Processing Section

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC modifies its rules to specify that applications for stations authorized by the Private Radio Bureau shall be filed with the Commission's office in Gettysburg, Pennsylvania, since this is where these applications are now processed.

EFFECTIVE DATE: March 9, 1982.

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

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Adopted: February 19, 1982.

Released: February 23, 1982.

In the matter of amendment of § 1.912 of the Commission's rules and regulations.

1. The Private Radio Bureau has completed moving all of its application processing functions from Washington, D.C. to Gettysburg, Pennsylvania. Section 1.912 of the rules is, therefore, amended to reflect this fact.

2. Since this amendment of the rules relates solely to a rule of Agency procedure and practice, notice and public procedure thereon are not required. See 5 U.S.C. 553(b).

3. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended and § 0.231 of the Commission's rules and regulations. See 47 CFR 0.231.

4. Accordingly, it is ordered, that § 1.912 of the rules is amended as set out in the attached Appendix.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

PART 1—PRACTICE AND PROCEDURE

Part 1 Section 1.912(e) is revised to read as follows:

§ 1.912 Where applications are to be filed.

* * * * *

(e) All other applications shall be filed with the Commission's offices in Gettysburg, Pennsylvania and shall be addressed to: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

[FR Doc. 82-5885 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-397; RM-3506]

FM Broadcast Station in Uvalde, Crystal City, and Pearsall, Texas; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein reassigns FM Channel 272A from Crystal City, Texas, to Uvalde, Texas, as that community's second FM assignment, and substitutes Channel 232A at Crystal City, in response to a request by Sharon Hess.

DATE: Effective April 26, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(B), Table of Assignments, FM Broadcast Stations. (Uvalde, Crystal City, and Pearsall, Texas), BC Docket No. 80–397, RM–3506. Report and order (Proceeding terminated).

Adopted: February 16, 1982.
Released: February 25, 1982.

1. Before the Commission is a Notice of Proposed Rule Making, 45 FR 50373, published July 29, 1980, proposing the reassignment of FM Channel 272A from Crystal City, Texas (where it is presently unoccupied and unapplied for) to Uvalde, Texas, at the request of Sharon Hess. On its own motion, the Commission proposed, in the alternative, that FM Channel 237A, unoccupied and unapplied for (at that time) be reassigned back from Pearsall to Uvalde, where it was previously allocated in 1976 in Docket No. 20230.[1] Comments were submitted by Jose Angel Gutierrez, County Judge of Zavala County ("Gutierrez"); Roberto M. Garcia, City Manager of Crystal City ("Garcia"); E. J. Harpole, President of Uvalde Broadcasters, licensee of KVOU(AM) and KYUF(FM), Uvalde ("Harpole"); Walter H. and Noelia S. Herbort, ("the Herborts"); Pearsall Broadcasters, Inc., ("Pearsall B/C"); and by Hess, who also filed brief reply comments.

2. Uvalde (population 14,178),[2] the county seat of Uvalde County, (population 22,441), is located approximately 128 kilometers (80 miles) west of San Antonio, near the Mexican border. Crystal City (population 8,334), the county seat of Zavala County (population 11,666), is located 58 kilometers (36 miles) south of Uvalde. Pearsall (population 7,383), the county seat of Frio County (population 13,785), is located 88 kilometers (55 miles) southwest of San Antonio and 77 kilometers (48 miles) southeast of Uvalde. Uvalde presently receives local aural service from co-owned KVOU(AM) (full-time) and KYUF(FM), and also has an unoccupied Channel 216A noncommercial educational assignment. Crystal City has no present local aural service while Pearsall receives local service from daytime-only AM Station KVWG.

3. In the *Notice*, the Commission requested comment on the need to retain the listed FM assignments at Crystal City and Pearsall. Additionally, we asked whether alternative channels were available for assignment as possible substitutes at either community. We also noted that the assignment of Channel 272A to Uvalde, as requested by Hess, would cause new preclusion only on the co-channel, and asked for a demonstration of the availability of alternative channels for Rocksprings and Laughlin, precluded communities of more than 1,000 with no local AM stations or FM commercial assignments.

4. In his comments, Judge Gutierrez notes that Zavala County has no local aural service at present, and argues that it would be unfair to preclude development of such service by deleting Channel 272A from Crystal City. Garcia, commenting on behalf of the Mayor and City Council of Crystal City, states that availability of Channel 272A at Crystal City is important to the community's chances for attracting new industry, and urges that the channel not be deleted. Harpole states that Crystal City has been growing due to recent oil and coal discoveries in Zavala County, and that there is interest in the community's use of the frequency. The Herborts comment that they intend to apply for Channel 272A at Crystal City, and, if a permit is granted, to construct an FM facility there. They argue that the residents of Crystal City deserve local service, and that it would be inappropriate to reassign the channel to Uvalde, which has two operating full-time local stations, from a community which has no local service.

5. Pearsall Broadcasters, the licensee of daytime-only AM Station KVWG, states that it has been interested in development of an FM station at Pearsall since June 1977, but has been hampered in its efforts by delays in obtaining a contract for engineering study, repeated weather damage to its transmitter towers, and Commission delays in application processing related to its newest replacement tower. Pearsall states that is is unable to fully serve the needs of the predominantly Mexican American population in its community, and the needs of the community in general, due to the daytime-only status of its AM station. Pearsall comments that it fully intends to apply for the present Channel 237A FM assignment, and therefore opposes deletion of Channel 237A from its community. Harpole also opposes the deletion of the only Pearsall FM channel for reassignment to Uvalde.

6. Acknowledging the stated interest in Crystal City and Pearsall assignments, Hess advocates having Channel 272A reassigned from Crystal City to Uvalde as proposed, and assigning Channel 232A to Crystal City as a substitute, with no changes at Pearsall. Hess also responds to our request for alternate assignments for precluded communities by showing that Channel 249A is available for assignment at Laughlin and Channel 252A can be assigned to Rocksprings. Hess reaffirms her intention to apply for the requested new FM assignment at Uvalde.

7. The Commission is of the view that the modified proposal set forth in Hess' comments is meritorious. Desired and justified FM assignments will be available at Crystal City and Pearsall, while the additional Uvalde assignment for which interest and justification has been shown can also be added. This assignment conforms with the mandates of section 307(b) of the Communications Act regarding the equitable assignment of frequencies to various communities.

8. Mexican concurrence in the assignments has been obtained after an unfortunately long delay for which we have no explanation.

9. In view of the foregoing, and pursuant to the authority 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, it is ordered, That effective April 26, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with regard to Crystal City and Uvalde, Texas, as follows:

City	Channel No.
Crystal City, Texas	232A.
Uvalde, Texas	272A and 285A.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Steven A. Bookshester, Broadcast Bureau, (202) 632–7792.

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

[1] When Channel 237A was reassigned from Uvalde to Pearsall, it was replaced at Uvalde with Channel 285A. However, since no application for the use of Channel 237A at Pearsall had been received, Uvalde FM Station KYUF has continued to occupy Channel 237A, rather than convert its construction permit to Channel 285A. On September 11, 1981, Pearsall Broadcasters, Inc. filed an application for Channel 237A at Pearsall.

[2] Population figures are taken from the 1980 U.S. Census.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5878 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-595; RM-3828]

FM Broadcast Station in Agana, Guam Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a third Class C FM channel to Agana, Guam, in response to a petition filed by Guam Radio Service, Inc.

DATES: Effective April 27, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyrec, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Agana, Guam). BC Docket No. 81-595, RM-3828. *Report and order* (Proceeding terminated).

Adopted: February 18, 1982.

Released: February 25, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 44012, published September 2, 1981, proposing the assignment of Class C FM Channel 262 to Agana, Guam, in response to a petition filed by Guam Radio Services, Inc. ("petitioner"). The petitioner filed supporting comments reaffirming its intent to apply for the channel, if assigned. Opposing comments were filed by Inter-Island Communications, Inc., licensee of Station KSTO, Agana, Guam, to which petitioner responded.

2. Agana (population 2,119),[1] capital of Guam (population 84,990), is located 3,700 miles west of Honolulu, Hawaii. It is served locally by three fulltime AM stations and two FM stations (Channel 230 and Channel 238).

3. In its comments, the petitioner incorporated by reference the demographic, economic, regulatory and policy considerations in the *Notice* which favors a grant of the requested assignment. Petitioner also notes that the proposed assignment exceeds the Commission's current population guidelines. However, in view of the geographic isolation of the Island, the cultural and ethnic diversity of its inhabitants, and the numbers of channels presently available, it urges the Commission to adopt the proposal.

4. Inter-Island argues that the economic situation in Guam is frail, and the proposed assignment would have a severe impact on the value and operation of the stations operating in the area, thereby affecting the level of public service. Guam's economy, which has suffered from recent U.S. budget cuts, is heavily dependent on tourism. The data provided by the petitioner, as to the number of tourists, is misleading because the tourists usually use Guam as a stopover on the route to Japan, where money is spent, according to Inter-Island. Additionally, the export trade business which supplements the economy has severely declined. Inter-Island also claims that there has been no indication that the Agana, Guam, market is underserved. In this regard, it urges the Commission to deny the request for an additional FM assignment to Agana.

5. In reply comments, the petitioner argues that the opposition's contention that Guam's economy cannot support another radio station (based on declining tourism and recent budget cuts) are those of a licensee who does not wish to be subject to additional competition. While this motivation is understandable, the appropriate yardstick, according to petitioner, is not the potential adverse impact caused to a single provider of communications service in the marketplace, but the overall service to the public which is of paramount concern, citing *Democrat Printing Company* v. *FCC*, 220 F. 2d 298 (1952), and *NBC* v. *U.S.*, 319 U.S. 239 (1943). Petitioner also argues that contrary to the opposition's allegation that tourism provides little benefit to the Island, tourism provides jobs which benefits the economy. Petitioner states that it is willing to risk operating the proposed station, since as the newest entry it would suffer the greatest risk of failure.

6. The main issue here appears to be the need for an additional assignment at Agana, in view of the Commission's policy limiting communities with a population under 50,000 to two stations. The Commission has employed this criteria as a guideline, not a rigid formula, and has not limited itself to numerical distribution. Rather this criteria prompts us to take a closer look at the preclusive impact of the assignment. As stated in the *Notice*, due to the geographic isolation of the Island there is a large number of channels available. Thus, we believe that there is no need to restrict the number of assignments to Agana. The issues raised by the opposition are of a competitive nature, which are more appropriately considered at the application stage, see *Rome, New York*, 42 RR 2d 618 (1978). In view of petitioner's willingness to operate a third FM service at Agana with what we perceive the greater risk of failure, not having established itself as the existing stations have, we believe the public interest would be served by assigning Channel 262 to that community.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective April 27, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Agana, Guam	230, 238 and 262

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(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.

[FR Doc. 82-5879 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-577; RM-3811]

TV Broadcast Station in Virginia Beach, Virginia; Changes in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 43 to Virginia Beach, Virginia, in response to a petition filed by Edward S. Garcia, Jr. The assignment could provide a first commercial television broadcast service to Virginia Beach.

DATE: Effective February 25, 1982.

[1] Population figures are taken from the 1970 U.S. Census.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Virginia Beach, Virginia), BC Docket No. 81-577; RM-3811. Report and order (Proceeding Terminated).

Adopted: February 18, 1982.

Released: February 25, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 46 FR 43217, published August 27, 1981, proposing the assignment of UHF television Channel 43 to Virginia Beach, Virginia, as its first commercial television assignment. Supporting comments were filed by the petitioner, reaffirming his intent to apply for the channel, if assigned. An opposition to the proposal was filed by Tidewater Community Broadcasting, Inc.,[1] to which petitioner responded.

2. Virginia Beach (population 262,199) [2] is located in the southeast corner of Virginia, adjacent to Norfolk. It is currently without a local television channel assignment.

3. Petitioner incorporated by reference the information contained in the Notice which demonstrated the need for a first assignment to Virginia Beach. The Notice indicated that the proposed assignment would meet the Commission's minimum mileage separation requirements. However, petitioner was requested to indicate the extent to which he had investigated site availability in the area. Petitioner submitted a determination by the Federal Aviation Administration of approval for a site 14.5 miles northwest of Hampton Roads Airport, Portsmouth, Virginia.

4. In opposition to the proposal, Tidewater argues that Virginia Beach presently receives service from six television stations. It adds that the applications pending for Channel 49 at Norfolk could provide an additional service to Virginia Beach. It is their opinion, therefore, that there is no need for another station in this area.

5. Petitioner in reply contends that the opponent (as an applicant for Channel 49 at Norfolk) has failed to demonstrate a legitimate interest in the rule making proceeding for Virginia Beach, and is therefore considered to be an uninterested party under § 1.415(a) of the Rules. Its comments are said to be conclusory and totally lacking in factual support. Petitioner noted that an allegation of adequate service to the community was made earlier (in the Notice) and the response favored first television service to the community, although service was provided by neighboring stations. Thus, petitioner urges the Commission to expedite its request which would provide a first local television service to Virginia Beach.

6. After careful consideration of the proposal and comments filed in response to the Notice, we believe that the public interest would be served by assigning UHF television Channel 43 to Virginia Beach. The petitioner has adequately demonstrated the need for a first television allocation to that community. The fact that Virginia Beach receives service from nearby stations should not foreclose a needed first local television service to this sizable community. It appears that the oppositions' comments are really concerned with the competitive impact of another station in the market, but that is an issue we need not consider here, as it can more adequately be resolved at the application stage. The assignment can be made in compliance with the minimum distance separation requirements and other technical criteria.

7. Accordingly, pursuant to authority 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, it is ordered, that effective April 27, 1982, the Television Table of Assignments, § 73.606(b) of the rules, is amended with respect to the community listed below:

City	Channel No.
Virginia Beach, Virginia	43+

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(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.

[FR Doc. 82-5880 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Tidewater is one of three applicants for UHF Channel 49 at Norfolk, Virginia.

[2] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-774; RM-3513, RM-3627, RM-3671]

TV Broadcast Station in New Smyrna Beach, Orlando, and Winter Park, Florida; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns television Channel 65 to Orlando, Florida, as that community's fourth commercial television assignment, at the request of Astro Enterprises, Inc.

DATE: Effective April 27, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 29554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (New Smyrna Beach, Orlando, and Winter Park, Florida), BC Docket No. 80-774, RM-3513, RM-3627, RM-3671. Report and order (Proceeding Terminated).

Adopted: February 18, 1982.

Released: February 26, 1982.

1. Before the Commission is a Notice of Proposed Rule Making, 46 FR 9145, published January 28, 1981, proposing three alternative television assignment plans for the above-captioned communities. Briefly, the three assignment plans may be summarized as follows: Option I proposes to remove reserved Channel *15 from New Smyrna Beach and place Channel 15 in Orlando for commercial purposes. Channels 46 and 68 would be assigned to New Smyrna Beach, one on a reserved basis, and Channel 65 would be assigned to Winter Park. Option II likewise removes Channel *15 from New Smyrna Beach and adds Channels 46 and 68 to New Smyrna Beach. Channel *15 would then be reassigned to Orlando for noncommerical educational use. Channel 65 would also be assigned to Orlando for commercial use. Option III leaves Channel 15 in New Smyrna Beach but removes the noncommercial reservation. Reserved Channel *46 would then be assigned to New Smyrna Beach for noncommercial use. Channel 65 would be assigned to Orlando for commercial use.

2. The assignments were proposed in response to petitions for rule making filed by Astro Enterprises, Inc.

("Astro"), which seeks the assignment of Channel 65 to Winter Park, and by Palmer Communications, Inc. ("Palmer"), which requests the substitution of Channel *46 for Channel *15 in New Smyrna Beach and the reassignment of Channel 15, without the noncommercial reservation, to Orlando. A counterproposal was filed by WTWV, Inc. ("WTWV"), which asks that Channel *15 be dereserved in New Smyrna Beach so that it can be used by commercial interests. WTWV suggests that Channel *46 can be assigned to New Smyrna Beach in order to accommodate any future noncommercial interests. A second counterproposal, filed by the Board of Regents of the University of Central Florida ("Board of Regents"; "Board"), seeks the reassignment of noncommercial Channel *15 from New Smyrna Beach to Orlando. The Board of Regents filed comments and reply comments and stated that if *15 were reassigned to Orlando, it would apply for authority to operate a noncommercial station there. Subsequently, the Board informed the Commission that, due to funding cutbacks, it would not be able to apply for the channel at Orlando. Because the Board of Regents was the only party to express an interest in Channel *15 at Orlando, and because the Board has now disavowed its interest, we need no longer consider Option II. Thus, the Board's comments and other parties' comments as they relate to Option II will not be addressed in this Report and Order.

3. Orlando, located in central Florida, has grown in population from a 1970 figure of 99,006 to 128,394 in 1980.[1] Orlando is presently served by four television stations, WDBO–TV (Channel 6), WFTV (Channel (9), noncommercial educational Station WMFE–TV (Channel *24), and WOFL (Channel 35). New Smyrna Beach, with a 1980 population of 13,557, is located in east central Florida, approximately 65 kilometers (45 miles) northeast of Orlando and 25 kilometers (15 miles) south of Daytona Beach. Unoccupied Channel *15 is presently New Smyrna Beach's sole assignment. WTWV, one of six applicants for Channel 26 at Daytona Beach, is proposing in its application to serve New Smyrna Beach under the 15-mile rule (§ 73.203(b)). Winter Park is adjacent to the northern city limits of Orlando and currently has no television assignments. Winter Park's 1980 population is 22,314.

4. Comments in response to the *Notice* were filed by Astro, Palmer WTWV, Omega Communications, Inc. ("Omega"), and the Association of Maximum Service Telecasters, Inc. ("MST"). Reply comments were filed by WTWV, Omega, and Community Communications, Inc. ("CCI"). Nearly nine months following the close of the pleading cycle, an informal comment was received from the Daytona Beach Community College, to which Palmer responded.

5. Astro, the proponent of the Winter Park assignment, reiterates its desire to initiate television service to that community. Astro states that it supports any of the assignment plans because they all would make available a channel for use at Winter Park.[2] Because Option I proposes the addition of two new commercial channels to the Orlando area, Astro states that it prefers that option.

6. Palmer, the proponent of reassigning Channel *15 from New Smyrna Beach to Orlando and dereserving the channel for commercial use, notes that only Channel 15 and one channel in the 60's are available for assignment to Orlando. Palmer claims that a channel in the 60's would have to compete against three VHF network stations plus the independent station operating on Channel 35. Operating on Channel 65 would impose a "significant technical handicap;" consequently, Palmer urges the Commission to assign nonreserved Channel 15 to Orlando. Palmer argues against dereserving Channel *15 and leaving the channel at New Smyrna Beach because the channel will ultimately become a *de facto* Daytona Beach channel. Palmer suggests that the need for a commercial station at New Smyrna Beach is better tested in the context of the Channel 26 proceeding at Daytona Beach, where WTWV has applied to use the channel at New Smyrna Beach under the 15 mile rule. Palmer pledges to apply for Channel 15 at Orlando, if assigned.

7. WTWV, an applicant for Channel 26 at Daytona Beach for use at New Smyrna Beach, supports the dereservation of Channel *15 at New Smyrna Beach and the addition of Channel *46 as the new noncommercial channel at that community. WTWV opines that New Smyrna Beach needs a viable commercial assignment and presents demographic information which establishes New Smyrna Beach's status as an independent community. WTWV asserts that neither Channel 46 nor Channel 68 as proposed in Option I, can be commercially viable in New Smyrna Beach. According to WTWV, site restrictions make Channel 46 undesirable and the competition for viewers in the Daytona Beach-Orlando area makes use of Channel 68 untenable. WTWV avers that due to the competition in the area, a commercial New Smyrna Beach station is likely to survive only if operating on Channel 15. WTWV concludes that reassigning Channel 15 to Orlando or leaving the noncommercial reservation on the channel at New Smyrna Beach will effectively deprive New Smyrna Beach from ever having a local commercial television service.

8. Omega, licensee of Station WOFL, Channel 35, Orlando, questions whether any of the proposed assignment plans furthers the public interest. Omega states that the Commission's proposal to drop in two additional VHF channels in Orlando [3] makes this rule making irrelevant. Omega also notes that several new low power stations may soon become operational in the Orlando market. Omega lists three UHF assignments for which applications are pending, one unapplied for commercial assignment, and three unapplied for noncommercial assignments as further evidence that the Orlando-Daytona Beach television market does not need additional television outlets. According to Omega, the Orlando-Daytona Beach market cannot support another television channel.

9. The Association of Maximum Service Telecasters notes that whether Channel 65 is assigned to Winter Park or Orlando, the reference point for either location would not meet the minimum mileage separation requirements with respect to an application for Channel 51 at Ocala, Florida.[4] MST has no objection to the assignment of Channel 65, so long as any applicant for the channel locates its transmitter at a site which complies with all the Commission's mileage requirements. MST's engineering statement points out that all mileage requirements would be met if the Channel 65 transmitter is located near the site used by the existing Orlando television stations.

10. In reply comments, WTWV reiterates its position that only Channel 15 would provide New Smyrna Beach with a viable commercial television outlet. WTWV argues that if Orlando receives an additional assignment, it should be Channel 65. Because of Orlando's greater market size, WTWV argues that a high UHF channel would

[1] Population figures are taken from the 1970 and 1980 U.S. Censuses.

[2] A channel assigned to Orlando could be used at Winter Park under § 73.607(b) of the Commission's rules, the "15-mile" rule.

[3] *Table of Television Channel Allotments*, 83 F.C.C. 2d 51 (*NPRM*, 1980).

[4] File No. BPCT–801114KE.

have a better chance of surviving in Orlando than in a small community such as New Smyrna Beach. Omega states in its reply comments that the Commission should first settle its VHF drop-in proceeding and the low power docket before deciding whether to add any UHF channels to the Orlando market.

11. Approximately nine months following the close of the pleading cycle, the Daytona Beach Community College filed an informal comment in which it expressed an interest in applying for a noncommercial Channel *15 at New Smyrna Beach. The College therefore urges the Commission to leave the New Smyrna Beach assignment undisturbed. In response to the College's comments, Palmer submits that the college may use another channel for noncommercial use in New Smyrna Beach if Channel *15 is dereserved and reassigned to Orlando. Palmer also suggests that, given the location of the College, the College actually intends to apply for a Daytona Beach facility. This, Palmer contends, would be a *de facto* re-allocation of Channel *15 which should have been advanced as a counterproposal in the rule making proceeding. Finally, Palmer avers that the College's comments are "fatally untimely" and should not be considered.

12. The first issue which we address is the question of whether Channel *15 at New Smyrna Beach should be dereserved for commercial use. Absent special circumstances, the Commission does not generally dereserve noncommercial educational channels, especially where there is another channel available in the community for commercial use. *Vancouver, Washington*, 44 R.R. 2d 1498 (1980). After carefully reviewing the comments submitted on this issue, we have determined that no such special circumstances exist in this case. The proponents of using Channel *15 for commercial purposes have generally argued that the higher available UHF channels are technically inferior to Channel *15 and that this inferiority would make commercial operation on the higher channel infeasible. However, in cases such as this, the Commission does not acknowledge any significant difference between lower and higher UHF channels. Thus, a mere preference for a lower UHF channel has not been sufficient justification for dereserving a noncommercial assignment. Houston, Texas, Mimeo No. 30818, released February 9, 1982. Accordingly, we shall retain the noncommercial reservation of Channel *15 in New Smyrna Beach.[5] Having made this decision to retain Channel *15 at New Smyrna Beach, the question of whether to reassign Channel *15 to Orlando, as urged by Palmer, becomes moot.

13. With respect to WTWV's expressed desire to provide commercial television service to New Smyrna Beach, we note that it may continue to prosecute its application for Channel 26 in Daytona Beach for use in New Smyrna Beach. Alternatively, as stated in the *Notice*, there are other channels available for assignment to New Smyrna Beach for commercial use. Because no present interest has been expressed in one of the alternative channels for that community, we shall not make any additional assignments to New Smyrna Beach at this time.

14. We now turn to the issue of whether to assign an additional commercial channel to either Winter Park or Orlando. Initially we find that the Orlando area is rapidly growing and appears to be deserving of an additional television assignment. The suggestions of Omega, that we first consider the potential effects of our VHF drop-in docket and our low power proceeding on the need for service in Orlando, is completely misplaced. Contrary to the contention of Omega, our VHF drop-in proceeding did not specifically propose to assign two new VHF stations to the Orlando market. That proceeding merely solicits comments on the procedures we might use in making future television assignments.[6] With respect to the low power argument, those proposed services are clearly secondary to the establishment of a full service broadcasting station, and we do not consider the need for an additional television assignment based on the potential availability of low power services. *Cf. Houston, Texas, supra.* To the extent that Omega alleges that the area cannot support an additional television channel, such arguments are better addressed in the context of a specific application to provide a new service to the Orlando area. *Hay Springs, Neb.*, 42 R.R. 2d 1673 (1978).

15. Having determined that the Orlando area deserves an additional assignment, we must now decide whether to make that assignment to Winter Park, as Astro suggests, or to the larger and more important city of Orlando. We stated in the Notice our reluctance to assign a television channel to Winter Park and suggested that Astro submit further community information on Winter Park so that we could make a more informed decision. Astro did not make any such further showings in its comments. In this situation, the Commission's policy is to assign the television channel to the larger community and allow interested parties to apply for the channel at suburban communities under the "15 mile" rule. *See, e.g., Fresno, California, et al.*, 49 R.R. 2d 579 (Broadcast Bureau 1981). Astro states in its comments that it will apply for Channel 65 whether the channel is assigned to Winter Park or Orlando. Therefore, we shall follow our normal policy in cases such as this and assign the new channel to the larger city, Orlando.

16. Accordingly, it is ordered, that effective April 27, 1982, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended to read as follows:

City	Channel No.
Orlando, Florida	6-, 9, *24-, 35+, and 65.

17. Authority for the action taken herein is contained in Secs. 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.

18. It is further ordered, That this proceeding is terminated.

19. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(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.

[FR Doc. 82-5881 Filed 3-3-82; 8:45 am]

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[5] The Daytona Beach Community College's expression of interest in Channel *15 at New Smyrna Beach has not colored our decision. However, the College's expression of interest, fully nine months following our pleading cycle in this case, clearly illustrates the desirability and necessity of retaining reserved channels for future use. The ability of any noncommercial entity to initiate a broadcasting operation unfortunately does not exactly coincide with the timetables set in administrative proceedings.

[6] Omega's confusion may stem from an Appendix to the news release announcing the VHF drop-in *Notice*. The Appendix listed possible VHF assignments if the proposed procedures are adopted. *See* F.C.C. Report No. 15930, released September 18, 1980.

47 CFR Parts 73 and 74

[BC Docket No. 81-497; RM 3762; FCC 82-87]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services

Short-Term Operation Without Prior Approval and Creation of a New Auxiliary Broadcast Service License Class

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, in this *Report and Order* in BC Docket 81-497, denies RM-3762 (Creation of a new auxiliary broadcast service license class to permit non-broadcast station license holders to be licensed and operate radio relay stations for direct rebroadcast of program material) filed by Henry B. Ruh; and adopts its proposed alternative which consists of eliminating the present "120 day equipment installation requirement" in Subparts D and H of Part 74, and by providing for short-term operation on certain Part 74 frequencies by Part 73 licensees. This action is necessary for the Commission to be responsive to the essential problem identified in the Ruh petition, namely, the need to provide smaller broadcasters with more ready access to access to broadcast auxiliary service frequencies. In the Commission's view, its alternative achieves this goal more effectively and encourages more intensive use of the available broadcast auxiliary spectrum to the public benefit.

DATES: The effective date of the new rules is April 1, 1982.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Federal Communications Commission, Broadcast Bureau, Policy and Rules Division, Technical and International Branch, Washington, D.C. 20554 (202) 632-9660; Room 8112-C.

Adopted: February 11, 1982.

Released: February 23, 1982.

In the matter of amendment of Part 74, Subparts D, E, F and H of the Commission's Rules to provide for short-term operation without prior approval; BC Docket No. 81-497. Creation of a new auxiliary broadcast service license class to permit non-broadcast station license holders to be licensed and operate radio relay stations for direct rebroadcast of program material; RM-3762.

1. On July 30, 1981, the Commission adopted a *Notice of Proposed Rule Making ("Notice")* in the above-entitled matter which was released on August 12, 1981, and published in the **Federal Register** (46 FR 41820) on August 18, 1981. The *Notice* sought comment on a petition (RM-3762) filed by Henry B. Ruh on May 19, 1980, which sought amendment of Part 74 (Auxiliary Broadcast Services) of the Commission's Rules to provide for the authorization of non-broadcast entities who would render auxiliary broadcast communications service to broadcasters on a "for hire" basis.

2. At the same time, however, the Commission expressed its opinion that its authorization of such "specialized communications carriers" would not be in the best interest of broadcasters but that the essential problem identified by Ruh, namely, the need for more ready access to auxiliary broadcast spectrum by smaller broadcasters, merited some relief. Accordingly, the Commission proposed an alternative which would amend the rules in Subparts D and H to eliminate the requirement that broadcasters install the minimum number of transmitters authorized within 120 days of the grant date of their auxiliary station license; and, amend the rules in Subparts D, E, F and H to provide for short-term (up to 30 days) operation on auxiliary broadcast frequencies under operating authority conveyed by a Part 73 license.

3. Comments favorable to the Commission's proposal were filed by American Broadcasting Companies, Inc. (ABC), CBS, Inc. (CBS), National Association of Broadcasters (NAB), National Broadcasting Company (NBC), National Radio Broadcasters Association (NRBA), Washington Executive Broadcast Engineers (WEBE), "Joint Parties" [1] and "Broadcast Licensees." [2] Opposition comments were filed by WCMP Broadcasting Co. (WCMP). Comments involving special interests were filed by the National Radio Astronomy Observatory/Naval Research Laboratory (NRAO/NRL) and by the firm of Pellegrin and Levine on behalf of various Cable Antenna Relay Service (CARS) licensees. Reply comments favorable to the Commission's proposal were filed by ABC, the General Electric Broadcasting Co., Inc. (GEBCO) and NAB. Opposition reply comments were filed by WCMP and News-Press Publishing Co., Inc. (KTMS).

[1] "Joint Parties" is the name given to the collective comments of Channel 2 Television Co., Cosmos Broadcasting Corp., Cox Broadcasting Corp., Mid-America Television Co. and Multimedia, Inc. by their counsel, Dow, Lohnes and Albertson.

[2] "Broadcast Licensees" is the name used by the firm of McKenna, Wilkenson and Kittner to refer to its client broadcasters.

RM-3762

4. The comments addressing petition RM-3762 were unanimous in their opinion that it should be denied since it might result (as a result of the authorization of non-broadcast "specialized communications carriers") in loss of broadcaster control over the available auxiliary broadcast services spectrum and because the alternative proposed by the Commission was seen, either as a whole or in part,[3] as more desirable. We agree. Accordingly, petition RM-3762 will be denied.

Comments on the Commission's Counterproposal

5. The comments addressing the Commission's counterproposal to RM-3762 were generally favorable. NRBA expressed its belief that the proposal represented a clear attempt to conform the Commission's regulatory processes to the realities of today's broadcast industry; that the present system (of requiring broadcasters to obtain a special temporary authorization (STA) for short-term operation) imposes an unnecessary burden on the Commission and on broadcasters; and that the Commission's proposal represented a recognition of the fact that broadcasters are able to cooperate with each other for their ultimate good. Joint Parties felt that the present STA clearance procedure complicates licensee efforts to deliver programming, and that the proposal for responsible cooperation among broadcasters on the use of auxiliary service frequencies would be a logical extension of ongoing practice. They urged its implementation as soon as possible. ABC expressed the view that the Commission was pursuing sensible deregulatory objectives and made a number of recommendations for additional changes. These recommendations, as well as those of other parties filing comments, will be discussed, *infra*.

6. However, favorable views on the Commission's proposal were not held by all of those filing comments. KTMS noted that because of different operational practices, broadcasters often could not directly communicate with each other on Part 74 frequencies and it viewed the existence of a license and call sign as being necessary for a victim of interference to be able to contact an interfering party in a timely manner. KTMS also expressed the belief that the elimination of the 120 day

[3] KTMS, in its reply comments, indicated its belief that the elimination of the 120 day equipment installation requirement alone would serve the purposes of petition RM-3762.

equipment installation requirement [4] alone would serve the purpose of RM-3762. Broadcasters would then be free to rent equipment as needed. For these reasons, KTMS opposed adoption of the short-term operating provisions of the Commission's proposal.

7. WCMP professed total opposition to the Commission's proposal, although it directed no comments toward the proposal to eliminate the 120 day equipment installation requirement. WCMP was of the opinion that while the Commission's proposal appeared attractive in view of the paperwork it would save, such paperwork would be a small price to pay if the other aspects of the proposal were investigated. WCMP felt that the short-term operating provisions would undo all carefully planned (and licensed) operations; that inadequate consideration had been given to the chain reaction of the interference which could result from short-term operation; and that even if a source of interference was identified, the short-term operator could deny responsibility and argue the matter, in the meantime causing irreparable damage to the operation of the regularly authorized station. Particularly adverse effects of interference on studio-transmitter links were seen as possible in view of the fact that publications listing frequencies in use in a given area are not readily available. Thus, WCMP concluded that only by coordination at the FCC could interference-free operation be achieved,[5] and that such determinations should not be placed in the hands of licensees or their engineers, regardless of how well-intentioned they may be.

8. In its reply comments, WCMP noted that while many of the other parties to this proceeding were evidently of the opinion that the Commission's proposal constituted additional, acceptable deregulation which would benefit the broadcast industry, it still did not share this opinion and continued to believe that adoption of the proposal would have the opposite effect. The occasionally troublesome interference between presently licensed stations is at the basis of WCMP's belief and it feels that without prior approval from the FCC, hundreds of new temporary operations would commence which would probably interfere not only with existing stations, but also each other. On balance, WCMP feels that the present rules, which require regular licensing or prior Commission authority (in the form of an STA), have served everyone well and that the associated paperwork is a small price to pay for a system of proven reliability. Nevertheless, WCMP suggested some rule changes it felt were necessary if the Commission decided to go ahead with its proposal.[6]

9. We must confess some confusion over the concern of KTMS about the need for a license and call sign. While not explicitly saying so in their comments, it appears that KTMS must refer to a Part 74 license and call sign since a Part 73 license and call sign would already exist. Further, we believe that use of the Part 73 call sign, which tends to be widely known, will be much more conducive to short-term operator identification than the comparatively obscure Part 74 call sign. The Commission agrees with KTMS that the elimination of the 120 day equipment installation requirement alone would serve the purpose of petition RM-3762, since smaller or more economically disadvantaged broadcasters would be able to obtain regular Part 74 authorizations on the same basis as larger stations. However, there is nothing that requires our response to a rule making petition to be merely sufficient when we are able to do more. It was our opinion that the additional proposal relating to short-term operation would go even further in achieving the goal of providing smaller broadcasters with more ready access to broadcast auxiliary frequencies and the majority of those filing comments agrees with us.

10. In fact (and in reply to the concerns expressed by WCMP), a review of the comments indicates a strong belief that the Commission should adopt the rule amendments relating to short-term operation essentially as proposed in view of the more ready access to part 74 frequencies which would be provided, the convenience of not having to apply for an STA in cases where operation outside the normal parameters specified in a Part 74 authorization is required, because of the greater flexibility in operation which would result and consequent improvement in the ability to provide better service to the public. However, we would emphasize that the accessibility and convenience factors associated with this action are in a sense secondary considerations, and would not be possible without the reliability of existing informal broadcast licensee coordination efforts and our belief that under the new rules, nothing would really change. The Commission already depends entirely on the informal coordination procedures carried out in advance of its issuance of permanent authorizations. However, the Commission does not participate in these efforts, it merely ratifies them on the assumption that they will continue to work because they have worked well in the past. Generally, the Commission does not have the resources to perform frequency coordination itself; and contrary to the opinion expressed by WEBE in its comments, such a service by the Commission is not required by the Communications Act of 1934, as amended.[7]

[4] See § 74.432(d) and § 74.832(g).

[5] This conclusion was reached even though WCMP states that it is receiving interference as a result of a permanent authorization issued to another station 60 miles away. Nevetheless, WCMP believes that the existing licensing procedures are usually reliable, particularly in view of the potential for interference possible under the Commission's proposed short-term operating provisions.

[6] WCMP asked that short-term operators be required to notify the FCC in advance concerning their operation and that the effective radiated power (ERP) of such stations be limited to 25 watts. These recommendations will be discussed along with related suggestions of other parties to this proceeding.

[7] WEBE, in its comments, supported the Commission's proposal, but charged us with admitting to *de facto* abdication of responsibility for broadcast auxiliary service frequency coordination despite alleged requirements of the Communications Act of 1934, as amended (hereinafter referred to as "Act") and rules providing for exclusive frequency assignments. This, according to WEBE, has resulted in a void in the coordination process and has created a need, especially acute if the Commission's proposal is adopted, for the establishment of new guidelines to facilitate industry coordination efforts. WEBE's recommended guidelines, as well as those of others participating in this proceeding, will be discussed subsequently in this document. However, we cannot let WEBE's charge of neglect of duty pass without comment. Neither 303(c) of the Act, which conveys the power of assigning the frequency of each station, or 307(b), which concerns the equitable distribution of frequencies, requires frequency coordination by the FCC. Rather, 301 states that the purpose of the Act is to, *inter alia*, "maintain the control of the United States over the channels of interstate and foreign radio transmission." In order that this control be exerted effectively, 303(f) states that the Commission shall "Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the (other) provisions of this Act." These are broad provisions which give the Commission considerable latitude in regulating use of the airwaves. However, domestic frequency coordination by the FCC is neither explicitly stated or implied by these or any other provisions of the Act; and while the FCC may in fact perform frequency coordination in certain cases as its resources permit, it is not obliged to do so. Rather, it may pass rules requiring licensees to develop and participate in their own coordination process, or use any of a number of other methods which result in equitable use of the spectrum. The Commission has general responsibility for regulation of the radio spectrum in the public interest. However, it is generally not required to use any specific procedure or perform any specific task if its responsibility can be discharged through other means. It should be understood that this simple explanation of the Commission's regulatory responsibility in regard to frequency coordination is intended only as a brief reply to the charges made by WEBE and does not portray our complete philosophy on this matter, much less serve as a basis for our regulatory philosophy generally. As to the rules relating to

Continued

11. In general, the Commission regulates the use of the spectrum through its frequency allocation proceedings. Other regulations are adopted as needed to give more specific guidance in the use of the spectrum. At various times in the past, for reasons deemed valid at the time, rules were adopted which have subsequently become obsolete due to technical advances or changing circumstances. Ideally, regulations should exist only to the degree necessary to insure orderly and effective use of the spectrum. Conforming our regulations to this general principle is the object of our entire deregulation and reregulation effort. The amendments adopted in this proceeding are intended to have the same effect and the majority of those filing comments believes that they will.

12. For the foregoing reasons, the Commission has decided to adopt rules relating to short-term Part 74 operation essentially as proposed in the *Notice*. However, several modifications to our proposal have been suggested by those filing comments, and we wish to discuss these individually.

The 30 Day Limit on Short-Term Operation

13. ABC and NBC expressed their belief that the 30 day limit [8] on short-term operation proposed in the *Notice* was arbitrary, unnecessary and ambiguous. NBC cited the case of covering the quadrennial presidential primary campaigns as being an example of when broadcasters would need to be able to operate their equipment beyond the 30 day limit, with little or no need to operate the equipment during the remaining 3 years of the cycle. Both networks asked for an interpretation of the applicability of the 30 day limit to certain situations.[9] CBS mentioned the reference in the *Notice* to the Broadcast Bureau Reregulation Task Force study of the feasibility of allowing Part 73 licensees automatic access to Part 74 frequencies, thereby making the issuance of individual remote pick-up station licenses unnecessary.[10] CBS expressed its belief that such an action might be practical and urged the Commission to complete the study. Lastly, NBC pointed out a conflict between the proposed rules and § 74.832(h), which states that low power auxiliary stations may not be operated outside the area of operation specified in the authorization. NBC suggested that this rule be amended to allow very low power (50 milliwatt) operation anywhere in the country.

14. The 30 day limit on short-term use of the auxiliary spectrum was selected by the Commission as being sufficiently reasonable in length to accommodate most operation for which an STA is traditionally sought.[11] In selecting this limit, we envisioned that most short-term operation would last on the order of several days and that 30 days would provide for the coverage of a number of individual events or emergencies. We believe the number of instances where continuous operation on the order of 30 days is required will be rare and we think that this assumption is supported by the example of campaign coverage cited by NBC. In developing the proposals set forth in the *Notice*, we gave thought to allowing unlimited operation on Part 74 frequencies by Part 73 licensees, but we concluded that such an action might be unwise prior to a determination that broadcasters' ability to successfully coordinate use of the available frequencies under short-term provisions would not be impaired. We believe that the 30 day limit represents a significant degree of deregulation and that it should be retained for the present. There is nothing in the comments which persuades us that we should abandon the more cautious approach of setting a limit on short-term operation or which convinces us that the 30 day period initially proposed is, in fact, arbitrary and unreasonable. We can revisit this matter at some time in the future if experience demonstrates the probable practicality of removing the limit.

15. The interpretation of the limit of "(up to) 30 days, continuous or aggregate on an annual basis" is that broadcasters may operate auxiliary stations under the short-term provisions for up to 720 hours (30 days @ 24 hours/day) per frequency per year. The 720 hours may be expended in any way desired and no log relating to such operation need be kept. The short-term operating provisions apply only to previously unauthorized operation (i.e., operation not authorized pursuant to an auxiliary station license).[12] The short-term use provisions are intended to authorize limited operation on Part 74 frequencies through operating authority conveyed by the Part 73 (broadcast) license. The operation of equipment authorized pursuant to a regular auxiliary station license is unaffected by the new rules and retains its priority.

16. The conflict between the new rules and § 74.832(h) noted by NBC was an oversight. However, experience has shown that the provisions of § 74.832(h) are unnecessary, needlessly burdensome and restrictive. They are, accordingly, being eliminated.

Notification Requirements

17. Several of those filing comments requested that the Commission impose a notification requirement applicable to short-term operation. Such a notice would be sent to the Commission prior to operation and would include information on the frequencies to be used, dates of operation, location or area of operation, broadcaster's name and call sign, and the name and telephone number of a person to contact in the event of interference. CBS felt that such information would be useful in coordinating the use of the frequencies, as well as serving as a means of resolving interference problems. The comments of WCMP and Pellegrin and Levine emphasized the latter use. The potential utility of such a notification procedure has been raised by the Commission in the *Notice*.[13] Lastly, Pellegrine and Levine, commenting on behalf of CARS licensees, asked that short-term users proposing to operate on frequencies shared with CARS stations be required to maintain up-to-date copies of all CARS authorizations in the proposed area of operation and that broadcasters be required to get CARS operator clearance prior to operating on frequencies cochannel or adjacent channel to CARS stations.

18. Most of the other parties filing comments, however, were opposed to the use of a notification process. NAB felt that a requirement for new users to consult with local broadcasters before beginning operation would be sufficient. ABC, NBC and WEBE also felt that

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exclusive frequency assignments, the inference in the *Notice* (see Paragraph 6) may have been misleading. While we no longer grant exclusive assignments in a given market, it is our policy to protect the use of a frequency over a specified path. This policy is presently under review in BC Docket No. 81-794.

[8] See the Appendix to the *Notice*, §§ 74.433(a), 74.537(a), 74.633(a) and 74.833(a).

[9] ABC asked whether a single, brief transmission on a frequency daily for 30 consecutive days constituted 30 day operation. NBC asked whether the limit was intended to apply to operation on each individual channel, or on all of the available channels, and questioned its applicability to licensed equipment and licensed frequencies.

[10] See the *Notice*, Paragraph 4.

[11] See the *Notice*, Footnote 11. However, the limit was also suggested by the provisions of § 74.431(d) which are applicable to out-of-area use of remote pick-up broadcast mobile stations.

[12] Expressed another way, the short-term provision can be said to apply to the use of all "unlicensed" equipment. By "unlicensed", we mean equipment for which there is no authorization (license) or equipment which is operated outside the terms of the authorization. This includes (but is not restricted to) operation on frequencies other than those authorized or operation in areas outside any area of operation which may be indicated on the authorization.

[13] See the *Notice*, Footnote 11.

notifying the FCC was unnecessary, but recommended that the Commission keep a list of frequency coordinators to make available for the use of short-term operators.[14] NRBA argued that notification should only be used as a last resort (i.e., if coordination and cooperation among users did not prove successful).

19. After giving additional consideration to this question, the Commission believes that notifying it of short-term operation would serve little useful purpose. This is a burden we wish to avoid having to place on broadcasters and its effect in terms of encouraging local frequency coordination is uncertain. Further, additional review of the duties assigned to the FCC watch officer (we mentioned the possibility of such notifications being directed to the FCC watch officer in the *Notice*) leads us to conclude that the additional burden of maintaining a short-term broadcast auxiliary operation file could not be assumed without potentially adversely affecting the quality of work in this and other important areas. Thus, such notification would have to be directed to another member of the staff during regular business hours. For these reasons, and because the file would probably have to be maintained on a manual basis, use of the notification as a tool in frequency coordination would be both time-limited and cumbersome.[15]

20. Further, the Commission believes that the majority of broadcasters having a need to use the auxiliary spectrum would participate in local or regional coordination efforts. The comments seemed generally in agreement with the Commission's statement in the *Notice* that "informal frequency coordination procedures in use among eligible entities have worked well up to the present and are likely to continue to do so provided use of the spectrum increases on a gradual basis."[16] We anticipate only a slight to moderate increase in the use of the auxiliary spectrum as a result of our action in this proceeding, so we have little reason to doubt the continuing efficacy of the existing frequency coordination structure, as informal and amorphous as it may be.[17] Nevertheless, there is nothing which prevents broadcasters from further synthesizing, on a regional or national basis, their frequency coordination efforts or from developing whatever procedures or structures are desirable in order to enhance frequency coordination be it for short-term or permanent use.[18] In fact, the Commission wishes to encourage such a development.

21. We do see merit, however, in the suggestions of NAB, WEBE and Pellegrin and Levine that a requirement to coordinate the use of frequencies with local broadcasters, local or regional coordination committees, and other licensees with whom the spectrum may be shared, should be placed in the rules to emphasize (particularly to new users of the spectrum) the need for frequency coordination and cooperation in the use of the available spectrum. We believe that, as a minimum, short-term operators should contact in advance the local frequency coordination committee or a licensee assigned any frequency on which they propose to operate in order to verify that the frequency will be, in fact, available for use. This is a common sense procedure already practiced by the networks, so we do not feel that we are imposing any new burden. Moreover, such a requirement should substitute for the notification procedure discussed previously. Of course, as pointed out by several of those filing comments, there are occasions (such as fast-breaking news stories or unanticipated emergencies) where such advance notification would be impractical. Accordingly, while we do not believe that it would be necessary for a short-term user to notify every broadcaster within a 35 mile radius of the proposed operating location as suggested by WCMP in its comments, very basic, common sense provisions concerning advance notification and coordination have been included in the rules herein adopted.

Interference to Radio Astronomy, Research and Receiving Installations

22. NRAO/NRL has requested that provisions relating to short-term auxiliary station operation be modified to protect their activities. They reference § 73.1030 as being applicable to permanent auxiliary station facilities and ask that short-term operation be placed under similar constraints. Only ABC addressed this issue in its reply comments, and it indicated that coordination with NRAO/NRL prior to operation in the National Radio Quiet Zone (NRQZ) would be "reasonable and appropriate." Our failure to propose appropriate amendment of the rules to reflect these concerns and to protect the FCC's monitoring stations pursuant to § 74.12(d) was an oversight which has been corrected in the new rules contained in the Appendix.

Border-Area Operation

23. NAB argues that the "75 mile restriction"[19] on short-term operation near the United States-Canada border is excessive in view of the low powers and directional antennas employed by many Part 74 operations and asks the Commission to develop more reasonable technical limitations applicable to border area operation. NAB points out that operators of fixed auxiliary stations can calculate their ERP at any desired azimuth and adjust power or antenna gain to achieve a desired reduction in ERP toward the nearest border point. NAB feels that a limit on permissible ERP toward the border would allow for considerable more flexibility in Part 74 operation. NAB concedes that since mobile radiation toward a specific border point is inherently variable, some geographical limit on operation is appropriate, but that 75 miles is excessive. ABC expressed its belief that short-term operation along the United States-Mexico border should be subject to similar restraints in effect along the United States-Canada border, but that

[14] At the present time, the Commission does not possess this information. However, if auxiliary broadcast service coordination committees advise us as to the markets or areas they serve and provide us with information concerning their name, address, telephone number, principal staff members, participating broadcast stations and spectrum coordinated, we will make this information available to any broadcaster inquiring about the practicality of short-term operation in a specific area.

[15] Even if such a file was created in the Commission's computer and designed so that it could be supplemented and interrogated by broadcasters through the use of dial-access terminals, it would only be capable of use by a very small number of broadcasters having the necessary equipment.

[16] See the *Notice*, Paragraph 6.

[17] As we also mentioned in the *Notice* (in Footnote 7), the broadcast auxiliary services, unlike many other radio services, have no designated frequency coordinator. Frequencies are coordinated through agreements made by broadcasters (and, in the case of frequencies shared with other services, other licensees) in any given area. A coordination committee may consist of several proximately located broadcasters, or it could consist of the highly integrated structure described by WEBE in its comments. Whatever the case, we note that as instances of interference are few, the coordination processes are usually successful.

[18] We would mention that NAB, in its comments, suggested that the Commission amend Part 74 to provide for expanded, locally oriented spectrum management. However, NAB did not suggest any particular means by which rule amendments might help achieve this result. We feel that such rule amendments are unnecessary as there is nothing preventing broadcasters from modifying or further developing their frequency coordination and spectrum management procedures to the extent needed on either a local, regional or national basis. Broadcasters are free to pursue such objectives without Commission limitation.

[19] See proposed § 74.433(a) which limits the operation of remote pickup stations to areas south of Line A and west of Line C. As we indicated in the *Notice*, Line A and Line C are imaginary lines approximately 75 miles south and west, respectively, of the United States-Canada border. This accounts for the use of the expressions "75 mile restriction" or "75 mile rule."

no limitation with respect to location should apply if the ERP of the auxiliary station is 5 watts or less.

24. The Commission believes that the limitations on border area operation which were proposed in the *Notice* are not as restrictive as the comments would imply. Only § 74.433(a), which is applicable to short-term remote pickup stations, would restrict operation to areas more than 75 miles from the United States-Canada border. Further, the restriction does not apply if the ERP of the station (regardless of its class) is 5 watts or less. Proposed § 74.537(g), which would apply to short-term STL and intercity relay stations, allows stations to be located as little as 5 miles away from the border if the antenna is oriented within a 160° sector away from the border. Proposed § 74.633(e), which would apply to short-term operation of TV auxiliary stations, is even more liberal and would allow the operation of these stations wherever interference to a Canadian receiving earth station would not occur.[20] These restrictions are taken almost verbatim from the United States-Canada Agreement.[21] With the exception of the remote pickup station provisions already mentioned, we believe that a careful reading of the rules would indicate that they satisfy many of the concerns raised, and none of the parties filing comments made specific suggestions as to how mobile operation of remote pickup stations might be regulated to allow operation closer to the border with no increase in the likelihood of interference to Canadian operation. In view of this, and because we cannot adopt rules which would be in derogation of our international agreements, the proposed limitations on operation along the United States-Canada border are being retained.

25. With respect to coordination with Mexico, no particular requirements exist at this time. The Commission, in the *Notice*, simply asked for information as to the feasibility of precluding short-term operation within 75 miles of the United States-Mexico border in anticipation of a forthcoming agreement. We appreciate the comments filed by ABC on this matter, but we have decided not to adopt any new limitations at this time. However, any limitations made necessary by a new United States-Mexico Agreement will be adopted by *Order* at some time in the future.

[20] Proposed §§ 74.537(g) and 74.633(e) appear in the final Appendix as a note to § 74.24(h)(1).

[21] See the Department of State pamphlet, Treaties and Other International Acts Series 5833, entitled "Telecommunication Coordination and Use of Radio Frequencies Above 30 Megacycles per Second, Agreement of the United States of America and Canada," revising the Technical Annex to the Agreement of October 24, 1962, effected by exchange of notes signed at Ottawa on June 16 and 24, 1965.

Other Comments

26. In other comments, ABC asked the Commission to expand the extent of the deregulation proposed in the *Notice* by amending the rules to provide for the issuance of a single, blanket authorization for mobile stations in the broadcast auxiliary services. This, it is said, would allow the use of equipment on any frequency. A similar but less comprehensive suggestion was made by NBC, which recommended that the Commission consider licensing TV pickup stations in any band, on a system basis, in order to eliminate the need for holding an individual license for each piece of equipment. Neither ABC nor NBC requested that the ability to operate in any part of the country be considered as part of their proposal, but this would appear to be necessary if the desired flexibility in operation is to be achieved.

27. We believe that both the ABC and NBC proposals would have merit in terms of effort saved in applying for broadcast auxiliary station licenses. Otherwise, the only discernible effect of each is to provide for mobile broadcast auxiliary station operation anywhere in the country, at any time. By requesting this capability, the two parties are essentially repeating their request for elimination of the 30 day limit on short-term auxiliary station operation, with the additional benefit (since a permanent authorization for such operation would exist) of not being required to operate on a secondary basis to local users. However, we believe that the 720 hours per frequency operation already provided by the new rules is sufficient to accommodate almost every conceivable need for out-of-authorized area operation and that the secondary status of such operation is desirable in order to adequately protect local broadcast use of the spectrum. Also, since no reply comments were directed to these proposals, we feel that the other parties to this proceeding may not have adequately considered the potential impact. Accordingly, we feel that it is both unnecessary and inappropriate to take affirmative action on these proposals at this time.

28. ABC also requested that the Commission eliminate §§ 74.432(d) and 74.832(g) in entirety. These sections require applicants for remote pickup broadcast stations and low power auxiliary stations to specify the minimum and maximum number of mobile units that will be placed into service.

29. The Commission disagrees. The burden imposed by these regulations is insignificant, and while the number of mobile units cannot precisely be related to the use of the spectrum, it at least conveys an idea of the potential use possible. Also, it is unlikely that Canada would agree to such a deletion of information on licenses of stations near the border. To amend the rules as suggested while providing for the exception necessary along the border would make the rules more complicated without any real attendant benefit. Accordingly, this request of ABC is denied.

30. WCMP, in reply comments, urged the Commission to limit the ERP of stations operated under short-term provisions to 25 watts. It was argued that this power is more than adequate for short-term operation and that it may help to prevent interference when high-gain antennas are mounted on tall structures, since such facilities can cause interference far beyond the needed communications path.

31. We believe that such a limitation is potentially burdensome and unnecessary. It is potentially burdensome because of the potentially wide variation in transmitter output power and antenna gain. We would not want to preclude a large amount of equipment from use because of the difficulty involved in meeting what may be an excessively low ERP limitation. This proposal of WCMP was not addressed by the other participants in this proceeding and because of its arguable value and the potential for controversy, we feel that it would be inappropriate to adopt such a limitation in the face of inadequate evaluation and comment. It is our belief that such a provision is unnecessary since all short-term operation is on a secondary, non-interference basis to regularly authorized operations and there will be incentive to use only the effective radiated power and antenna height necessary for reliable service. However, a reminder to use good engineering judgment during short-term operation may be appropriate and we have included such a provision in the final rules.

32. Lastly, WEBE suggested that the Commission, in each television market, should allocate the majority of frequencies in each broadcast auxiliary frequency band exclusively for shared use by those licensees with permanent ongoing operations in that market.

33. While the Commission agrees that such an action could eliminate much confusion about the frequencies available for short-term operation, the difficulty in actual implementation would be considerable. First, a single set of frequencies available for short-term operation could not be made available for use on a nationwide basis without significant adverse impact on existing Part 74 licensees. A table of available frequencies could be developed for each market, but it would be in continual need of revision as local needs and circumstances change. Such a revision would be burdensome to both broadcasters and the Commission. It is our belief that broadcasters, through appropriate frequency coordination committees, could develop regional tables for short-term and permanent auxiliary station use. Such tables would be amendable at will, and although existing only on an informal, advisory basis, they would nevertheless serve as the only realistic way of insuring interference-free operation, particularly in the more congested markets. Such tables can be developed by broadcasters without the Commission's involvement and as a practical matter they will be just as binding as any Commission regulation. Accordingly, we do not feel that a formal table of broadcast auxiliary station frequency assignments is necessary.

34. Regulatory Flexibility Act Final Analysis.

I. *Need for Rules.* The Commission believes that the present rules requiring licensees to install the minimum number of transmitters authorized within 120 days of the grant date of the license (see §§ 74.432(d) and 74.832(g)) impose an unnecessary burden on smaller broadcasters and tends to discourage their use of the broadcast auxiliary spectrum. We are adopting rules herein which eliminate this requirement and enable all broadcasters to have equal access to the spectrum. Additionally, the Commission, in accordance with the desire expressed by the majority of those filing comments in this proceeding, is further amending the rules to eliminate the need for permanent broadcast auxiliary station licensing for events of a short-term nature. The new rules benefit all broadcasters generally, but smaller broadcasters in particular.

II. *Purpose of Rules.* The purpose of the rules is to provide small broadcasters greater access to broadcast auxiliary spectrum, and to enable this spectrum to be used more intensively by all broadcasters.

III. *Flexibility Issues Raised in the Comments.* None.

IV. *Significant Alternatives Not Adopted.* In the *Notice of Proposed Rule Making,* the Commission suggested the possible creation of a new class of eligible entity in the broadcast auxiliary services which we referred to as a "specialized communications carrier", which would provide broadcast auxiliary communications service (principally to smaller broadcasters) on a for-hire, profit-making basis. We also mentioned the possibility of amending the rules to provide for non-profit, cooperative-use agreements among broadcasters in which broadcasters having licensed broadcast auxiliary equipment could loan it to other (principally smaller) broadcasters at cost. There was universal agreement among those participating in this proceeding that neither of these options was desirable in view of the alternative proposed by the Commission being herein adopted.

Further, ABC and NBC suggested that the Commission go even further in its deregulation and provide for blanket or system licensing of certain types of broadcast auxiliary mobile stations. These recommendations, were they to be adopted, would benefit principally networks and larger stations by reducing the paperwork involved in applying for multiple auxiliary station authorizations. There is a potentially adverse impact suggested by the assumed status of such stations. Otherwise, in terms of access to and use of broadcast auxiliary service spectrum, these proposals would appear to offer little more benefit than that afforded by the rule amendments herein adopted. Lastly, the amendments proposed by ABC and NBC received inadequate comment, and since they are technically beyond the scope of this proceeding, their adoption at this time would be inappropriate.

35. Accordingly, it is ordered, pursuant to the authority contained in Secs. 4(i) and 303 of the Communications Act of 1934, as amended, that Part 74 of the Commission's rules is amended effective April 1, 1982, as set forth in the attached Appendix. It is further ordered, that petition RM–3762 is denied and that this proceeding is terminated.

36. Further information on this matter may be obtained by contacting James E. NcNally, Jr., Broadcast Bureau, (202) 632–9660. Information on broadcast auxiliary frequency coordination committees (see Footnote 14, *supra*) may be provided to Steven D. Linn, Broadcast Bureau, (202) 632–7698.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083, 47 U.S.C. 134, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Appendix

I. Title 47 CFR Part 74 of the Federal Communications Commission's rules and regulations is amended as follows:

1. A new § 74.24 entitled "Short-term operation" is added to read as follows:

§ 74.24 Short-term operation.

The classes of broadcast auxiliary stations provided for in Subparts D, E, F and H of this Part may be operated on a short-term basis under the authority conveyed by a Part 73 license without prior authorization from the FCC, subject to the following conditions:

(a) The Part 73 licensee of this chapter must be eligible to operate the particular class of broadcast auxiliary station.

(b) The short-term broadcast auxiliary station shall be operated in conformance with all normally applicable regulations to the extent they are not superceded by specific provisions of this section.

(c) Short-term operation is on a secondary, non-interference basis to regularly authorized stations and shall be discontinued immediately upon notification that perceptible interference is being caused to the operation of a regularly authorized station. Short-term station operators shall, to the extent practicable, use only the effective radiated power and antenna height necessary for satisfactory system performance.

(d) Short-term operation by a Part 73 licensee shall not exceed 720 hours annually per frequency.

Note.—Certain frequencies shared with other services which are normally available for permanent broadcast auxiliary station assignment may not be available for short-term operation. Refer to any note(s) which may be applicable to the use of a specific frequency prior to initiating operation.

(e) The antenna height of a station operated pursuant to this section shall not increase the height of any man-made antenna supporting structure, or increase by more than 20 feet the height of any other type of man-made structure or natural formation. However, the facilities of an authorized broadcast auxiliary station belonging to another licensee may be operated in accordance with the terms of its outstanding authorization.

(f) Stations operated pursuant to this section shall be identified by the transmission of the call sign of the associated broadcast station.

(g) The Part 73 licensee of this chapter, prior to operating pursuant to the provisions of this section shall, for the intended location or area-of-operation, notify the appropriate frequency coordination committee or any licensee(s) assigned the use of the proposed operating frequency, concerning the particulars of the intended operation and shall provide the name and telephone number of a person who may be contacted in the event of interference. Information on active frequency coordination committees may be obtained by contacting the FCC's Auxiliary Services Branch at (202) 632-7698 between 8:00 am and 4:30 pm Eastern Time. Except as provided below, this notification provision shall not apply where an unanticipated need for immediate short-term mobile station operation would render compliance with the provisions of this paragraph impractical.

(1) A CARS licensee shall always be given advance notification prior to the commencement of short-term operation on or adjacent to an assigned frequency.

(h) Short-term operation is limited to areas south or west of the United States-Canada border as follows:

(1) Use of broadcast auxiliary service frequencies below 470 MHz is limited to areas of the United States south of Line A or west of Line C unless the effective radiated power of the station is 5 watts or less.

Note.—Line A is a line above which frequency assignments made by the Federal Communications Commission are coordinated with the Canadian Department of Communications and which begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., then along parallel 48° N., to the intersection of 95° W., then by great circle arc through the southernmost point of Duluth, Minnesota, then by great circle arc to 45° N., 85° W., then southward along meridian 85° W., to its intersection with parallel 41° N., then along parallel 41° N., to its intersection with meridian 82° W., then by great circle arc through the southernmost point of Bangor, Maine, then by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates. Line C is a line east of which frequency assignments are similarly coordinated and which begins at the intersection of 70° N., 144° W., then by great circle arc to the intersection of 60° N., 143° W., then by great circle arc so as to include all of the Alaskan Panhandle.

(2) A broadcast auxiliary service station operating on frequencies between 470 MHz and 1 GHz must be at least 35 miles south (or west, as appropriate) of the United States-Canada border if the antenna looks within a 200° sector *toward* the border; or, the station must be at least 5 miles south (or west, as appropriate) if the antenna looks within a 160° sector *away* from the border. However, operation is not permitted in either of these two situations if the station would be within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the international Radio Regulations.)

(3) A broadcast auxiliary service station operating on frequencies above 1 GHz shall not be located within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the international Radio Regulations.)

(i) Short-term operation of a remote pickup broadcast base station, a remote pickup automatic relay station, an aural broadcast STL station, an aural broadcast intercity relay station, a TV STL station, a TV intercity relay station or a TV translator relay station in the National Radio Quiet Zone, the Table Mountain Radio Receiving Zone, or near FCC monitoring stations is subject to the same advance notification procedures applicable to regular applications as provided for in § 73.1030 and § 74.12, except that inasmuch as short-term operation does not involve an application process, the provisions relating to agency objection procedures shall not apply. It shall simply be necessary for the Part 73 licensee of this chapter to contact the potentially affected agency and obtain advance approval for the proposed short-term operation. Where protection to FCC monitoring stations is concerned, approval for short-term operation may be given by the local Engineer-in-Charge.

2. In § 74.432, paragraph (d) is revised to remove the 120 day equipment installation requirement:

§ 74.432 Licensing requirements and procedures.

* * * * *

(d) Remote pickup system licensees will specify the minimum and maximum number of mobile units that may be operated within their system as follows:

from 1 to 5 stations
from 4 to 12 stations
from 10 to 24 stations
from 20 to 50 stations
45 or more stations (maximum to be specified on the license application).

* * * * *

3. In § 74.433, paragraphs (a) and (e) are revised as follows:

§ 74.433 Temporary authorizations.

(a) Special temporary authority may be granted for remote pickup station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

* * * * *

(e) The user shall have full control over the transmitting equipment during the period it is operated.

* * * * *

4. In § 74.482, paragraph (a) is revised as follows:

§ 74.482 Station identification.

(a) Each remote pickup broadcast station shall be identified by the transmission of the assigned station or system call sign, or by the call sign of the associated broadcast station. For systems, the licensee (including a Part 73-only licensee where operation takes place pursuant to § 74.24) shall assign a unit designator to each station in the system. The call sign (and unit designator, where appropriate) shall be transmitted at the beginning and end of each period of operation. A period of operation may consist of a single continuous transmission, or a series of intermittent transmissions pertaining to a single event.

* * * * *

5. A new § 74.537 is added to read as follows:

§ 74.537 Temporary authorizations.

(a) Special temporary authority may be granted for aural broadcast STL or intercity relay station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

(b) A request for special temporary authorization for the operation of an aural broadcast STL or intercity relay station may be made by informal application which shall be filed with the FCC at least 10 days prior to the date of the proposed operation. However, an application filed within less than 10 days of the proposed operation may be accepted upon a satisfactory showing of the reasons for the delay in submitting the request.

(c) An informal request for special temporary authorization shall be addressed to the FCC, Washington, D.C. 20554 and shall set forth full particulars including: licensee's name, call letters of the associated broadcast station(s), name and address of individual designated to receive the return authorization, call letters of the aural broadcast STL or intercity relay station, if assigned, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which request is made including any particular justification. In the event that the proposed antenna installation will increase the height of any man-made antenna supporting structure, or increase by more than 20 feet the height of any other type of man-made structure or natural formation, a vertical plan sketch showing the height above ground of any existing structure, the elevation of the site above mean sea level, and the geographic coordinates of the proposed site, shall be submitted with the application.

(d) A request for special temporary authorization shall specify a frequency or frequencies consistent with the provisions of § 74.502. However, in the case of events of widespread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations. In no case will operation of an aural broadcast STL or intercity relay station be authorized on frequencies employed for the safety of life or property.

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control over the use of the equipment during the period it is operated.

(f) Special temporary authorization to permit operation of aural broadcast STL or intercity relay stations or systems pending FCC action on an application for regular authority will normally not be granted.

6. In § 74.602, Note 3 to certain Band B frequencies listed in paragraph (a) is revised as follows:

§ 74.602 Frequency assignment.

(a) * * *

Note 3.—This frequency may be assigned to TV pickup stations only on a secondary basis to the Local Television Transmission Service licensed under Part 21 of the FCC's rules and is not available for use pursuant to the short-term operating provisions set forth in § 74.24.

* * * * *

7. In § 74.633, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 74.633 Temporary authorizations.

(a) Special temporary authority may be granted for TV broadcast auxiliary station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

* * * * *

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control over the use of the equipment during the period it is operated.

8. In § 74.832, paragraph (g) is revised to remove the 120 day equipment installation requirement:

§ 74.832 Licensing requirements and procedures.

* * * * *

(g) Low power auxiliary licenses will specify the minimum and maximum number of units that may be operated as follows: from 1 to 5 stations; from 4 to 12 stations; from 10 to 24 stations; from 20 to 50 stations; 45 or more stations.

* * * * *

9. In § 74.832, paragraph (h) is revised as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(h) For broadcast licensees, low power auxiliary stations will be licensed for use with a specific broadcasting station or combination of broadcasting stations licensed to the same licensee and to the same community. Licensing of low power auxiliary stations for use with a specific broadcasting station or combination of such stations does not preclude their use with other broadcasting stations of the same or a different licensee at any location: *Provided, however,* Operation of low power auxiliary stations shall, at all times, be in accordance with the requirements of § 74.882 of this Subpart; *And Provided Further,* A low power auxiliary station that is being used with a broadcasting station or network other than the one with which it is licensed, shall, in addition to meeting the requirements of § 74.861 of this Subpart, not cause harmful interference to another low power auxiliary station which is being used with the broadcast station(s) or network with which it is licensed.

* * * * *

10. In § 74.833, paragraphs (a) and (e) are revised to read as follows:

§ 74.833 Temporary authorizations.

(a) Special temporary authority may be granted for low power auxiliary station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

* * * * *

(e) The user shall have full control over the transmitting equipment during the period it is operated.

* * * * *

PART 73—RADIO BROADCAST SERVICES

II. Title 47 CFR Part 73 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. In § 73.1030, paragraph (a) is revised to show an office and telephone number which may be used to coordinate radio operation in the National Radio Quiet Zone and to show an amended Zip Code:

§ 73.1030 Notifications concerning interference to Radio Astronomy, Research and Receiving Installations.

(a) *Radio Astronomy and Radio Research Installations.* In order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, a licensee proposing to operate a short-term broadcast auxiliary station pursuant to § 74.24, or an applicant for authority to construct a new broadcast station or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south, and 80°30′ W on the west shall, at the time of filing such application with the FCC, simultaneously notify the following: Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944, Telephone: 304–456–2011.

* * * * *

[FR Doc. 82-5886 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 43
Thursday, March 4, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-NE-01]

Description of the Bennington, Vermont, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Bennington, Vermont Transition Area over Bennington State Airport, Bennington, Vermont. The VOR-A instrument procedure has been revised to full-time operations, and will require protection for aircraft executing this revised approach. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before April 1, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE-530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE-530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before April 1, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of Federal Aviation Regulations (14 CFR Part 71) to amend the Bennington, Vermont Transition Area to full-time, to coincide with the VOR-A, Amendment 5, Standard Instrument Approach Procedure (SAIP) for Bennington State Airport, Bennington, Vermont.

The Proposed Amendment

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

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by revising the Bennington, Vermont 700-foot floor transition area as follows:

Delete:

"This transition area is effective from sunrise to sunset, daily."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, is certified not to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on February 23, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-5844 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 82-AAL-1]

Establishment of Alaskan High Altitude Routes and Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to (1) amend the description of several Alaskan High Altitude Routes, (2) establish three Alaskan area high route segments, and (3) establish an Alaskan high altitude reporting point. These actions would improve air traffic control efficiency by providing for an orderly transition to and from newly established ICAO North Pacific (NOPAC) composite routes.

DATES: Comments must be received on or before April 5, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 82-AAL-1, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is

located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commuters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering amendments to §§ 71.213, 75.100, and 75.400 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to amend two high altitude jet routes, establish three area high routes, and a high altitude reporting point. These actions would provide for an orderly transition to ICAO NOPAC composite routes R-91, A-90, R-80, and R-20, effective March 18, 1982. Sections 71.213, 75.100, and 75.400 of Parts 71 and 75 were republished January 2, 1981 (46 FR 760, 834, and 848).

ICAO Considerations

As part of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.213, 75.100, and 75.400 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (46 FR 760, 834, and 848) as follows:

§ 71.213 [Amended]

By adding a new reporting point, as follows:

Augin: lat. 57°45'00"N., long. 160°00'00"W. (King Salmon 241°T(220.8°M) radial 118.6 DME)

§ 75.100 [Amended]

1. Jet Route No. 120 [Amended]. By deleting the words "From the INT of the Anchorage Oceanic CTA/FIR boundary and the Bethel, AK, 234° radial via Bethel;" and substituting for them the words "From Saint Paul Island, AK, NDB via Bethel, AK;"

2. Jet Route No. 127 [Amended]. By deleting the words "From Cape Newenham, AK, NDB" and substituting for them the words "From AUGIN, AK, DME INT (King Salmon, AK, 241°T(220.8°M) radial 118.6 DME)"

§ 75.400 [Amended]

1. J888R AMOTT-RHODE [Amended]. By deleting the word "RHODE" from the title and substituting for it the word "OZZIE" and by deleting "KULIK" and "RHODE" waypoint names, location, and reference facility and substituting for them the following name, location, and reference facility: "OZZIE 59°27'00"N. 163°00'00"W. Bethel, AK"

2. J807R [New]

By adding a new area high route as follows:

Waypoint name	Location	Reference facility
J807R OZZIE to FREEE		
OZZIE	59°27'00"N. 163°00'00"W	Bethel, AK.
OCSEN	58°34'02"N. 157°18'30"W	King Salmon, AK.
FREEE	57°13'00"N. 150°59'00"W	Kodiak, AK.

3. J808R [New]

By adding a new area high route as follows:

Waypoint name	Location	Reference facility
J808R PARRT to PUFIN		
PARRT	57°13'00"N. 166°00'00"W	Cold Bay, AK.
PORT HEIDEN	56°57'17"N. 158°38'48"W	King Salmon, AK.
PUFIN	56°00'00"N. 153°00'00"W	Kodiak, AK.

4. J809R [New]

By adding a new area high route as follows:

Waypoint name	Location	Reference facility
J809R BRONE to BLAHK		
BRONE	56°25'00"N. 165°41'00"W	Cold Bay, AK.
BLAHK	54°56'30"N. 159°00'00"W	Cold Bay, AK.

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

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

Issued in Washington, D.C., on February 25, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5843 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ACE-01]

Transition Area; Vinton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Vinton, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Vinton Veterans Memorial Airpark, Vinton, Iowa, utilizing the Vinton Non-Directional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before April 8, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Producedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Vinton, Iowa. To enhance airport usage, a new instrument approach procedure is being developed for the Vinton Veterans Memorial Airpark, Vinton, Iowa, utilizing the Vinton NDB as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Vinton, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment.

The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Vinton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vinton Veterans Memorial Airpark (Latitude 42°13'00"N, Longitude 92°01'00"W) within 2½ miles each side of the Vinton NDB 319° bearing extending from the 5-mile radius area to 7 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) is certified that at promulgation, it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 22, 1982.

Murray E. Smith,
Director, Central.

[FR Doc. 82-5845 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 12 and 180

Regulations Pertaining to Reparations and Arbitration Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On December 14, 1981, the Commission published in the **Federal Register** proposed amendments relating to arbitration proceedings which must be conducted by contract markets, the availability of reparations procedures and the content and effect of the cautionary language which must be included in pre-dispute arbitration agreements between futures commission merchants, floor brokers, or associated persons and their customers. (46 FR 60834). The comment period on the amendments and new rules expired on February 12, 1982. The Commission has received several requests for an extension of the comment period on the proposed amendments. Because it wishes to ensure that all interested parties have an adequate opportunity to submit informed comments, the Commission has determined to re-open the comment period on these amendments.

DATE: The comment period has been extended through March 15, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to 12 CFR Parts 12 and 180, Regulations Pertaining to Reparations and Arbitration.

FOR FURTHER INFORMATION CONTACT: Wendy E. Robinson, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-8955.

Issued in Washington, D.C. on February 26, 1982, by the Commission.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 82-5786 Filed 3-3-82; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 19, 24, 113, 125, 132, 142, and 144

Proposed Customs Regulations Amendments Relating to Customs Bonded Warehouses

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The document proposes an extensive revision of the Customs Regulations relating to the control of merchandise in Customs bonded warehouses in order to reduce costs to the public and reduce Customs staffing at bonded warehouses. The document proposes to (1) authorize Customs to accept a joint determination by the warehouse proprietor and the carrier, cartman or lighterman, or weigher, gauger or measurer regarding the quantity of goods entered or withdrawn from a warehouse; (2) provide for release of merchandise directly to the proprietor by Customs officers at the customhouse rather than at the warehouse; (3) provide district directors with the authority to allow warehouse proprietors to affix and break Customs seals; (4) establish a fee for both the application to establish a bonded warehouse and the annual renewal of the right to operate a bonded warehouse; (5) establish procedures for the granting of the right to operate a bonded warehouse based on the qualifications, character, and experience of the applicant; and (6) establish procedures for the suspension or revocation of the right to operate a warehouse or to receive or release goods from a warehouse.

DATES: Comments must be received on or before May 3, 1982.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control and Disclosure Law Division, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Audit aspects: Joseph Palmer, Regulatory Audit Division (202-566-2812).
Operational aspects: John Holl, Office of Inspection (202-566-5354).
Bonding aspects: William Rosoff, Carriers, Drawback, and Bonds Division (202-566-5856).
Legal aspects of entry: Benjamin Mahoney, Entry Procedures and Penalties Division (202-566-5765).
Economic aspects: George Deyman, Economic Analysis Office (202-566-8933).
U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

When the U.S. Customs Service was established in 1789, sailing ships were the instruments of all international traffic. Through the years procedures adopted by Customs have changed dramatically in an attempt to keep pace with cargo carrying jets, millions of entering passengers, and a workload of 4.5 million commerical transactions per year. Clearly Customs has adjusted, in many ways, to challenges posed by increases in population, commerce, and the breakthroughs in modern technology relating to the processing of cargo.

Although many changes have taken place, one segment of Customs operations has not changed since the time of sailing ships. This segment is the Customs bonded warehouse operation.

A Customs bonded warehouse is a building or other secured area in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of duty. Authority for establishing bonded warehouses is set forth in sections 311, 312, and 555, Tariff Act of 1930, as amended (19 U.S.C. 1311, 1312, 1555). Part 19, Customs Regulations (19 CFR Part 19), sets forth the provisions relating to Customs warehouses and the control of merchandise in these warehouses.

Upon the entry of goods into a bonded warehouse, the importer and warehouse proprietor are subject to liability under their Customs bond. This liability is cancelled when the goods are:

1. Exported;
2. Withdrawn as supplies for a vessels or aircraft in international traffic;
3. Destroyed under Customs supervision; or
4. Withdrawn for consumption in the United States after the payment of duty.

Eight different types of classes of Customs bonded warehouses, discussed below, are authorized under 19.1, Customs Regulations (19 CFR 19.1).

Class 1. Premises owned or leased by the Government and used for the storage of merchandise undergoing Customs examination, under seizure, or pending final release from Customs custody. Unclaimed merchandise stored in such premises is held under "general order." When these premises are not sufficient or available for the storage of seized or unclaimed goods, the goods

may be stored in a warehouse of Class 3, 4, or 5.

Class 2. Importer's private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of Class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it is also known as a private bonded warehouse.

Class 3. Public bonded warehouses used exclusively for the storage of imported merchandise.

Class 4. Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk.

Class 5. Bonded bins or parts of buildings or elevators to be used for the storage of grain.

Class 6. Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.

Class 7. Warehouses bonded for smelting and refining imported metal-bearing materials for exportation or domestic consumption.

Class 8. Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under Customs supervision, and at the expense of the proprietor.

All imported merchandise may be entered for warehousing except perishables and explosive substances other than firecrackers.

Full accountability for all merchandise entered into a Customs bonded warehouse must be maintained and merchandise must be inventoried on a regular basis.

Merchandise in a Customs bonded warehouse may, with certain exceptions, be transferred from one bonded warehouse to another in accordance with the provisions of Customs Regulations (19 CFR 19.15, 19.20, 19.24, 144.34).

Basically, merchandise placed in a Customs bonded warehouse, other than Class 6 or 7, may be stored, cleaned, sorted, repacked, or otherwise changed in condition but not manufactured (19 U.S.C. 1562).

Articles manufactured in a Class 6 warehouse must be exported under Customs supervision. Waste or by-products from a Class 6 warehouse may be withdrawn for consumption upon payment of applicable duties.

Imported merchandise may be stored in a Customs bonded warehouse for a period of 5 years (19 U.S.C. 1557(a)).

Customs present operations for controlling warehouses, which are identical to those which existed in the past, are based on the premise that effective control of a bonded warehouse requires the physical presence of a Customs officer.

According to an October 1980 Customs Headquarters study, this present method of operation is costing the economy of the United States $10 million in annual recurring costs. This annual recurring cost is comprised of the following:

a. Approximately $8.4 million in reimbursable charges assessed against the warehouse owners, operators, and proprietors by Customs;

b. Approximately $1.6 million in non-reimbursable Customs appropriation funding.

Additionally, this method of operation currently requires 509 authorized positions (390 reimbursable, 119 non-reimbursable) which represent 3.5% of the Customs employment ceiling. These 390 reimbursable positions cannot be converted to non-reimbursable positions to fulfill Customs responsibilities in other higher priority areas.

The development of an alternative approach for controlling warehouse operations is not new to Customs. In December 1964, a report titled *An Evaluation of: Mission Organization Management,* more commonly known as the "Stover Report," was prepared. The report commented on the organization and management of the Bureau of Customs and recommended some actions which impacted on warehouse operations. These recommendations were extensively reviewed within Customs following the issuance of the Report. However, no action was taken at that time to implement the recommendations.

In a report dated December 16, 1974, issued to the Commissioner of Customs, the General Accounting Office stated:

> The U.S. Customs Service employs warehouse officers to maintain physical custody of goods in bonded warehouses. We reviewed the necessity of having warehouse officers in view of the inventory document controls maintained at the customhouse and the periodic physical inventories performed by Customs on goods in bonded warehouses. The existing procedures for centrally controlling bonded goods at the customhouse, together with the bond protection of the Customs duties and the periodic physical inventory checks, are adequate for protecting Government revenues without having a warehouse officer present.

After an extensive review of the control of merchandise in warehouses, Customs is of the opinion that the present system for controlling bonded warehouses should be changed to one adopting an annual reporting system with periodic inventory, spot checks and audits. This document proposes such a system. A system of this type has proven to be feasible and effective when tested in Philadelphia, Pennsylvania and Baltimore, Maryland (Customs Region III). It is Customs belief that the system will be cost efficient in that it will allow the redirection of $1.6 million in annual position costs to support Customs positions.

Further, it is Customs opinion that the proposed reporting system will provide relief to the private warehouse community by alleviating an extensive cost burden ($8.4 million). Such relief will also allow improved flexibility of operations for warehouse proprietors since they need not await arrival of Customs officers to conduct supervision. This is a particularly important consideration to the warehouse proprietors if withdrawals must be made on a weekend, holiday or after normal business hours.

The proposed regulation applies only to control of merchandise within warehouses. It does not apply to warehouse related transactions outside warehouses, such as supervision of exportations. Those transactions will be supervised under current Customs procedures, such as those pertaining to duty-free stores.

The authority to change from the current warehouse officer system to the proposed reporting and audit system is contained in section 646, Tariff Act of 1930, as amended (19 U.S.C. 1646a).

The proposed action would require numerous amendments to Parts 10, 18, 19, 24, 113, 125, 132, 142, and 144, Customs Regulations (19 CFR Parts 10, 18, 19, 24, 113, 125, 132, 142, 144), to:

1. Authorize Customs to accept a joint determination by the warehouse proprietor and the carrier, cartman or lighterman, or weigher, gauger or measurer regarding the quantity of goods entered or withdrawn from the warehouse;

2. Provide for release of merchandise directly to the proprietor of the warehouse by Customs officers at the customhouse rather than at the warehouse, as presently required;

3. Provide district directors with the authority to allow warehouse

proprietors to affix and break Customs seals;

4. Establish a fee both for the application to establish a bonded warehouse and the annual renewal of the right to operate a warehouse under the authority of 19 U.S.C. 1555 and 31 U.S.C. 483a;

5. Establish procedures for the granting of the right to operate a warehouse based on the qualifications, character, and experience of the applicant; and

6. Establish procedures for suspension or revocation of the right to operate a warehouse or to receive or release goods from a warehouse.

A detailed discussion of the proposed amendments follows:

Discussion of Proposed Amendments

Part 10—Articles Conditionally Free, Subject to a Reduced Rate, Etc.

1. Section 10.62 sets forth the procedure for duty free withdrawals of bunker fuel oil under the provisions of section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309). It is proposed to amend paragraphs (a) and (c)(2) of § 10.62 by eliminating the requirement for use of Customs Form 7505–B, Order to Release Merchandise on Order of the Warehouse Proprietor, and substituting the Customs Form 7506, Warehouse Withdrawal Conditionally Free of Duty and Permit. It is also proposed to revise paragraph (a) by adding a new sentence which indicates that when a blanket withdrawal is filed and a partial release takes place, the partial release procedure set forth in proposed § 19.6(d) will be followed for each partial release.

Paragraph (e) of § 10.62 would be modified by eliminating the last sentence which states that immediate supervision over the removal of oil under the paragraph is not required.

2. Section 10.62a sets forth the procedures for blanket withdrawals for certain merchandise. It is proposed to modify paragraph (a) by simplifying the language and inserting a reference to proposed § 19.6(d) relating to partial release. It is proposed to remove paragraph (b) and mark it reserved. The material in paragraph (b) will be set forth in proposed § 19.6(d). It is also proposed to modify paragraph (c) by substituting the warehouse proprietor for the Customs warehouse officer as the individual to receive the Customs Form 7506 when a partial release is filed. A cross reference is also included in paragraph (c) to the partial release procedures set forth in proposed § 19.6.

3. Section 10.65 relates to cigars and cigarettes in Customs bonded warehouses. It is proposed to amend the second sentence of paragraph (c)(3) by substituting the words "warehouse proprietor" for "Customs warehouse officer." It is further proposed to modify the paragraph by increasing the total period of time during which merchandise may remain in a warehouse from 3 to 5 years. Pub. L. 95–410 amended section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), to increase the period of time during which merchandise could remain in a Customs bonded warehouse from 3 to 5 years.

It is further proposed to amend paragraph (c)(4) of the section by placing responsibility on the warehouse proprietor for conducting an inventory at least once each month of merchandise for which blanket withdrawals are filed.

Part 18—Transportation in Bond and Merchandise in Transit

1. It is proposed to amend § 18.2(a), relating to the carriers receipts on in bond transportation and merchandise in transit, by setting forth the existing procedure on such merchandise in a new paragraph (a)(1) for all merchandise except merchandise delivered to the bonded carrier from a warehouse. A new paragraph (a)(2) would contain a reference to proposed § 19.6(b) which will set forth the procedure for merchandise delivered from a warehouse.

Also, it is proposed to modify § 18.2(b) by inserting a sentence between the third and fourth sentences to state that quantities of goods transported in bond from a Customs bonded warehouse shall be accounted for under the procedures set forth in proposed § 19.6.

2. It is proposed to correct a clerical error in § 18.3(e) by substituting a reference to Part 125, Customs Regulations, for a reference to Part 21. There is no Part 21 in the Customs Regulations.

3. It is proposed to add a new paragraph (i) to § 18.4 to indicate that except as provided in § 18.3(d), Customs Regulations, seals affixed under § 18.4 will be removed only under Customs supervision.

Part 19—Customs Warehouses, Containers Stations and Control of Merchandise Therein

1. Section 19.1 sets forth the various classes of Customs bonded warehouses and the construction requirements. It is proposed to delete the last two sentences from paragraph (a)(4) which relate to security measures at a Class 4 warehouse. Security requirements for all classes of warehouses will be set forth in proposed § 19.12.

Paragraph (c) relates to construction of a warehouse and indicates that the bonded and nonbonded portions of a warehouse shall be effectively separated by partitions of substantial materials and construction and erected in such a manner as to render it impossible to enter the premises in the absence of the warehouse officer without such violence as to make entry easy to detect. Because the warehouse officers position would be eliminated under the proposal, the reference to the warehouse officer must be eliminated.

Paragraph (c)(3) discusses the manner of construction of wood partitions and gates and indicates that the gates shall be equipped with a positive-type latching device with provision for accepting a Customs-approved padlock. Under the proposed revision padlocks will no longer be approved by Customs. Accordingly, this reference would be deleted from paragraph (c)(3). No changes have been proposed to the existing construction requirements for warehouse partitions and gates.

2. Section 19.2 relates to the application procedures required to establish a Customs bonded warehouse.

It is proposed to modify paragraph (a) to set forth certain conditions for approval on an application.

Under proposed paragraph (a), applications for renewals of a warehouse facility must be filed annually with the district director. A fee as prescribed by proposed § 19.5 must accompany the request.

Further, under the proposal, a warehouse facility would be determined by street address, location, or both except for smelting warehouses. For example, if a proprietor had two warehouses located at one street address and three warehouses located at three different street addresses, the two located at one address would be considered as one warehouse facility and the three located at three different addresses would each be considered as separate warehouse facilities.

In approving an application to establish a warehouse facility under proposed paragraph (a) Customs would determine whether the facility meets the following conditions: (i) the entry transaction level or dollar value or merchandise, or both, is of sufficient volume to warrant establishment of the facility; (ii) the warehouse facility is located 35 miles or less from the port of entry; and (iii) Customs has personnel resources available to adequately control all warehouse operations including the operation of the applicant warehouse facility within the district. If the above conditions are not met

Customs would not approve the application. However, the latter condition would not apply if a warehouse proprietor is merely relocating his operation within the same district. If the relocation is from one district to another and Customs personnel in the new district are not available to handle the increase in workload, an application for the new warehouse facility would not be approved.

Under proposed paragraph (c), on approval of the application to bond a warehouse of class 2, 3, 4, 5, or 8, a Proprietor's Warehouse Bond must be executed in the form proposed in Appendix B to this document. The Customs Form 3581, Proprietor's Warehouse Bond, would be discontinued.

Under proposed paragraph (d), on approval of the application to bond a proprietor's manufacturing warehouse, class 6, a Proprietor's Manufacturing Warehouse Bond must be executed in the form proposed in Appendix C to this document. The Customs Form 3583, Proprietor's Manufacturing Warehouse Bond, Class 6, would be discontinued. In the case of a bonded smelting and refining warehouse, class 7, the bond must be executed with the required number of copies and in the form proposed in Appendix D to this document.

A new proposed paragraph (f) would indicate that as a condition of approval of the application, the district director may order an inquiry by a Customs officer into the qualifications, character, and experience of the applicant, and into the security, suitability, and fitness of the facility.

A new proposed paragraph (g) would state that the district director must promptly notify the applicant in writing of his decision to approve or deny the application to bond the warehouse. If the application is denied the notification must state the grounds for denial. Further, under the provisions of proposed § 19.3(f), the applicant may seek review of the decision to deny within 10 days after notification.

3. Section 19.3 relates to alterations, suspensions, and discontinuance of bonded warehouses.

It is proposed to modify paragraph (a) to authorize the district director to approve all alterations to a warehouse. Presently, material changes to a class 6 or 7 warehouse must be approved by Customs Headquarters.

Under proposed paragraph (b), the use of all or part of a bonded warehouse or bonded floor space could be temporarily suspended by the district director for a period not to exceed one year on written application of the proprietor if there are no bonded goods in the area. Presently, there is no time limit on the temporary suspension period.

If a proprietor wishes to discontinue the bonded status of the warehouse, under proposed paragraph (c) he must make written application to the district director. The district director may not approve the application until all goods in the warehouse are transferred to another bonded warehouse without expense to the Government. In order to reestablish the bonded warehouse, application must be made and approved under the provisions of proposed § 19.2.

Proposed § 19.3(d), relating to employee lists, is substantially the same as present § 19.3(d) except it has been simplified and shortened. The district director may make a written demand upon the proprietor to submit, within 30 days after the date of demand, a written list of the names, addresses, social security numbers, and dates and places of birth of all persons employed by the proprietor in the carriage, receiving, storage, or delivery of any bonded merchandise. If a list has been previously furnished, the proprietor must advise the district director in writing, of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed by him in the carriage, receiving, storage, or delivery of bonded merchandise within 10 days after such employment. For the purpose of Part 19 a person is not deemed to be employed by a warehouse proprietor if he is an officer or employee of an independent contractor engaged by the warehouse proprietor to load, unload, transport, or otherwise handle bonded merchandise.

Proposed paragraph (e) provides that the district director may revoke or suspend for cause the right of a proprietor to continue the bonded status of a warehouse for any ground specified in the paragraph. An action to suspend or revoke the right to operate a bonded warehouse must be taken in accordance with the procedures set forth in proposed § 19.3(f). If the bonded status is revoked or suspended for cause, the district director must require all goods in the warehouse to be transferred to a bonded warehouse without expense to the Government. The bonded status of a warehouse may be revoked or suspended for cause if:

(1) The approval of the application to bond the warehouse was obtained through fraud or the misstatement of a material fact;

(2) The warehouse proprietor refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation or administration of a bonded warehouse;

(3) The warehouse proprietor or an officer of a corporation which has been granted the right to operate a bonded warehouse is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime;

(4) The warehouse proprietor does not provide secured facilities or properly safeguard merchandise within the bonded warehouse;

(5) The warehouse proprietor fails to furnish a current list of names, addresses, and other information required by proposed § 19.3(d);

(6) The bond required by proposed § 19.2 (c) or (d) is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time; or

(7) Bonded merchandise has not been stored in the warehouse for a period of 2 years.

The foregoing proposed grounds for suspension or revocation are substantially the same as the grounds set forth in present § 19.48, Customs Regulations (19 CFR 19.48), relating to container station operators, and § 112.30, Customs Regulations (19 CFR 112.30), relating to cartman or lighterman.

Proposed § 19.3(f), relating to a procedure for revocation or suspension for cause, is substantially the same as present § 19.3(e), except that final decision making authority is vested in the regional Commissioner instead of the Commissioner of Customs. The district director may at any time serve notice in writing upon any proprietor of a bonded warehouse to "show cause" why his right to continue the bonded status of the warehouse should not be revoked or suspended for cause.

Such notice must advise the proprietor of the grounds for the proposed action and must afford the proprietor an opportunity to respond in writing within 30 days. Thereafter, the district director must consider the allegations and response made by the proprietor unless the proprietor in his response requests a hearing. If a hearing is requested, it must be held before a hearing officer designated by the Commissioner of Customs or his designee within 30 days following the proprietor's request. The properietor may be represented by counsel at such hearing, and all evidence and testimony of witnesses in such proceedings, including substantiation of the allegations and the

responses thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding must be made and a copy thereof must be delivered to the proprietor of the warehouse. At the conclusion of the hearing, the hearing officer must transmit all papers and the stenographic record of the hearing to the Regional Commissioner together with his recommendation for final action. The proprietor may submit written additional views or arguments to the Regional Commissioner following a hearing on the basis of the stenographic record, within 10 days after delivery to him of a copy of such record. The Regional Commissioner must render his decision in writing, stating his reasons therefor. Such decision must be served on the proprietor of the warehouse, and will be considered the final administrative action.

4. Under the proposal, § 19.4 has been revised to indicate that the character and extent of Customs supervision to be exercised in connection with any warehouse facility or transaction provided for in Part 19 must be in accordance with § 161.1, Customs Regulations. The proposed section indicates that independent of any need to appraise or classify merchandise, the district director may authorize a Customs officer to supervise any transaction or procedure at the bonded warehouse facility. Such supervision may be performed through periodic audits of the warehouse proprietor's records, quantity counts of goods in warehouse inventories, spot checks of selected warehouse transactions or procedures or reviews of conditions of recordkeeping, security, or storage in a warehouse facility. The warehouse proprietor must permit access to the warehouse by any Customs officer.

5. Under revised § 19.5, it is proposed that each warehouse proprietor will be charged a fee to establish or relocate a warehouse facility and an annual fee thereafter which will be determined under the provisions of 19 U.S.C. 1555 and 31 U.S.C. 483a. This proposal envisions aggregating substantially all costs associated with Customs supervision including audit, inspection, investigative and administrative costs. These costs will then be divided among the total warehouse locations at the beginning of the year and the pro rata share will constitute the annual fee. The fees will be revised annually to reflect current costs and the fee will be published in the Federal Register for the next calendar year. Another alternative is to consider billing warehouse proprietors individually for the costs of services incurred by Customs at each individual warehouse and not including this cost in the annual fee. Comments will be entertained on this alternative.

6. The revised proposed § 19.6 establishes procedures for deposit of merchandise in warehouse, withdrawals, partial releases, and sealing requirements.

The district director may authorize the deposit of merchandise in designated bonded warehouses without physical supervision by a Customs officer. Goods for which a warehouse or rewarehouse entry has been accepted, according to the procedures in Part 144, Subpart B, Customs Regulations, must be examined or inspected at the place of unlading, bonded warehouse, or other location as ordered by the district director. When merchandise is deposited in a proprietor's warehouse the proprietor will be held liable under his Proprietor's Warehouse Bond for the quantity and condition of merchandise reflected on the entry documentation adjusted by (1) any discrepancy noted under Part 158, Subparts A and B, Customs Regulations, and (2) any discrepancy report made jointly on the warehouse entry permit (Customs Form 7502–A), i.e., an agreement reached by the warehouse proprietor and the bonded carrier or licensed cartman or lighterman delivering the goods to the warehouse, or an independent weigher, gauger, or measurer, and signed by an authorized representative of the above. A copy of any joint report of discrepancy must be promptly provided to the district director.

Under the proposal, the district director may authorize the withdrawal and removal of merchandise from warehouse without physical supervision or examination by a Customs officer under a permit issued under the procedure set forth in proposed new § 144.39, Customs Regulations. As revised, § 19.6 provides that when a withdrawal or removal is not physically supervised by a Customs officer, the warehouse proprietor will be relieved of liability under the proprietor's bond only for the merchandise in its warehouse in the condition and quantity as shown on the application for withdrawal or removal, adjusted by any discrepancy report made jointly by the warehouse proprietor and the licensed cartman or lighterman, bonded carrier, or weigher, guager, or measurer and signed by the authorized representatives of the above. The adjustments will be noted on the permit copy. Under the proposal, a copy of any joint report of discrepancy must be promptly provided to the district director. Under the proposal, no merchandise may be removed until agreement on the quantity and condition of the shipment has been reached.

Further, under the proposed partial release procedure, goods in Customs custody withdrawn without payment of duty from a bonded warehouse may be removed from the warehouse in partial releases by the warehouse proprietor. Each removal must be documented by the proprietor through a copy of the original withdrawal document. The removal documents must be consecutively numbered and the number must appear immediately after the serial number of the original withdrawal. Each copy must bear the summary statement described in § 144.32, Customs Regulations. Any joint discrepancy report of the proprietor and the bonded carrier, licensed cartment or lighterman, or weigher, gauger, or measurer for a partial release must be made on the copy.

As proposed, partial releases may not be removed in a quantity of less than an entire package or, if in bulk, less than one ton in weight. Goods which have been withdrawn for partial release but not removed from a warehouse are still in Customs custody.

Under the revised provisions, the district director may authorize a warehouse proprietor to (1) break Customs in bond seals affixed under § 18.4, Customs Regulations, or under any Customs order or directive, on any vehicle or container of goods entered for warehouse upon arrival of the vehicle or container at the warehouse; or (2) affix Customs in bond seals to any vehicle or container of goods for which a withdrawal document has been approved for movement in bond. The affixing or breaking of seals so authorized, will be deemed to have been done under Customs supervision since the proprietor's records will be subject to audits and actual spot checks by Customs. Further, the proprietor must report to the district director any seal found, upon arrival of the vehicle or container at the warehouse, to be broken, missing, or improperly affixed, and hold the vehicle or container and its contents intact pending instructions from the district director.

7. It is proposed to amend § 19.8 by removing the words "and under the supervision of the Customs warehouse officer" from the first sentence because physical Customs supervision is being eliminated.

8. It is proposed to add a new § 19.9 relating to general order, abandoned, and seized merchandise.

Under the new section, it is proposed that a proprietor of a general order

warehouse can accept general order, abandoned, or seized goods and articles into the warehouse only upon order of the district director on Customs Form 6043 (Delivery Ticket) as presented by the cartman or lighterman. As proposed, a joint determination must be made by the warehouse proprietor and the cartman or lighterman as to the quantity and condition of the goods or articles delivered to the warehouse. Any discrepancy between the quantity and condition of the goods delivered and that reported on Customs Form 6043 must be reported to the district director.

Further, general order, abandoned, and seized goods and articles must be recorded and stored in the warehouse as prescribed by proposed § 19.12.

Under proposed § 19.9, merchandise in general order may be released by the warehouse proprietor, after Customs inspection or examination as ordered by the district director, to the consignee or person named in a release order. The release must be made under the provisions of § 141.11, Customs Regulations. General order goods which have been unclaimed under § 127.11, Customs Regulations, voluntarily abandoned, or seized and forfeited, may be released for transfer to the place of sale upon presentation to the warehouse proprietor of an approved copy of Customs Form 5251 (Order to Transfer Merchandise for Public Auction (Sale)), and an approved copy of Customs Form 6043 (Delivery Ticket). The quantity and condition of the goods so transferred must be determined jointly by the proprietor and the cartmen or lighterman picking up the goods for delivery to the place of sale. Any discrepancies must be noted on the delivery ticket and a copy must be sent to the district director. Seized goods that are released for a purpose other than sale may be released from warehouse only upon such written terms and conditions as directed by the district director on Customs Form 6043.

9. It is proposed to amend § 19.10 by substituting "warehouse proprietor" for "warehouseman" since, under the proposal, the Customs warehouse officer position will be abolished.

10. It is proposed to amend § 19.11(d), relating to manipulation in bonded warehouses, and elsewhere by adding certain additional requirements and fixing certain additional responsibilities on the warehouse proprietor.

As proposed, the district director may approve a blanket application to manipulate on Customs Form 3499, for a period of up to one year, for a continuous or a repetitive manupulation. The warehouse proprietor would be required to maintain a running record of manipulations performed under a blanket application, indicating the quantities before and after each manipulation. The record must show what took place at each manipulation describing marks and numbers of packages, location within the facility, quantities, and description of goods before and after manipulation. The district director would be authorized to revoke a blanket approval to manipulate and require the proprietor to file individual applications if necessary to protect the revenue, administer any law or regulation, or both.

11. It is proposed to amend § 19.12, relating to warehouse recordkeeping, storage, and security, to require the warehouse proprietor to comply with the following recordkeeping requirements:

(1) All merchandise entered, manipulated, manufactured or removed from the bonded warehouse must be recorded in the warehouse proprietor's accounting and inventory records by bond lot number. The records to be maintained are those which a prudent businessman in the same type of business can be expected to maintain. The records are to be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with these regulations and the correctness of his annual submission;

(2) Entry folders must be maintained and kept up to date by filing all receipts, damage or shortage reports, manipulation requests, specific removals and blanket removals, and the partial release/permit copy for each removal within two business days after the event occurs;

(3) Extraordinary shortage or damage must be immediately brought to the attention of the district director;

(4) When the final withdrawal of merchandise relating to a specific general order or seizure occurs, the warehouse proprietor must (a) review the entry folder to insure that all necessary documentation is in the folder accounting for the merchandise covered by the entry and (b) file the entry folder with Customs within two business days after final withdrawal.

(5) Except as provided in proposed § 19.19(b), relating to the manufacturer engaged in smelting or refining, or both, the warehouse proprietor must file with the Regional Director, Regulatory Audit, within 45 days from the end of his business year, a Warehouse Proprietor's Submission in accordance with the instructions and in the format set forth in Appendix E to this document for each warehouse facility owned.

(6) The entry folder for merchandise not withdrawn during the general order period must be submitted to the district director upon receipt from Customs of the Customs Form 6043.

In addition to the above recordkeeping requirements, it is proposed that the warehouse proprietor comply with the following security and storage requirements:

(1) The warehouse proprietor must supervise all receipts, deliveries, sampling, recordkeeping, repacking, or manipulating of merchandise in a bonded warehouse;

(2) The entry folders maintained by the warehoue proprietor must be kept in a secure area and must be made available for inspection by Customs at any time;

(3) The warehouse proprietor must maintain its warehouse facility and establish procedures adequate to insure the security of merchandise located in the bonded area. This will be accomplished by meeting the standards and recommended specifications contained in T.D. 72–56 to the extent those standards and recommendations do not conflict with any local, state, or Federal standard for the safe and sanitary storage of merchandise;

(4) All inlets and outlets to bonded tanks must be secured with locks or Customs in bond seals.

(5) Merchandise in the bonded area must be stored in a safe and sanitary manner to minimize damage to the merchandise, avoid hazards to persons, and meet local, state, and Federal requirements applicable to specific kinds of goods. All trash and waste must be promptly removed from the bonded area. No fires will be permitted in the warehouse except where necessary in connection with manipulating or processing in warehouses of the class 6, 7, or 8 type. Aisles must be established and maintained, and doors and entrances left unblocked for access by Customs officers and warehouse proprietor personnel.

(6) Packages must be received in the warehouse according to their marks and numbers. Packages containing weighable or gaugeable merchandise not bearing shipping marks or numbers must be received under the weighers or gaugers numbers. Packages with exceptions due to damage or loss of contents, or not identical as to quantity or quality or contents must be stored separately. The warehouse proprietor must mark all shipments for identification, showing the general order or warehouse entry number or seizure number and the date of the general order, entry, or delivery ticket in the case of seizures. All containers covered by a given warehouse entry, general

order, or seizure, must be stored in the same location and not mixed with goods covered by any other entry, general order, or seizure, unless written approval has been given by the district director for an exception from the requirement. The proprietor must provide, upon request by a Customs officer, a record balance of goods covered by any warehouse entry, general order, or seizure, so a physical count can be made to verify the accuracy of the record balance.

12. It is proposed to amend § 19.13(a) by substituting "the district director" for "Headquarters, U.S. Customs Service" since it is Customs opinion that the various district directors should have the authority to approve Customs bonded manufacturing warehouses. Appropriate proposed changes to Part 113, Customs Regulations, are also made.

13. It is proposed to amend § 19.13(d) by removing the words "in duplicate", and by substituting a period for the comma after the words "district director" and removing the remainder of the sentence. Customs Headquarters no longer will have a need for a copy of the document listing all articles intended to be manufactured in the warehoue.

14. It is proposed to amend § 19.13(g), relating to requirements for establishment of warehouses, to delete the references to the Customs warehouse officer and to Customs locks.

15. It is proposed to revise § 19.14 (b) and (c), relating to materials for use in a manufacturing warehouse, to eliminate the reference to Customs Form 3583 and substitute a reference to the required bond. In paragraph (c), the reference to the Customs warehouse officer and the duplicate copy of the "Application to Receive Free Materials" which he presently receives, would be eliminated. It is also proposed to revise the "Application to Receive Free Materials" to eliminate the reference to the Customs warehouse officer and substitute a reference to the warehouse proprietor.

16. It is proposed to amend § 19.15(a) by substituting the word "Customs" for "a Customs officer" in the last sentence since physical supervision will be eliminated.

17. It is proposed to amend the first sentence of § 19.15(j) by substituting the words "certified by the warehouse proprietor" for "verified by the Customs warehouse officer in charge of the warehouse" for the same reasons as the previous change.

18. It is proposed to amend the first and last sentences of paragraph (a), paragraphs (b) and (c), the last sentence of paragraph (g)(1) and the "Application and Permit for Transfer of Scraps, Cuttings, and Clippings" in paragraph (h) of § 19.16, relating to cigar manufacturing warehouses.

The proposed amendment to paragraph (a) would eliminate the reference to storage under Customs locks and substitute a reference to the warehouse proprietor's locks. The last sentence of paragraph (a) would be modified to require verification of returns by the warehouse proprietor rather than the Customs warehouse officer.

Under proposed paragraph (b), the warehouse proprietor would make appropriate entry in his records of the quantity and class of cigar removed rather than the Customs warehouse officer. Further, the requirement for affixing Customs stamps to cigars has been eliminated. It appears that this is an archaic requirement which is no longer followed.

The proposed amendment to paragraph (c) would eliminate the requirement that the record required be kept on the Customs Form 5215, Record of Bonded Merchandise Received, Permitted and Delivered from Warehouse.

The proposed amendment to paragraph (g)(1) substitutes a reference to the required bond form set forth in Appendix C to this document.

Finally, it is proposed to modify the "Application and Permit for Transfer of Scraps, Cuttings, and Clippings" by substituting a reference to the warehouse proprietor for the Customs warehouse officer.

19. It is proposed to amend § 19.17(a), (c), (e), and (g), relating to the application to establish a bonded smelting and refining warehouse.

Paragraph (a) would be modified to authorize the district director to approve an application for such a warehouse.

Paragraph (c) would be modified by eliminating the reference to Customs Headquarters and substituting the district director as the individual responsible for approving discontinuance of a warehouse.

Paragraph (e) would be amended by substituting a reference to the proposed bond form set forth in Appendix D to this document for the reference to the bond prescribed by T.D. 72-244.

Paragraph (g) would be modified to remove the reference to Headquarters, U.S. Customs Service.

20. It is proposed to amend § 19.19 relating to records to except smelting or refining warehouses from the requirements of proposed § 19.12(a)(5) relating to the Warehouse Proprietors Submission.

21. It is proposed to modify § 19.21(b) by adding "§ 19.4 and" before the words "the commercial practice."

22. It is proposed to amend § 19.29, relating to sealing of bins or other bonded space, to eliminate the references to Customs officers, Customs locks, and Customs strap seals, and substitute a reference to §§ 19.4 and 161.1 in lieu of the reference to Customs supervision.

23. It is proposed to amend the third sentence of § 19.34 by substituting a reference to an "appropriate Customs officer" for the reference to "supervising Customs agent".

Part 22—Drawback

It is proposed to amend § 22.28(d), relating to continuous Customs custody, to indicate that for purpose of Part 22, in the case of merchandise entered for warehouse, Customs custody will be deemed to cease when duty has been paid and the district director authorizes the withdrawal of the merchandise.

Part 24—Customs Financial and Accounting Procedure

1. It is proposed to amend § 24.12 by removing paragraph (a) relating to Customs fees, and mark the paragraph "Reserved". Proposed § 19.5 contains the fee requirements for establishing a Customs bonded warehouse.

2. It is proposed to amend the first and fourth sentences of paragraph (c) and the first sentence of paragraph (f) of § 24.13 by revising them to authorize bonded warehouse proprietors to purchase in-bond and in-transit seals.

3. It is proposed to amend § 24.17(d) to set forth the charges for reimbursable services. The substance of this section is presently contained in § 19.5, Customs Regulations. It is believed that it would be more appropriate in Part 24, Customs Regulations.

Part 113—Customs Bonds

1. It is proposed to remove § 113.13(a), relating to bonds approved by the Commissioner of Customs, and mark it "Reserved". It is Customs opinion that there is no reason why the Proprietor's Manufacturing Warehouse Bond and the Blanket Smelting and Refining Bond currently approved by the Commissioner should not be approved by the district directors. Accordingly, authority to approve these bonds is vested in the district directors by proposed paragraphs (hh) and (ii) of § 113.14.

2. It is proposed to amend § 113.14(a), relating to the Proprietor's Warehouse Bond, and add to § 113.14 new paragraphs (hh) and (ii) relating to the

Proprietor's Manufacturing Warehouse Bond and the Blanket Smelting and Refining Bond, respectively.

It is proposed to amend paragraph (a) by eliminating the reference to the Customs Form 3581, Proprietor's Warehouse Bond. The text of a revised proposed Proprietor's Warehouse Bond is set forth in Appendix B to this document.

It is proposed to add a new paragraph (hh) which vests authority in the district director to approve the proposed new Proprietor's Manufacturing Warehouse Bond which is set forth in Appendix C to this document. The Customs Form 3583, Proprietor's Manufacturing Warehouse Bond, would be discontinued.

It is proposed to add a new paragraph (ii) which grants to the district director the authority to approve the Blanket Smelting and Refining Bond, the proposed text of which appears in Appendix D to this document.

3. It is proposed to amend § 113.39(b), Customs Regulations, relating to the authority to sell United States obligations on default when such obligations are accepted in lieu of sureties on a bond. Section 113.39(b) contains two references to Treasury Department Circular No. 154, dated October 31, 1969, as amended. One reference appears in the text and the other appears in the "Power of Attorney and Agreement" format. The Treasury Department Circular has been superseded by Treasury Department Circular No. 154, Revised, dated July 1, 1978. Accordingly, it is proposed to amend the Customs Regulations to reflect this change.

Part 125—Cartage and Lighterage of Merchandise

1. It is proposed to remove paragraph (d), relating to Customs Form 7505–B, Order to Release Merchandise on Order of the Warehouse Proprietor, from § 125.31 concerning documents used when merchandise is carted or lightered to or from bonded warehouses, and mark the paragraph "Reserved".

It is further proposed to amend § 125.31 by adding a new paragraph (g) relating to Customs Form 7519, Combined Rewarehouse Entry and Withdrawal for Consumption and Permit.

2. It is also proposed to amend § 125.33(b), relating to procedures on receiving merchandise from a bonded warehouse, to indicate that the merchandise shall be released only to the warehouse proprietor, who must acknowledge such release on the appropriate withdrawal or removal document.

Part 132—Quotas

It is proposed to amend § 132.15, relating to withdrawal from warehouse prior to opening of quota to indicate that merchandise subject to a tariff rate quota entered for warehouse for which a withdrawal for consumption has been made in the manner prescribed in § 141.68(d) of this chapter prior to the opening of the quota period, may not be accorded any quota benefit which may become effective after the time of presentation of such withdrawal, even though the merchandise was not physically removed from the warehouse until after the start of the tariff rate period. For the purposes of applying tariff rate quotas, the date that the warehouse withdrawal is presented shall be treated as the date the merchandise is withdrawn for consumption.

Part 144—Warehouse and Rewarehouse Entries and Withdrawals

1. It is proposed to remove paragraph (b), relating to conditionally free merchandise, from § 144.1 concerning merchandise eligible for warehousing and mark the paragraph "Reserved". Customs has ruled that dutiable and nondutiable merchandise may be entered for warehouse.

2. It is proposed to amend § 144.22, relating to endorsement of transfer on the withdrawal form, by revising it to indicate that transfer of the right to withdraw merchandise entered for warehouse must be established by an appropriate endorsement on the withdrawal form by the person primarily liable for payment of duties before the transfer is completed, i.e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such person. The endorsement must be made on the appropriate withdrawal forms listed in the proposed section.

3. It is proposed to add a new paragraph (c), in lieu of existing §§ 19.6 (b) and (c) relating to charges and liens, to § 144.32 to indicate that upon receipt of an application to withdraw merchandise the appropriate Customs officer must determine whether there are any cartage, storage, labor or any other charges due the Government, in connection with the goods remaining unpaid or whether there is on file any notice of lien filed by a carrier. If there are no charges or liens or all charges and liens have been satisfied, and all other requirements of law or regulations have been met the proprietor's application to withdraw must be approved.

Part 142—Entry Process

It is proposed to conform Bond Rider "R" set forth in § 142.5 to the same condition which appears in condition (2)(a) of both the Immediate Delivery and Consumption Entry Bond (Single Entry), Customs Form 7551, and Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, and condition (1)(a) of the General Term Bond for Entry of Merchandise, Customs Form 7595, by deleting the comma which appears between the words "default" and "plus" in the third paragraph of the rider.

The section heading also would be revised to indicate that it relates to "Statement of quantity; charges and liens."

4. It is proposed to amend § 144.34(a), relating to transfers to another warehouse, by adding a sentence at the end of the paragraph to indicate that the quantities of goods so transferred will be subject to the joint determination of the warehouse proprietor and the cartman, lighterman, or private bonded carrier, as provided in proposed section 19.6.

5. It is proposed to amend § 144.38(e), relating to the permit for release of merchandise, to indicate that when the duties and other charges have been paid, a permit on Customs Form 7505–A must be issued and delivered to the person making the warehouse withdrawal.

6. It is proposed to add a new § 144.39, relating to the permit to transfer and withdraw merchandise, to indicate that if all legal and regulatory requirements are met, the appropriate Customs officer must approve the application to transfer or withdraw merchandise from a bonded warehouse by endorsing the permit copy and returning it to the applicant. The approved permit must be presented by the withdrawer to the warehouse proprietor as evidence of Customs authorization of the transfer or withdrawal. The approved permit copy must be retained in the warehouse entry file of the proprietor. Goods covered by permit may be retained in the bonded warehouse at the option of the proprietor.

7. It is proposed to amend § 144.41(g), relating to failure to enter merchandise, by adding a phrase to indicate that the five day period for entry of merchandise after its arrival may be extended.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, secs. 311, 312, 555, 556, 557, 623, 624, 646a, 46 Stat. 691, as amended,

692, as amended, 743, as amended, 744, as amended, 759, as amended, 67 Stat. 520 (19 U.S.C. 66, 1311, 1312, 1555, 1556, 1557, 1623, 1624, 1646a).

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Executive Order 12291

The proposed regulation is not a major regulation as defined in section 1(b) or E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C 603, 604), are applicable to this proposal. Accordingly, an initial regulatory flexibility analysis prepared by Customs Office of Economic Analysis is attached to this document as Appendix A. Comments on the analysis are also solicited and should accompany comments submitted on the proposal.

Paperwork Reduction Act

The proposed regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Accordingly, applicable proposed sections of this document are subject to clearance by the Office of Management and Budget.

Proposed Amendments to the Regulations

It is proposed to amend Parts 10, 18, 19, 24, 113, 125, 132, 142, and 144, Customs Regulations (19 CFR Parts 10, 18, 19, 24, 113, 125, 132, 142, 144), as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. It is proposed to amend that part of paragraph (a) before the colon and paragraph (c)(2) of § 10.62 by revising them to read as follows:

§ 10.62 Bunker fuel oil.

(a) *Withdrawal under section 309, Tariff Act of 1930, as amended.* When all the bunker fuel oil in a Customs bonded tank is intended only for lading duty free as supplies on vessels under section 309 of the Tariff Act of 1930, as amended, delivery of the oil, by Customs bonded carrier, cartman, or lighterman (including bonded pipelines), under withdrawals on Customs Form 7506, either single or monthly (blanket), may be made without the presence of a Customs officer. When a blanket withdrawal is filed and a partial release takes place, the partial release procedure set forth in § 19.6(d) of this chapter shall be followed for each partial release. However, each abstract copy of Customs Form 7506 shall include the following additional information:

* * * * *

(c) * * *

(1) * * *

(2) *Delivering carrier receipt.* The receipt of the delivering carrier on a copy of Customs Form 7506 for fuel oil which has been blended under subparagraph (1) of this paragraph with components classifiable at different rates of duty shall show, for each warehouse entry number and withdrawal number involved, the types and quantity of oil received.

* * * * *

§ 10.62 [Amended

2. It is proposed to amend paragraph (e) of § 10.62 by removing the last sentence.

3. It is proposed to amend § 10.62a by revising it to read as follows:

§ 10.62a Blanket withdrawals for certain merchandise.

(a) *Generally.* Under this section, a blanket withdrawal on Customs Form 7506 may be filed for all or part of any merchandise, except fuel oil covered under § 10.62, for use on qualified vessels. The procedure for the blanket withdrawal and partial releases after the initial release are the same as those provided in § 19.6(d) of this chapter, except as noted in paragraph (c).

(b) [Reserved]

(c) *Partial release.* A partial release on Customs Form 7506, in duplicate, or in triplicate if an extra copy is required by the district director, shall be presented to the warehouse proprietor or placed in the proprietor's entry file under the partial release procedure set forth in § 19.6(d) of this chapter, as merchandise is needed for delivery to a using vessel. The original of the partial release document shall accompany the merchandise for delivery to the Customs officer who will supervise lading, or if a Customs officer does not physically supervise lading, to the master of the vessel. The original shall be returned to the proprietor for record purposes after the Customs officer or master of the vessel, as appropriate, has certified lading of the goods described in the document.

§ 10.65 [Amended]

4. It is proposed to amend the second sentence of paragraph (c)(3) of § 10.65 by substituting "warehouse proprietor" for "Customs warehouse officer" and "5 years" for "3 years".

5. It is proposed to modify the first sentence of paragraph (c)(4) of § 10.65 by adding the words "by the warehouse proprietor" after "and shall be inventoried".

* * * * *

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. It is proposed to amend paragraph (a) of § 18.2 by revising it to read as follows:

§ 18.2 Receipt by carrier; manifest.

(a)(1) *Merchandise other than from warehouse delivered to bonded carrier.* Except as set forth in subparagraph (2) of this section, when merchandise is delivered to a bonded carrier for transportation in bond, the merchandise shall be laden on the conveyance under the supervision of Customs unless the transporting conveyance is not to be sealed with Customs approved seals or the lading inspector accepts the check of the carrier as to the merchandise laden thereon. The carrier's receipt shall be given immediately to the lading inspector on the Customs in bond document covering the merchandise. In the case of a TIR carnet, the receipt shall be given on the appropriate vouchers in the following form:

Received the cargo listed herein for delivery to Customs at the indicated port of destination or exportation, or for direct exportation. ——— Name of Carrier (or Exporter) ——— Attorney or Agent of Carrier (or Exporter)

———

(Date)———

(2) *Merchandise delivered from warehouse.* When merchandise is delivered from the warehouse to a bonded carrier for transportation in bond, supervision of lading shall be accomplished in accordance with the

procedure set forth in § 19.6(b) of this chapter.

* * * * *

2. It is proposed to amend paragraph (b) of § 18.2 by inserting a sentence between the third and fourth sentences to read as follows:

§ 18.2 Receipt by carrier; manifest.

* * * * *

(b) * * * Quantities of goods transported in bond from a Customs bonded warehouse shall be accounted for under the procedures set forth in § 19.6 of this chapter. * * *

§ 18.3 [Amended]

3. It is proposed to amend paragraph (e) of § 18.3 by substituting "Part 125" for "Part 21".

4. It is proposed to add a new paragraph (i) to § 18.4 to read as follows:

§ 18.4 Sealing conveyances and compartments; labeling packages; warning cards.

* * * * *

(i) *Removal of seals.* Except as provided in § 18.3(d) of this chapter, seals affixed under this section shall be removed only under Customs supervision.

* * * * *

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. It is proposed to amend paragraph (a)(4), that portion of paragraph (c) before the colon and subparagraph (c)(3) of § 19.1 by revising them to read as follows:

§ 19.1 Classes of Customs warehouses.

(a) * * *

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk.

* * * * *

(c) *Construction.* When parts of buildings are used as Customs bonded warehouses, the bonded and nonbonded portions thereof shall be effectively separated by partitions of substantial materials and construction erected in such a manner as to render it impossible for unauthorized personnel to enter the premises without such violence as to make the entry easy to detect. The partitions may be constructed of raised expanded metal (steel), steel chain-link fence fabric, or wood materials and shall comply with the following specifications:

* * * * *

(3) *Wood.* Wood partitions shall be constructed of not less than 1 inch boards (dressed if desired) of uniform length between supports, nailed with not less than ten penny nails to not less than 2 x 4 inch stud framing and held in place by ⅛ x 2 inch metal cover-strips secured over the nailed ends, with carriage bolts through the boards and partition framing. Plywood of not less than ¾ inch thickness may be substituted for the 1 inch thick wood boards providing it is erected in the same manner prescribed for the boards. Gates may be constructed of any of the materials specified for partitions. Depending on their size and swing, the gates shall be constructed in such a manner, and of materials of sufficient strength, to preclude any possible sagging condition. The specifications set forth in this paragraph shall be applicable to all partitions (including gates) constructed, reconstructed, renovated, or otherwise installed or altered on or after October 28, 1976.

2. It is proposed to revise paragraphs (a), (c), and (d) and to add new paragraphs (f) and (g) in § 19.2 to read as follows:

§ 19.2 Applications to bond; bond; renewal of.

(a) *Application.* An owner or lessee desiring to establish a bonded warehouse facility shall make written application to the district director wherein the warehouse is located, describing the premises, giving its location, and stating the class of warehouse desired. The application shall be accomplished by the fee required by § 19.5 of this chapter to establish a warehouse. Applications for renewals of a warehouse facility shall be filed annually with the district director. A fee as prescribed by § 19.5 of this chapter shall accompany the request. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse facility is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse facility is to be operated as a private bonded warehouse, the application also shall state the general character of the merchandise to be stored therein, and provide an estimate of the maximum duties and taxes which will be due on all merchandise in the bonded warehouse at any one time. A warehouse facility will be determined by street address, location, or both. For example, if a proprietor has two warehouses located at one street address and three warehouses located at three different street addresses the two located at one address would be considered as one warehouse facility and the three located at three different addresses would each be considered as separate warehouses facilities.

* * * * *

(c) *Bond, generally.* On approval of the application to bond a warehouse of class 2, 3, 4, 5, or 8, a bond shall be executed in the form prescribed by T.D. – .

(d) *Bond for proprietor's manufacturing warehouse, class 6, and bonded smelting and refining warehouse, class 7.*

On approval of the application to bond a proprietor's manufacturing warehouse, class 6, a bond shall be executed in the form prescribed by T.D. – . In the case of a bonded smelting and refining warehouse, class 7, the bond shall be executed with the required number of copies and in the form prescribed by T.D. – .

* * * * *

(f) As a condition of approval of the application, the district director may order an inquiry by a Customs officer into the qualifications, character, and experience of the applicant, and into the security, suitability, and fitness of the facility.

(g) The district director shall promptly notify the applicant in writing of his decision to approve or deny the application to bond the warehouse. If the application is denied the notification shall state the grounds for denial which need not be limited to those set forth in § 19.3(e). The applicant may seek review of the decision to deny under the provisions of § 19.3(f) of this chapter within 10 days after notification.

3. It is proposed to amend § 19.3 by revising it to read as follows:

19.3 Bonded warehouses; alterations; suspensions; discontinuance.

(a) *Alterations.* Alterations to a warehouse may be made with the permission of the district director of the district in which the facility is located.

(b) *Suspensions.* The use of all or part of a bonded warehouse or bonded floor space may be temporarily suspended by the district director for a period not to exceed one year on written application of the proprietor if there are no bonded goods in the area. Upon written application of the proprietor and upon the removal of all nonbonded goods, if any, the premises may again be used for the storage of bonded goods. If the application is approved, the district

director shall indicate the approval by endorsement on the application. Rebonding will not be necessary.

(c) *Discontinuance.* If a proprietor wishes to discontinue the bonded status of the warehouse, he shall make written application to the district director. The district director shall not approve the application until all goods in the warehouse are transferred to another bonded warehouse without expense to the Government. To reestablish the bonded warehouse, application shall be made and approved under the provision of § 19.2 of this chapter.

(d) *Employee lists.* The district director may make a written demand upon the proprietor to submit, within 30 days after the date of demand, a written list of the names, addresses, social security numbers, and dates and places of birth of all persons employed by the proprietor in the carriage, receiving, storage, or delivery of any bonded merchandise. If a list has been previously furnished the proprietor shall advise the district director in writing of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed by him in the carriage, receiving, storage, or delivery of bonded merchandise within 10 days after such employment. For the purpose of this part a person shall not be deemed to be employed by a warehouse proprietor if he is an officer or employee of an independent contractor engaged by the warehouse proprietor to load, unload, transport, or otherwise handle bonded merchandise.

(e) *Revocation or suspension for cause.* The district director may revoke or suspend for cause the right of a proprietor to continue the bonded status of the warehouse for any ground specified in this paragraph. An action to suspend or revoke the right to operate a bonded warehouse shall be taken in accordance with the procedures set forth in paragraph (f) of this section. If the bonded status is revoked or suspended for cause, the district director shall require all goods in the warehouse to be transferred to a bonded warehouse without expense to the Government. The bonded status of a warehouse may be revoked or suspended for cause if:

(1) The approval of the application to bond the warehouse was obtained through fraud of the misstatement of a material fact;

(2) The warehouse proprietor refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation or administration of a bonded warehouse;

(3) The warehouse proprietor or an officer of a corporation which has been granted the right to operate a bonded warehouse is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime;

(4) The warehouse proprietor does not provide secured facilities or properly safeguard merchandise within the bonded warehouse;

(5) The warehouse proprietor fails to furnish a current list of names, addresses, and other information required by § 19.3(d);

(6) The bond required by § 19.2(c) or (d) of this chapter is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with goods and sufficient sureties is not furnished within a reasonable time; or

(7) Bonded merchandise has not been stored in the warehouse for a period of 2 years.

(f) *Procedure for revocation or suspension for cause.* The district director may at any time serve notice in writing upon any proprietor of a bonded warehouse to show cause why his right to continue the bonded status of his warehouse should not be revoked or suspended for cause.

Such notice shall advise the proprietor of the grounds for the proposed action and shall afford the proprietor an opportunity to respond in writing within 30 days. Thereafter, the district director shall consider the allegations and responses made by the proprietor unless the proprietor in his response requests a hearing. If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner of Customs or his designee within 30 days following the proprietor's request. The proprietor may be represented by counsel at such hearing, and all evidence and testimony of witnesses in such proceedings, including substantiation of the allegations and the responses thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the proprietor of the warehouse. At the conclusion of the hearing, the hearing officer shall promptly transmit all papers and the stenographic record of the hearing to the Regional Commissioner together with his recommendation for final action. The proprietor may submit in writing additional views or arguments to the Regional Commissioner following a hearing on the basis of the stenographic record, within 10 days after delivery to him of a copy of such record. The Regional Commissioner shall thereafter render his decision in writing, stating his reasons therefor. Such decision shall be served on the proprietor of the warehouse, and shall be considered the final administrative action.

4. It is proposed to amend § 19.4 by revising it to read as follows:

§ 19.4 Customs supervison.

The character and extent of Customs supervision to be exercised in connection with any warehouse facility or transaction provided for in this part shall be in accordance with § 161.1 of this chapter. Independent of any need to appraise or classify merchandise, the district director may authorize a Customs officer to supervise any transaction or procedure at the bonded warehouse facility. Such supervision may be performed through periodic audits of the warehouse proprietor's records, quantity counts of goods in warehouse inventories, spot checks of selected warehouse transactions or procedures or reviews of conditions of recordkeeping, security, or storage in a warehouse facility. The warehouse proprietor shall permit access to the warehouse by any Customs officer.

5. It is proposed to amend § 19.5 by revising it to read as follows:

§ 19.5 Fees.

Each warehouse proprietor will be charged a fee to establish, alter, or relocate a warehouse facility and an annual fee thereafter which shall be determined under the provisions of 19 U.S.C. 1555 and 31 U.C.S. 483a. The fees will be revised annually and published in the **Federal Register.**

6. It is proposed to amend § 19.6 by revising it to read as follows:

§ 19.6 Deposits, withdrawals, partial releases and sealing requirements.

(a) *Deposit in warehouse.* The district director may authorize the deposit of merchandise in designated bonded warehouses, without physical supervision by a Customs officer. Goods for which a warehouse or rewarehouse entry has been accepted, according to the procedures in Part 144, Subpart B, of this chapter, shall be examined or inspected at the place of unlading, bonded warehouse, or other location as ordered by the district director. When merchandise is deposited in a proprietor's warehouse the proprietor will be held liable under his bond for the quantity and condition of merchandise reflected on entry documentation adjusted by (1) any discrepancy noted under Part 158, Subparts A and B, of this chapter, and (2) any discrepancy report made jointly on the warehouse entry

permit copy (Customs Form 7502–A), i.e., an agreement reached by the warehouse proprietor and the bonded carrier or licensed cartman or lighterman delivering the goods to the warehouse, or an independent weigher, gauger, measurer, and signed by an authorized representative of the above. A copy of any joint report of discrepancy shall be promptly provided to the district director.

(b) *Withdrawal and removal from warehouse.* The district director may authorize the withdrawal and removal of merchandise, without physical supervison or examination by a Customs officer under permit issued under the procedure set forth in § 144.39 of this chapter. When a withdrawal or removal is not physically supervised by a Customs officer, the warehouse proprietor will be relieved of liability under its bond only for the merchandise in its warehouse in the condition and quantity as shown on the application for withdrawal or removal, adjusted by any discrepancy report made jointly by the warehouse proprietor, and the licensed cartman or lighterman, bonded carrier, weigher, gauger, or measurer and signed by the authorized representative of the above. The adjustments will be noted on the permit copy. A copy of any joint report of discrepancy shall be promptly provided to the district director.

(c) *Agreement on quantity and condition required.* When the warehouse proprietor and the bonded carrier, cartman or lighterman, or weigher, gauger, or measurer cannot make a joint determination under subparagraph (a) or (b) of this section, the merchandise may not be removed until they have come to agreement on the quantity and condition of the shipment.

(d) *Partial releases.*—(1) *Generally.* Goods in Customs custody may be withdrawn without payment of duty when permitted by law, by blanket withdrawal and thereafter removed from the warehouse in partial releases by the warehouse proprietor. When a withdrawer desires to use the partial release procedure for all or part of the merchandise covered by a warehouse entry, he shall submit to the district director a blanket withdrawal on the appropriate withdrawal form. The form shall bear the words "BLANKET WITHDRAWAL" in capital letters conspicuously printed or stamped in the top margin. The summary statement described in § 144.32 of this chapter shall not be included. Merchandise for which a duty-paid withdrawal is required is not eligible for the partial release procedure under this section, except as provided in § 10.62(e) of this chapter.

(2) *Form Distribution.* The blanket withdrawal shall be executed in triplicate, or in quadruplicate if an additional copy is required for control purposes in local administration. Upon approval of the blanket withdrawal by the district director, the original shall be returned to the withdrawer for forwarding to the warehouse proprietor to serve as a permit to withdraw the merchandise covered therein upon the filing of requests for partial release under subparagraph (e) of this section. The original shall be retained in the warehouse proprietor's records, as provided in § 19.12(a)(2). One copy shall be returned to the withdrawer for use in preparing requests for partial release. One copy (statistical) shall be forwarded to the Bureau of the Census, where applicable. Merchandise for which a blanket withdrawal has been approved may thereafter be released by the warehouse proprietor in the individual partial releases, but the goods are still in Customs custody while physically located in the warehouse.

(3) *Numbering of forms, discrepancy report.* Each partial release shall be documented by the withdrawer through presentation of a copy of the blanket withdrawal document to the warehouse proprietor, or by placing a copy in the proprietor's entry file. Each such release shall be consecutively numbered, and the number shall appear immediately after the serial number of the blanket withdrawal. Each copy shall bear the summary statement described in § 144.32 of this chapter. Any joint discrepancy report of the proprietor and the bonded carrier, licensed cartman or lighterman, or weigher, gauger, or measurer for a partial release shall be made on the copy. A copy of any joint report of discrepancy shall be promptly provided to the district director. A copy of the partial release document shall be retained in the records of the warehouse proprietor, as provided in §19.12(a)(2). The warehouse proprietor shall account for all goods covered by a blanket withdrawal through individual partial release documents before the entry folder is transmitted to Customs under § 19.12(a)(4).

(4) *Quantity of release.* Partial releases may not be removed in a quantity of less than an entire package or, if in bulk, less than one ton in weight.

(e) *Affixing or breaking of seals.* The district director may authorize a warehouse proprietor to: (1) break Customs in bond seals affixed under § 18.4 of this chapter, or under any Customs order or directive, on any vehicle or container of goods entered for warehouse upon arrival of the vehicle or container at the warehouse; or (2) affix Customs in bond seals to any vehicle or container of goods for which a withdrawal document has been approval for movement in bond. The affixing or breaking of seals so authorized, shall be deemed to have been done under Customs supervision. The proprietor shall report to the district director any seal found, upon arrival of the vehicle or container at the warehouse, to be broken, missing, or improperly affixed, and hold the vehicle or container and its contents intact pending instructions from the district director.

§ 19.8 [Amended]

7. It is proposed to amend § 19.8 by removing the words "and under the supervision of the Custom warehouse office" from the first sentence.

8. It is proposed to amend Part 19 by adding a new § 19.9 to read as follows:

§ 19.9 General order, abandoned, and seized merchandise.

(a) *Acceptance of merchandise.* A proprietor of a general order warehouse shall accept general order, abandoned, or seized goods and articles into the warehouse only upon order of the district director on customs Form 6043 (Delivery Ticket), as presented by the cartman or lighterman. A joint determination shall be made by the warehouse proprietor and the cartman or lighterman of the quantity and condition of the goods or articles so delivered to the warehouse. Any discrepancy between the quantity and condition of the goods and that reported on Customs Form 6043 shall be reported to the district director.

(b) *Recording and storing.* General order, abandoned, and seized goods and articles shall be recorded and stored in the warehouse as prescribed by § 19.12.

(c) *Release of merchandise.* Merchandise in general order may be released by the warehouse proprietor, after Customs inspection or examination as ordered by the district director, to the consignee or person named in a release order. The release shall be made under the provisions of § 141.11 of this chapter. General order goods which have been unclaimed under § 127.11 of this chapter, voluntarily abandoned, or seized and forfeited may be released for transfer to the place of sale upon presentation to the warehouse proprietor of an approved copy of customs Form 5251 (Order to Transfer Merchandise for Public Auction (Sale)), and an approved copy of Customs Form 6043 (Delivery

Ticket). The quantity and condition of the goods so transferred shall be determined jointly by the proprietor and the cartmen or lighterman picking up the goods for delivery to the place of sale. Any discrepancies shall be noted on the delivery ticket, a copy of which shall be sent to the district director. Seized goods that are released for a purpose other than sale may be released from warehouse only upon such written terms and conditions as directed by the district director on Customs Form 6043.

§ 19.10 [Amended]

9. It is proposed to amend § 19.10 by substituting "warehouse proprietor" for "warehouseman".

10. It is proposed to amend paragraph (d) of § 19.11 by adding the following between the second and third sentences:

§ 19.11 Manipulation in bonded warehouses and elsewhere.

* * * * *

(d) * * * The district director may approve a blanket application to manipulate on Customs Form 3499, for a period of up to one year, for a continuous or a repetitive manipulation. The warehouse proprietor must maintain a running record of manipulations performed under a blanket application, indicating the quantities before and after each manipulation. The record must show what took place at each manipulation describing marks and numbers of packages, location within the facility, quantities, and description of goods before and after manipulation. The district director is authorized to revoke a blanket approval to manipulate and require the proprietor to file individual applications if necessary to protect the revenue, administer any law or regulation, or both. * * *

11. It is proposed to amend § 19.12 by revising it to read as follows:

§ 19.12 Warehouse recordkeeping, storage and security requirements.

(a) *Recordkeeping.* The warehouse proprietor shall comply with the following recordkeeping requirements:

(1) *Record transactions.* All merchandise entered, manipulated, manufactured or removed from the bonded warehouse shall be recorded in the warehouse proprietor's accounting and inventory records by bond lot number. The records to be maintained are those which a prudent businessman in the same type of business can be expected to maintain. The records are to be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with these regulations and the correctness of his annual submission;

(2) *Maintain entry folders.* Entry folders shall be maintained and kept up to date by filing all receipts, damage or shortage reports, manipulation requests, specific removals and blanket removals and the partial release/permit copy for each removal within two business days after the event occurs;

(3) *Extraordinary shortage or damage.* Extraordinary (1% or more of the value of merchandise in an entry) shortage or damage shall be immediately brought to the attention of the district director;

(4) *Review of entry folder.* When the final withdrawal of merchandise relating to a specific general order or seizure occurs, the warehouse proprietor shall (i) review the entry folder to insure that all necessary documentation is in the folder accounting for the merchandise covered by the entry and (ii) file the entry folder with Customs within two business days after final withdrawal.

(5) *Warehouse proprietor submission.* Except as provided in § 19.19(b), relating to the manufacturer engaged in smelting or refining, or both, the warehouse proprietor shall file with the Regional Director, Regulatory Audit, within 45 days from the end of his business year, a Warehouse Proprietor's Submission in the form prescribed by T.D.————.

(6) *Merchandise not withdrawn.* The entry folder for merchandise not withdrawn during the general order period shall be submitted to the district director upon receipt from Customs of the Customs Form 6043.

(b) *Security and storage.* The warehouse proprietor shall comply with the following security and storage requirements:

(1) *Supervision by warehouse proprietor.* The warehouse proprietor shall supervise all receipts, deliveries, sampling, recordkeeping, repacking, or manipulating of merchandise in a bonded warehouse;

(2) *Inspection and security of entry folders.* The entry folders maintained by the warehouse proprietor shall be kept in a secure area and shall be made available for inspection by Customs at any time;

(3) *Security of warehouse.* The warehouse proprietor shall maintain its warehouse facility and establish procedures adequate to insure the security of merchandise located in the bonded area. This shall be accomplished by meeting the standards and recommended specifications contained in T.D. 72–56 to the extent those standards and recommendations do not conflict with any local, state or Federal standard for the safe and sanitary storage of merchandise. In the event of a conflict any local, state, or Federal standard shall control;

(4) *Bonded tanks.* All inlets and outlets to bonded tanks shall be secured with locks or in-bond seals.

(5) *Safe and sanitary storage.* Merchandise in the bonded area shall be stored in a safe and sanitary manner to minimize damage to the merchandise, avoid hazards to persons, and meet local, state and Federal requirements applicable to specific kinds of goods. All trash and waste shall be promptly removed from the bonded area. No fires shall be permitted in the warehouse except where necessary in connection with manipulating or processing in warehouses of the class 6, 7, or 8 type. Aisles shall be established and maintained, and doors and entrances left unblocked for access by Customs officers and warehouse proprietor personnel.

(6) *Manner of storage.* Packages shall be received in the warehouse according to their marks and numbers. Packages containing weighable or gaugable merchandise not bearing shipping marks and numbers shall be received under the weighers or gaugers numbers. Packages with exceptions due to damage or loss of contents, or not identical as to quantity or quality of contents shall be stored separately. The warehouse proprietor shall mark all shipments for identification, showing the general order or warehouse entry number or seizure number and the date of the general order, entry, or delivery ticket in the case of seizures. All containers covered by a given warehouse entry, general order or seizure shall be stored in the same location and not mixed with goods covered by any other entry, general order or seizure unless approval has been given in writing by the district director for an exception from this requirement. The proprietor must provide, upon request by a Customs officer, a record balance of goods covered by any warehouse entry, general order, or seizure so a physical count can be made to verify the accuracy of the record balance.

12. It is proposed to amend paragraph (a) of § 19.13 by substituting "the district director" for "Headquarters, U.S. Customs Service".

13. It is proposed to amend paragraph (d) of § 19.13 by removing the words "in duplicate", and by substituting a period for the comma after the words "district director" and removing the remainder of the sentence.

14. It is proposed to amend paragraph (g) of § 19.13 to read as follows:

§ 19.13 Requirements for establishment of warehouse.

* * * * *

(g) *Secure storage.* Each bonded manufacturing warehouse shall have a secured area separated from the remainder of the premises to be used exclusively for the storage of imported merchandise, domestic spirits, and merchandise subject to internal-revenue tax transferred into warehouse for manufacture. A like area shall be provided to be used exclusively for the storage of products manufactured in the warehouse. The area shall be secured to prevent any unauthorized person from having access thereto and the goods therein shall be arranged in a manner to assist a Customs officer in making the required examination or taking samples for analysis.

15. It is proposed to amend paragraphs (b), (c), and (d) of § 19.14 to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

* * * * *

(b) *Bond required.* Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on Customs Form 7571 in an amount equal to double the estimated duties shall be required unless a bond in the form prescribed by T.D. – has been given.

(c) *Domestic merchandise.* When the proprietor of any bonded manufacturing warehouse desires to receive therein any domestic merchandise, except merchandise subject to internal-revenue tax, to be used in connection with the manufacturer of articles permitted to be manufactured in such warehouse, including packages, coverings, vessels, and labels used in putting up in such articles, an application in the following form shall be sent to the district director for approval and after approval retained by the warehouse proprietor:

Application To Receive Free Materials

Port of _____

_____, 19——.

To the District Director:

Application is hereby made to receive into the bonded manufacturing warehouse known as _____, situated at _____ the following described articles and materials:

Marks	Nos.	Description	Quantity	Value

(Signature) _____

Port _____

_____, 19——.

To the warehouse proprietor in charge of the bonded manufacturing warehouse specified above:

The above described articles and materials are hereby permitted to be received into the warehouse in your charge, to be used therein in connection with the manufacture of articles as authorized by law.

District Director _____

(d) *Domestic spirits and wines.* For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond on Customs Form 7571 shall be required unless the warehouse is covered by a bond in the form prescribed by T.D. – .

* * * * *

§ 19.15 [Amended]

16. It is proposed to amend paragraph (a) of § 19.15 by substituting the word "Customs" for "a Customs officer" in the last sentence.

17. It is proposed to amend paragraph (j) of § 19.15 by substituting the words "certified by the warehouse proprietor" for "verified by the Customs warehouse officer in charge of the warehouse" in the first sentence.

18. It is proposed to amend the first and last sentences of paragraph (a), paragraphs (b) and (c), the last sentence of paragraph (g)(1), and the "Application and Permit for Transfer of Scraps, Cuttings, and Clippings" in paragraph (h) of § 19.16 to read as follows:

§ 19.16 Cigar-manufacturing warehouses.

(a) *Manufacture of cigars under section 311, Tariff Act of 1930, as amended.* Tobacco to be used in the manufacture of cigars in bond under the provisions of section 311, Tariff Act of 1930, as amended, shall be entered for warehouse but may be transferred directly from the importing vessel or from a bonded warehouse of class 2 or 3 into a bonded manufacturing warehouse of class 6 and stored in separate compartments therein under the warehouse proprietor's locks pending its withdrawal for use in the manufacture of cigars. * * * The cigars so returned shall be verified by the warehouse proprietor against the schedule which shall be certified by him as to the cigars returned, and the original and one copy returned to the taxpayer who returned the cigars.

(b) *Entry of Cigars.* Upon the removal of cigars from the warehouse the proprietor shall make appropriate entry in his records of the quantity and class of the cigars.

(c) *Record.* A record of all tobacco received in a bonded manufacturing warehouse and delivered from storage compartments to the manufacturing department shall be kept by the warehouse proprietor.

* * * * *

(g) * * *

(1) * * * The taxes covered by the return shall be secured by the Proprietor's Manufacturing Warehouse Bond in the form prescribed by T.D. – .

* * * * *

(h) * * *

Application and Permit for Transfer of Scraps, Cuttings, and Clippings

Port of _____

_____, 19——.

The District Director:

Sir: Application is hereby made to transfer ——— pounds of scraps, cuttings, and clippings of tobacco upon which duty has been paid from our bonded manufacturing warehouse, class 6, to ———, factory No. ———, district ———, state of ———.

_____

Proprietor of Bonded Manufacturing Warehouse, Class 6

_____

Port of _____

_____, 19——.

The above application is hereby granted.

_____

District Director

_____

Port of _____

_____, 19——.

I hereby certify that ——— pounds of scraps, cuttings, and clippings of tobacco, upon which duty has been paid have been delivered from the bonded manufacturing warehouse, class 6, of ——— for transfer to ———.

_____

Warehouse Proprietor

19. It is proposed to amend paragraphs (a), (c), (e) and the first sentence of paragraph (g) of § 19.17 to read as follows:

§ 19.17 Application to establish warehouse; bond.

(a) *Application.* Application for the bonding of a plant of a manufacturer engaged in the smelting or refining, or both, of metal-bearing materials as provided for in section 312, Tariff Act of 1930, as amended,[22] to reduce the metal content thereof to an unwrought metal, or metal in the form of oxides or other compounds which are obtained directly from the treatment of the dutiable materials provided for in Schedule 6, Part 1 or 2, Tariff Schedules of the United States (19 U.S.C. 1202), shall be

made by the manufacturer, to the district director of the district in which such plant is situated, giving the location of the premises and setting forth the work proposed to be carried on therein, accompanied by the fee to establish a warehouse as prescribed by section 19.5.

* * * * *

(c) *Discontinuance.* At the request of the proprietor the bonded status of the warehouse may be discontinued at any time provided the district director approves such discontinuance and the proprietor complies with directions of the district director with respect to the disposition of merchandise which may remain in the warehouse.

* * * * *

(e) *Bond.* Upon the arrival of imported metal-bearing material in any form for the purpose of being smelted or refined, or both, in bond at a port where a bonded smelting or refining warehouse is established, it shall be entered for warehouse. A bond on Customs Form 7555 shall be filed with each warehouse entry unless a blanket smelting and refining bond in the form prescribed by T.D.————has been filed. The district director shall thereafter issue a permit to the inspector to send such metal bearing materials from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry.

* * * * *

(g) *Statement of inventory and bond charges.* Where two or more smelting and refining warehouses are included under one blanket smelting and refining bond, an overall statement shall be filed by the principal named in the bond with each district director involved by the 28th of each month, showing the inventory as of the close of the preceding month, of all metals on hand at each plant covered by the blanket bond and the total of bonded charges for all plants * * *.

20. It is proposed to modify the third sentence of paragraph (a) and the first sentence of paragraph (b) of § 19.19 to read as follows:

§ 19.19 Manufacturer's records; annual statement.

(a) * * * If losses are to be claimed under paragraph (c) of said headnote, a record shall be kept which will become a part of the annual statement described in paragraph (b) of this section * * *

(b) Every manufacturer engaged in smelting or refining, or both, shall file with the district director of Customs for the district in which the plant is located an annual statement for the fiscal year, in lieu of the warehouse proprietors submission required by § 19.12, for the plant involved not later than 60 days after the termination of that fiscal year * * *

* * * * *

§ 19.4 [Amended]

21. It is proposed to modify § 19.21(b) by adding "§ 19.4 and" before the words "the commercial practice".

22. It is proposed to revise § 19.29 to read as follows:

§ 19.29 Sealing of bins or other bonded space.

The outlets to all bins or other space bonded for the storage of imported wheat shall be sealed by affixing locks or in bond seals to the rope or chain which controls the gear mechanism for opening the outlets, or such other method which will effectively prevent the removal of, or access to the wheat in the bonded space except under such supervision as required by §§ 19.4 and 161.1 of this chapter.

§ 19.34 [Amended]

23. It is proposed to amend the third sentence of § 19.34 by substituting "appropriate Customs officer" for "supervising Customs agent".

* * * * *

PART 22—DRAWBACK

It is proposed to amend paragraph (d) of § 22.28 to read as follows:

§ 22.28 Continuous custody.

* * * * *

(d) *Merchandise entered for warehouse.* For purpose of this part, in the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when duty has been paid and the district director has authorized the withdrawal of the merchandise.

* * * * *

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.12 [Amended]

1. It is proposed to remove paragraph (a) from § 24.12 and mark the paragraph "Reserved".

2. It is proposed to amend the first and fourth sentences of paragraph (c) and the first sentence of paragraph (f) of § 24.13 by revising them to read as follows:

§ 24.13 Car, compartment, and package seals; kind, procurement.

* * * * *

(c) *Purchase of seals.* Bonded carriers of merchandise, commercial associations representing the foregoing or comparable organizations approved by the district director under paragraph (f) of this section, and bonded warehouse proprietors may purchase quantity supplies of in-bond and in-transit seals from manufacturers approved under the provisions of § 24.13a. * * * Carriers and bonded warehouse proprietors may purchase small emergency supplies of in-bond and in-transit seals from district directors, who will keep a supply of such seals for this purpose. * * *

(f) *District director approval required.* In-bond seals may be purchased only by a Customs bonded warehouse proprietor, a customs bonded carrier, a nonbonded carrier permitted to transport articles in accordance with section 553, Tariff Act of 1930, as amended (19 U.S.C. 1553) or in the case of red in-bond and high security red in-bond seals, the carrier's commercial association or comparable representative approved by the district director. * * *

3. It is proposed to amend paragraph (d) of § 24.17 by revising it to read as follows:

§ 24.17 Other services of officers; reimbursable.

* * * * *

(d) *Computation charge for reimbursable services.* The charge to be made for the services of a Customs officer on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under 5 U.S.C. 5545. The rate per hour equal to 137 percent of the hourly rate of regular pay is computed as follows:

	Hours	Hours
Gross number of working hours in 52 40-hour weeks		2,080
Less:		
9 Legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day	72	
Annual Leave—26 days	208	
Sick Leave—13 days	104	384
Net number of working hours		1,696
Gross number of working hours in 52 40-hour weeks		2,080
Working hour equivalent of Government contributions for employee uniform allowance, retirement, life insurance and health benefits computed at 11½ percent of annual rate of pay of employee		239
Equivalent annual working hour charge to Customs appropriation		2,319

Ratio of annual number of working hours charged to Customs appropriation to net number of annual working hours 2,319/1,696 = 137 percent.

(1) The charge to be made for the reimbursable services of a Customs officer to perform on a holiday or

outside the established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542(a), 5546), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When services of a customs employee temporarily assigned to act as a Customs officer are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (25 U.S.C. 3101, *et seq.*) and employee uniform allowance. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed excluding lunch periods, charged in multiples of 1 hour, any fractional part of an hour to be charged as 1 hour when the services are performed during the regularly scheduled tour of duty of the officer or between the hours of 8 a.m. and 5 p.m. on weekdays when the officer has no regularly scheduled tour of duty. In no case shall the charge be less than $1.

(2) The necessary transportation expenses and any authorized per diem expenses of a Customs employee assigned to perform reimbursable services at a location at which he is not regularly assigned shall be reimbursed by the responsible party.

(3) When a Customs officer is regularly assigned to duty at more than one location, the charge for his compensation and transportation expenses in going from one location to another shall be equitably apportioned among the parties concerned. However, no charge shall be made for transportation expenses when a Customs employee is reporting to as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty.

(4) Upon a failure to pay such charges when due, or to comply with the applicable laws and regulations, the district director shall report the facts to the Regional Commissioner who shall take appropriate action to collect the charges.

* * * * *

PART 113—CUSTOMS BONDS

§ 113.13 [Amended]

1. It is proposed to amend § 113.13 by removing paragraph (a) and marking it "Reserved" and by substituting *"Public gauger bond."* for the paragraph heading in paragraph (b).

2. It is proposed to amend paragraph (a) of § 113.14 by revising it and by adding new paragraphs (hh) and (ii) to § 113.14 to read as follows:

§ 113.14 Bonds approved by the district director. * * *

(a) *Proprietor's Warehouse Bond.* Proprietor's Warehouse Bond, in the form set forth in T.D. – in the amount of $5,000 on each building or area covered, but not to exceed $50,000 on all buildings or areas, unless the district director believes additional security is necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. All reports, documents, and drawings submitted in connection with the bonding of the warehouse shall be filed with the bond.

* * * * *

(hh) *Proprietors manufacturing warehouse bond, class 6.* Proprietors manufacturing warehouse bond, class 6, in the form prescribed by T.D. – in such amounts as the district director deems necessary, but not less than $5,000 on each building or area and not more than $50,000 on all buildings or areas.

Buildings connected by loading platforms or sheds shall be considered as separate buildings.

(ii) *Blanket smelting and refining bond.* Blanket smelting and refining bond in the form prescribed by T.D. – in such amount as the district director deems necessary.

Sufficient copies of the bond shall be submitted to enable the district director to transmit one to each port at which the principal seeks to conduct business.

§ 113.27 [Reserved]

3. It is proposed to remove § 113.27 and mark the section "Reserved".

§ 113.39 [Amended]

4. It is proposed to revise § 113.39(b) and the "Power of Attorney and Agreement" which appears after the colon in § 113.39(b) by substituting a reference to "Treasury Department Circular No. 154, Revised, dated July 1, 1978" for the reference to "Treasury Department Circular 154 dated October 31, 1969, as amended" in § 113.39(b) and the reference to "Treasury Circular No. 154, dated October 31, 1969, as amended" in the "Power of Attorney and Agreement".

* * * * *

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

1. It is proposed to remove paragraph (d) of § 125.31 and mark the paragraph "Reserved".

2. It is proposed to further amend § 125.31 by adding a new paragraph (g) to read as follows:

§ 125.31 Documents used.

* * * * *

(g) Customs Form 7519—Combined Rewarehouse Entry and Withdrawal for Consumption and Permit.

3. It is proposed to amend paragraph (b) of § 125.33 to read as follows:

§ 125.33 Procedure on receiving merchandise.

* * * * *

(b) *From bonded warehouse.* In case of withdrawals from bonded warehouse, the merchandise shall be released only to the proprietor of the warehouse, who shall acknowledge such release on the appropriate withdrawal or removal document.

* * * * *

PART 132—QUOTAS

It is proposed to amend § 132.15 by revising it to read as follows:

§ 132.15 Withdrawal from warehouse prior to opening of quota.

Merchandise subject to a tariff rate quota entered for warehouse for which a withdrawal for consumption has been made in the manner prescribed in § 141.68(d) of this chapter prior to the opening of the quota period, may not be accorded any quota benefit which may become effective after the time of presentation of such withdrawal, even though the merchandise was not physically removed from the warehouse until after the start of the tariff rate period. For the purposes of applying tariff rate quotas, the date that the warehouse withdrawal is presented shall be treated as the date the merchandise is withdrawn for consumption.

* * * * *

PART 142—ENTRY PROCESS

§ 142.5 [Amended]

It is proposed to revise Bond Rider "R" which is set forth in § 142.5 by removing the comma from between the words "default" and "plus" in the third paragraph of the rider.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§ 144.1 [Amended]

1. It is proposed to remove paragraph (b) of § 144.1 and mark the paragraph "Reserved".

2. It is proposed to amend § 144.22 by revising it to read as follows:

§ 144.22 Endorsement of transfer on withdrawal form.

Transfer of the right to withdraw merchandise entered for warehouse shall be established by an appropriate endorsement on the withdrawal form by the person primarily liable for payment of duties before the transfer is completed, i.e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such person. Endorsement shall be made on whichever of the following withdrawal forms is applicable:

(a) Customs Form 7506 for merchandise to be withdrawn as vessel or aircraft supplies and equipment under § 10.60(b) of this chapter, or other conditionally free merchandise;

(b) Customs Form 7512 for merchandise to be withdrawn for transportation, exportation, or transportation and exportation;

(c) Customs Form 7519 for merchandise for which a combined entry for rewarehouse and withdrawal for consumption is filed; or

(d) Customs Form 7505 for (i) a duty paid warehouse withdrawal for consumption or (ii) withdrawal with no duty payment (diplomatic use).

3. It is proposed to add a new paragraph (c) to § 144.32 and revise the section heading to read as follows:

§ 144.32 Statement of quantity; charges and liens.

* * * * *

(c) *Charges and liens.* Upon receipt for an application to withdraw merchandise the appropriate Customs officer shall terminate whether there are any cartage, storage, labor, or any other charges due the Government in connection with the goods remaining unpaid or whether there is on file any notice of lien filed by a carrier. If there are no charges or liens or all charges and liens have been satisfied, and all other requirements of law or regulations have been met, the proprietors application to withdraw shall be approved.

4. It is proposed to amend paragraph (a) of § 144.34 by adding a sentence at the end of the paragraph to read as follows:

§ 144.34 Transfer to another warehouse.

(a) *At the same port.* * * * The quantities of goods so transferred shall be subject to the joint determination of the warehouse proprietor and the cartman, lighterman, or private bonded carrier, as provided in § 19.6 of this chapter.

* * * * *

5. It is proposed to amend paragraph (e) of § 144.38 to read as follows:

§ 144.38 Withdrawal for consumption.

* * * * *

(e) *Permit for release of merchandise.* When the duties and other charges have been paid, a permit on Customs Form 7505–A shall be issued and delivered to the person making the warehouse withdrawal.

(6) It is proposed to amend Part 144 by adding a new § 144.39 to read as follows:

§ 144.39 Permit to transfer and withdraw merchandise.

If all legal and regulatory requirements are met the appropriate Customs officer shall approve the application to transfer or withdraw merchandise from a bonded warehouse by endorsing the permit copy and returning it to the applicant. The approved permit shall be presented by the withdrawer to the warehouse proprietor as evidence of Customs authorization of the transfer or withdrawal. The approved permit copy shall thereafter be retained in the warehouse entry file of the proprietor. Goods covered by permit may be retained in the bonded warehouse at the option of the proprietor.

7. It is proposed to amend paragraph (g) of § 144.41 by revising it to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(g) *Failure to enter.* If the rewarehouse entry is not file before the expiration of 5 days after its arrival or any authorized extension, it shall be sent to the general order warehouse but shall not be sold or otherwise disposed of as unclaimed until the expiration of the original warehouse entry bond period.

* * * * *

A. R. De Angelus,
Acting Commissioner of Customs.

Approved: February 27, 1982.

John P. Simpson,
Acting Assistant Secretary of the Treasury.

Appendix A.—Initial Regulatory Flexibility Analysis on Proposed Customs Regulations Amendments Relating to Bonded Warehouses

Introduction

The U.S. Customs Service is proposing to amend Parts 10, 18, 19, 24, 113, 125, 132, and 144 of the Customs Regulations, relating to the control of merchandise in Customs bonded warehouses. The proposed amendments, if implemented, would entail a major change in the method of control of merchandise in such warehouse. The principal change would be the elimination of Customs warehouse officer (CWO) positions and warehouse support positions, to be replaced by periodic audits and spot checks of warehouse inventories. Bonded warehouse proprietors would incur certain additional responsibilities in the proper management of their operations.

The proposed amendments could have a number of economic effects on Customs bonded warehouses as well as on the U.S. Treasury and the general public. The Regulatory Flexibility Act requires that a "regulatory flexibility" analysis be prepared on proposed regulations which will have, or are likely to have, a "significant economic impact on a substantial number of small entities." Since many Customs bonded warehouses can be considered to be "small entities," an initial regulatory flexibility analysis has been prepared on the proposed amendments. This analysis, which appears below, will be modified into a "final" regulatory flexibility analysis subsequent to the receipt of public comments which will follow the publication of the proposed amendments in the **Federal Register.**

Statment of the Problem and Rationale for Customs' Actions

The present bonded warehouse control system utilized by the Customs Service, which generally requires the physical presence of a Customs warehouse officer, has been deemed to be an outdated system which is excessively costly. Indeed, a 1974 report of the General Accounting Office stated that: "the U.S. Customs Service employs warehouse offices to maintain physical custody of goods in bonded warehouses. We reviewed the necessity of having warehouse officers in view of the inventory document controls maintained at the customhouse and the periodic physical inventories performed by Customs on goods in bonded warehouses. *The existing procedures for centrally controlling bonded goods at the customhouse, together with the bond protection of the Customs duties and the periodic physical inventory checks, are adequate for protecting Government revenues without having a warehouse officer present." (emphasis added)*

In order to help establish a viable alternative to the present Customs bonded

warehouse control system, the Customs Service carried out a successful pilot test at two selected bonded warehouses between October 1979 and April 1980; the test utilized a reporting system with post audit application, i.e. recordkeeping and other functions were carried out by warehouse proprietors without the presence of a CWO, but with follow-up audit by the Customs Service. This new control method was deemed to be both cost-efficient and mission-effective. Accordingly, the Customs Service initiated a study of alternative control methods to determine whether the present system should indeed be substantially modified. The outcome of the study was a decision by Customs management to pursue the complete modification of the present system into a system that uses post audit techniques rather than the physical presence of Customs warehouse officers. Accordingly, the Customs Service is currently proposing amendments to relevant sections of the Customs Regulations in order to implement the new system.

Objective and Legal Basis of the Proposed Rules

The objective of the proposed modification of the Customs bonded warehouse system is to improve the system's cost-effectiveness, thereby saving money for the U.S consumer and taxpayer, as well as for owners and proprietors of Customs bonded warehouses.

The regulatory project is initiated under the authority of R.S. 251, as amended , secs. 311, 312, 555, 556, 623, 624, 46 Stat. 691, as amended, 692, as amended, 743, as amended, 759, as amended (19 U.S.C. 66, 1311, 1312, 1555, 1556, 1623, 1624).

The Number and Type of Small Entities Affected

A Customs bonded warehouse is a building or other secured area in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of duty. On July 1, 1980, there were 1,414 bonded warehouses in the United States; owing to the perceived slow turnover in the number of bonded warehouses, the Customs Service assumes that the current number of such warehouses continues to be approximately 1,414. The warehouse are divided into eight "classes," according to the various kinds of storage, manipulation, manufacturing, and smelting that take place; the two principal classes of warehouses are (1) the 395 warehouses that are used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof, and (2) the 307 public bonded warehouse used exclusively for the storage of imported merchandise.

In fiscal year 1980, $418.7 million in duties were collected from bonded warehouse withdrawals, representing six percent of total Customs duties collected. It is believed that most of the withdrawals take place in a relatively small number of warehouses.

The proposed amendments to the Customs Regulations affect all Customs bonded warehouses, regardless of size. It is believed that many, if not most, of them warehouses can be considered to be "small entities" under the Regulatory Flexibility Act.

Analysis of the Current Bonded Warehouse Control System, of the Proposed System, and of Alternative Systems Considered by the Customs Service

A number of alternatives are available to the Customs Service to assure the proper control of merchandise in Customs bonded warehouses. Major such alternatives are discussed below. The first alternative to be discussed is the *current* system, followed by a discussion of a possible step-by-step *modification* of the current system. The system which would be implemented by the *proposed amendments* is then discussed and analyzed, followed by a discussion of two other systems considered by the Customs Service. For each applicable alternative, efforts were made to analyze the economic effects on the following parties: proprietors of bonded warehouses; the U.S. Treasury (U.S. taxpayer); the importing community; and the general U.S. economy.

The Current System.—The Customs Service is required by law to supervise bonded warehouses. At present, Customs' supervision is generally carried out via Customs warehouses officers (CWOs) who are physically present at the warehouses. The CWOs supervise the entry or withdrawal of goods from the warehouse and oversee the manipulation, manufacture, or destruction of such goods. Warehouse proprietors are required by law to reimburse the Customs Service 137 percent of the salary and administrative costs of full-time CWOs and 108 percent of the salary and administrative costs of temporarily detailed officers.

In most warehouses, activity is sporadic and CWOs are called upon to perform their tasks on an as-needed basis. The Customs Service must not only provide CWOs and other officials to control the warehouses, but must allocate the time of various Customs personnel (clerks, aides, etc.) to maintain, file, and process the entry documentation at the customhouse.

The present system has undergone some modification in recent years. In 1977, authority was given to Customs' District Directors to not require on-site supervision of withdrawals in certain instances where non-reimbursable Customs inspectors were utilized. In 1979, this authority was extended to instances where full-time CWOs were present. By the end of fiscal year 1980, seven percent of all Servicewide warehouse withdrawals used such a modified system, in which the prior collection of duties and the existence of two bonds are deemed to provide sufficient protection against loss of revenue.

The annual direct cost of the present Customs warehouse system is $10 million, which is divided as follows:

(1) A $6.1 million cost to warehouse proprietors to reimburse Customs for the 390 full-time officers, including CWOs.

(2) A $1.2 million cost to warehouse proprietors to reimburse Customs for part-time officers assigned;

(3) A $1.1. million cost to warehouse proprietors to reimburse Customs for "1911" and "F.E.P.A." (provisions for the payment of overtime);

(4) A $1.6 million cost to the Customs Service to pay for 119 nonreimbursable Customs officers who are engaged in warehouse-related tasks.

It is believed by the Customs Service that the $10 million direct cost is far outweighed by the economic benefits to the U.S. economy of the bonded warehouse program. These benefits accrue to U.S. importers and possibly (via "pass-through" effects)-to the U.S. consumer.

The economic effect of the current system on *warehouse proprietors* is believed to be somewhat adverse. Proprietors currently outlay approximately $8.4 million per year for the services provided by full-time CWOs and by other officers of the Customs Service, and indeed receive certain services. However, the Customs Service believes that the cost currently incurred by proprietors can be substantially diminished, and accordingly has proposed an alternative system.

The economic effect of the current system on the *U.S. Treasury*, i.e. the U.S. taxpayer, consists principally of the annual $1.6 million cost to the Customs Service of paying for nonreimbursable Customs officers engaged in warehouse-related tasks.

The economic effect of the current system on the importing community is generally positive. The importing community certainly benefits from the bonded warehouse program by the ability to defer or reduce duties; however, the importing community also has an indirect cost under the present system: the delays, lost sales, and other costs incurred when Customs is unable to provide prompt and around-the-clock supervision of warehouse transactions. With regard to the general U.S. economy, the bonded warehouse program is of significant benefit to the importing community and to U.S. industry; however, the Customs Service believes that equivalent benefits could be realized at a lower cost to the economy if the current bonded warehouse program is comprehensively changed.

A "Modified" Current System.—The current bonded warehouse control system discussed above could be modified in a step-by-step manner which could ultimately lead to the resolution of many of the problems deemed inherent in the current system. The steps that could be taken would be:

(1) An already-proposed modification which would amend the regulations to make modified supervision mandatory on warehouse proprietors whenever Customs deems it necessary;

(2) Modification of the supervision of entry of goods into warehouses;

(3) Allowing proprietors to perform inventory recordkeeping in lieu of recordkeeping by Customs officers (most proprietors perform this task anyway, thus duplicating what Customs does in the current system);

(4) To modify the supervision of transportation from one warehouse to another to do away with on-site supervision at the warehouse of origin;

(5) Modification of supervision of withdrawals for vessel/aircraft supply; and

(6) Modification of the supervision of withdrawals for exportation.

The above steps would build upon the present system, using call-in permits and

physical inventories as an alternate means of supervision (until modification #5). Each step would require a bond change, and all would probably require the payment of liquidated damages of at least twice the duties and taxes on goods that are missing.

The costs involved in this "modified" approach are difficult to determine owing to the unknown scheduling period for the various steps (the modifications could take five years to be fully implemented). However, after the various modifications are all implemented, about 75 percent of the need and cost of Customs personnel at bonded warehouses will have been eliminated; this would be a significant savings for warehouse proprietors over the current system. Nevertheless, the Customs Service believes that proprietors, the importing community, the U.S. taxpayer, and the general economy would incur even *lower* costs and greater efficiency if the current system is modified not in stages but in one fell swoop which would eliminate the need for CWOs and inspector details; the proposed amendments which would implement such an immediate and comprehensive change are discussed and analyzed below.

The Proposed Amendments' System for Controlling Merchandise in Bonded Warehouses.—The proposed amendments would implement a new system of controlling merchandise in bonded warehouses. This new system, hereinafter referred to as the Regulatory Audit/Inspection approach, would entail a complete revision in the type and scope of Customs' supervision of bonded warehouse operations. Among the proposed changes are:

(1) The elimination of the need for reimbursable warehouse officer positions;

(2) The transfer to bonded warehouse proprietors of certain responsibilities for the proper management of warehouse operations; these responsibilities would include certain recordkeeping requirements, including the preparation of an annual Proprietor's Submission statement to the Customs Service, and the acceptance and agreement of descriptions and quantities of merchandise leaving the warehouse;

(3) Securing of additional bond coverage; and

(4) Imposition of fees to establish or relocate a warehouse facility and an annual fee thereafter.

Under the Proposed Regulatory Audit/Inspection Approach, proprietors would be responsible for all recordkeeping functions currently being performed by CWOs. However, except for the annual Proprietor's Submission which will be required, recordkeeping requirements are not expected to impose additional burdens upon proprietors since proprietors currently keep substantive records of transactions, and would merely continue to do so.

The annual direct cost of the proposed Regulatory Audit/Inspection system is estimated to be $3 million, i.e. significantly less than the cost of the current system. The estimated cost of the proposed system is based upon the following components:

(1) A $1.0 million cost to warehouse proprietors to reimburse the Customs Service for the regulatory audit/inspection services which will be provided;

(2) A $1.8 million cost to warehouse proprietors for the preparation of the required annual Proprietor's Submission,[1] (there may be additional costs of a complete inventory/reconciliation which will be taken when the proposed system is implemented and perhaps for the maintenance of entry (bond) jackets); and

(3) Increased costs of bonding coverage and certain fees for the establishment or relocation of warehouse facilities—these costs and fees are believed to be far less significant than the amounts specified in (1) and (2) above.

The economic effect of the proposed system on *warehouse proprietors* is believed by the Customs Service to be significantly preferable to the current system or a step-by-step modification of the current system. Under the proposed system, the total cost to proprietors will be under $3 million per year, compared to $8.4 million per year under the current system. The diminished cost of approximately $5.4 million per year, when averaged among the 1,414 bonded warehouses, results in savings of nearly $4,000 per warhouse. These savings can be realized without any significant enforcement or safety effects on the warehouses.

The economic effect of the proposed system on the *U.S. Treasury* (Customs Service), i.e., the U.S. taxpayer, is also beneficial: the Customs Service would save the $1.6 million in warehouse control costs which are being incurred to support 119 non-reimbursable warehouse positions, although there would be an annual $50,000 cost for the two man-years which will be involved in collecting, processing, and analyzing information on the Proprietor's Submission.

The economic effect of the proposed system on the *importing community* and the general U.S. economy is also positive. The proposed system would result in lower cost and greater efficiency, thus realizing savings for the importing community and hopefully (via "pass-through" effects) for the U.S. consumer. There may also be some undetermined effects on surety companies.

The Roving Team Approach.—Another alternative system considered by the Customs Service for the control of merchandise in bonded warehouses is the "roving team" system. Under this system, the position and functions of CWOs would be eliminated, to be replaced by the establishment of roving teams which would make unannounced monthly inspections and carry out inventories of bonded warehouse merchandise. The "services" provided by the roving teams would reimbursable to the Customs Service.

The roving team approach will not result in significant savings for warehouse proprietors on the importing community, since the costs of the roving teams would be borne by the proprietors. Moreover, the $1.6 million cost to the Customs Service for nonreimbursable postions would remain. Accordingly, the roving team approach is not believed to be a viable, cost-effective approach by the Customs Service.

Contracting Out to a Third Party—An opinion by the Customs Service's Office of the Chief Counsel indicates that this alternative (i.e., to contract with an independent third party to provide physical security thus replacing CWOs) may be illegal. Accordingly, the Customs Service has not estimated the costs and benefits of this alternative.

Conclusion

The proposed Regulatory Audit/Inspection Approach is believed to be the most cost-efficient and mission-effective of the alternatives which have been examined. For this reason, the Customs Service has prepared proposed amendments which would implement this new approach. Public comments and suggestions are welcome in order to best formulate the new approach; especially welcome are suggestions from operators, owners, and proprietors of small bonded warehouses, in order that (if necessary) the proposed amendments can be modified or "tiered" to best fit the circumstances surrounding smaller bonded warehouses.

Appendix B.—Proprietor's Warehouse Bond for Storage and Manipulation of Merchandise, Classes 2, 3, 4, 5, and 8

No. ————

Know all men by these presents that*————

————————————————————

of ————, as principal, and *————, of ————, and ————, of ————, as sureties, are held and firmly bound into the United States of America in the sum of ———— dollars ($————), for the payment of which we bind ourselves, our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ——— day of ————, 19——.

Whereas, under the warehouse laws of the United States and the regulations of the U.S. Customs Service made in pursuance thereof, the above-bounden principal has made application to bond the warehouse, or premises located in Customs District ————, at the place and for the purposes specifed below, namely:

Location (number, street, city, and State)	Class (specify whether class 2, 3, 4, 5, or 8)	Purpose

Now, therefore, the condition of this obligation is such that—

1. *Agreement to secure against loss.* If the principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, obligors

[1] The Proprietor's Submission will be prepared by warehouse proprietors and submitted to the Customs Service after the end of each fiscal year. Each submission will reflect all bonded merchandise entering, released, and manipulated in the bonded warehouse, i.e. a complete reconciliation of beginning and ending inventory as well as all receipts/withdrawals and documentation of breakage by entry number. The Customs Service has estimated that preparation of the Proprietor's Submissions will require a total of 528,836 working hours by the bonded warehouse community.

agree to reimburse the United States for any loss or expense connected with or arising from the deposit, storage, manipulation, or removal of merchandise in the facility, including an expense caused by discontinuance or suspension of the bonded status of the facility.

2. *Agreement with respect to the deposit of merchandise.* If authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal acknowledges that Customs may conduct unannounced inventory checks of the facility and agrees to:

(a) Receive only merchandise covered by an appropriate Customs permit;

(b) Mark each package with the correct general order number, warehouse entry number, or seizure number and the corresponding date of the order, entry, or seizure delivery ticket;

(c) Store separately any package that has an exception for loss or damage or that has a discrepancy between its contents, its marks and numbers or the marks and numbers on the permit; and

(d) Store together in one place within the facility all merchandise in a general order shipment, in a warehouse entry, or in a seizure unless Customs permits commingled storage, or the merchandise is covered by paragraph (c).

If principal defaults, obligors agree to pay liquidated damages of $100 for each default.

3. *Agreement to keep records.* If authorized to operate a warehouse under 19 U.S.C. 1555, principal agrees to:

(a) Record the shipping marks and numbers of all packages, (or the weigher's or gauger's numbers of weighable or gaugeable packages that lack shipping marks and numbers) in accordance with Customs Regulations and file a copy of the record pertaining to a specific warehouse entry, general order shipment, or a seizure in a separate entry folder;

(b) File in that same folder, and record in accordance with Customs Regulations, within 2 business days after the event occurs, all receipts, damages/shortage reports, manipulation requests, specific removals, and blanket removals and the partial release permit copy for each removal made under the blanket authority, referred to in 19 CFR 19.6;

(c) Maintain that folder in the facility and allow inspection of it by Customs.

If principal defaults, obligors agree to pay liquidated damages of $100 for each item that is incorrectly recorded or filed, or not recorded or filed, or each instance of a refusal to allow Customs inspection of a folder covering a warehouse entry, general order shipment, or seizure.

4. *Agreement to secure facility.* If principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal agrees to:

(a) Secure the facility by meeting each of the general standards and recommended specifications that are listed in T.D. 72-56; so long as they do not conflict with the provisions of paragraph (b);

(b) Meet every applicable Federal, state, and local requirement (such as fire codes) for the safe and sanitary storage of merchandise in the facility and remove all trash and waste from the bonded area;

(c) Place merchandise in the facility so that no door, entrance, or exit is blocked;

(d) Establish and maintain aisles in the facility so that Customs has ready access to all merchandise at all reasonable hours;

(e) Hold the facility open for Customs inspection at all reasonable hours; and

(f) Secure inlets and outlets of bonded tanks with locks or Customs approved in-bond seals.

If principal defaults, obligors agree to pay liquidated damages of $100 for each failure to comply.

5. *Agreement to notify and file documents with Customs.* If principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal agrees to:

(a) Before any removal, insure that Customs has given either specific or blanket permission for the removal;

(b) Within 2 business days after a final removal of merchandise covered by a warehouse entry, general order shipment, or seizure, file with Customs the complete folder on that merchandise, together with a complete accounting of all merchandise in the entry, shipment, or seizure;

(c) Before any manipulation, notify Customs of the intended manipulation and obtain Customs specific or blanket approval;

(d) Within 45 days from the end of the principal's business year (fiscal or calendar), file the Warehouse Proprietor's Submission in the form prescribed by T.D. – which includes a complete accounting of the beginning and ending inventories of merchandise in each facility during the year and of all receipts, manipulations, and removals during the year;

(e) Notify Customs if any merchandise in an entry or in a general order shipment is not withdrawn during the applicable 5-year warehousing period or the applicable 1-year general order period, on expiration of that period, and file with Customs the folder on that entry or shipment when requested by Customs;

(f) Notify Customs in writing by close of business of the next business day on discovery of any extraordinary (one percent or more of the value of merchandise in an entry) overage, or shortage of, or damage to any merchandise in the facility; and

(g) Notify Customs in writing by close of business of the next business day on discovery of any discrepancy (i.e. overage, shortage, damage, etc.) in merchandise in a general order shipment or seizure.

If principal defaults, obligors agree to pay liquidated damages of $100 for each failure to comply. In addition, if any merchandise is removed without Customs approval, obligors agree to pay liquidated damages equal to five times the duty and tax due, as calculated by Customs, on any dutiable or taxable merchandise and liquidated damages equal to the value of any nondutiable merchandise.

6. *Agreement on sealing conveyances.* If principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal agrees to:

(1) Affix and break Customs seals in accordance with the Customs Regulations or an order or directive from Customs;

(2) Report to Customs any seal that is found to be broken, missing, or improperly affixed; and

(3) Hold the vehicle, container, and contents intact for Customs.

If principal defaults, obligors agree to pay liquidated damages of $100 for each failure to comply with any of the above requirements.

Then this obligation to be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Principal) _____
[Seal]
(Name) _____
(Address) _____
(Address) _____
(Surety) _____
[Seal]
(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Surety) _____
[Seal]

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Certificate as to Corporate Principal

I, _____, certify that I am the _____ secretary of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for in behalf of said corporation by authority of its governing body.

_____ [corporate seal]

Note.—To be used when no power of attorney has been filed with the district director of Customs.

Appendix C.—Proprietor's Manufacturing Warehouse Bond, Class 6

No. _____

Know all men by these presents that*

_____

_____

of _____, as principal, and* _____, of _____, and _____, of _____, as sureties, are held and firmly bound into the United States of America in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19 ——.

Whereas, under the warehouse laws of the United States and the regulations of the U.S. Customs Service made in pursuance thereof, the above-bounden principal has made application to bond the warehouse, or premises located in Customs District No. _____, at the place and for the purpose of manufacturing certain articles specified below, namely:

*May be executed by the secretary, assistant secretary, or other officer of the corporation.

Location (number, street, city, and State)	For the manufacture of (specify articles in detail)

Now therefore, the condition of this obligation is such that—

1. *Agreement to comply with statute and regulations.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Use the warehouse exclusively for the purpose for which it is bonded;

(b) Properly enter and pay duty on any imported implement, machinery, or apparatus that is for the construction of the warehouse or for the prosecution of its business;

(c) Insure that all operations conform strictly to any manufacturing formula filed with Customs;

(d) Maintain within the warehouse a separate storage area, secured in accordance with the standards and specifications in T.D. 72–56, for storage and all imported merchandise, domestic spirits, and other merchandise subject to an Internal Revenue tax transferred to the warehouse for manufacturing; and

(e) Maintain within the warehouse a separate area, secured in accordance with the standards and specifications in T.D. 72–56, for the storage of products manufactured in the warehouse.

If principal defaults, obligors agree to pay liquidated damages of $1,000 for each default.

2. *Agreement to secure against loss.* If principal is authorized to operate a bonded manufacturing warehouse, obligors agree to reimburse the United States for any loss or expense connected with the deposit, storage, manufacturing or removal of merchandise in the warehouse, including duty and tax due and an expense due to discontinuance or suspension of the bonded status of the facility.

3. *Agreement with respect to deposit of merchandise.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Receive only merchandise covered by an appropriate Customs permit;

(b) Store merchandise received in the manner required by statute or regulation;

(c) Transfer merchandise from a storage area in the warehouse to a manufacturing area in the warehouse in the manner required by regulation;

(d) Mark each package with the correct warehouse entry number and date until manufacturing takes place; and after manufacture, mark each package of the finished product with the correct warehouse entry and date.

If principal defaults, obligors agree to pay liquidated damages which equal $100 and the amount of duty on any merchandise involved in the default.

4. *Agreement to keep records.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Record all deposits of merchandise, for manufacturing or prosecution of warehouse business in accordance with Customs Regulations;

(b) Record all transfers from any storage area to a manufacturing area in the facility in accordance with Customs Regulations;

(c) Record all transfers from any manufacturing area to finished product storage area within the facility in accordance with Customs Regulations;

(d) Record all manufacturing operations performed within the warehouse with sufficient detail to enable a Customs officer to determine whether there has been compliance with any manufacturing formula filed with Customs and to enable a Customs officer to audit use and disposition of the merchandise;

(e) Record all withdrawals and removals from the facility in accordance with Customs Regulations;

(f) File in a separate folder pertaining to each entry into the facility each document (receipt, permit, transfer permit, manufacturing abstract, and removal permit) on that entry within 2 business days after the event covered by the document occurs;

(g) Maintain each entry folder in the facility and allow inspection of it by Customs at all reasonable hours; and

(h) Take an annual physical inventory as well as file a warehouse proprietors submission.

If principal defaults, obligors agree to pay liquidated damages of $100 for each item that is incorrectly recorded, incorrectly filed, or not recorded or filed, or for each failure to inventory, or each instance of a refusal to allow Customs inspection of a folder covering a warehouse entry.

5. *Agreement on removals.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Not remove or suffer the removal of any merchandise except under a Customs permit;

(b) Within 2 business days after final removal of any merchandise in a warehouse entry, file the complete folder on that entry with Customs;

(c) At the end of each month, file a detailed statement of all imported merchandise and merchandise on which Internal Revenue tax has not been paid used by the proprietor in the manufacture of articles;

(d) If any imported merchandise in an entry is not withdrawn within 5 years from the date of importation notify Customs of that fact on expiration of that period and simultaneously file with Customs the folder on that entry;

(e) Notify Customs in writing by close of business of the next business day on discovery of any extraordinary (one percent or more of the value of merchandise in an entry) overage or shortage of or damage to any merchandise in the facility; and

(f) Properly mark each package of cigars that is to be withdrawn for consumption.

If principal defaults, obligors agree to pay liquidated damges of $100 for each failure to comply. In addition, if any merchandise is removed without Customs approval, or if it consists of improperly marked packages of cigars, obligors agree to pay liquidated damages equal to five times the duty and tax due on any dutiable and/or taxable merchandise involved in the default and liquidated damages equal to the value of any nondutiable merchandise involved in the default.

6. *Agreement to furnish proof of exportation.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to furnish any consular invoices, declarations of owners or consignees, certificates of origin, certificates of exportation or other document that may be demanded by Customs to show compliance with the law and regulations within 6 months from the date of demand.

If principal defaults, obligors agree to pay liquidated damages equal to the duty or tax on any merchandise involved in the default.

Then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) ———————————

(Address) ———————————

(Name) ———————————

(Address) ———————————

(Principal) ———————————

[SEAL]

(Name) ———————————

(Address) ———————————

(Name) ———————————

(Address) ———————————

(Surety) ———————————

[SEAL]

(Name) ———————————

(Address) ———————————

(Name) ———————————

(Address) ———————————

(Surety) ———————————

[SEAL]

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Certificate as to Corporate Principal

I, ————, certify that I am the ———— secretary of the corporation named as principal in the within bond; that ————, who signed the said bond on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for in behalf of said corporation by authority of its governing body.

————[corporate seal]

Note.—To be used when no power of attorney has been filed with the district director of Customs.

Appendix D.—General Bond for Smelting and Refining Warehouses

No. ————

Know all men by these presents, that* ————, of ————, as principal, and ———— of ————, and ————, of ———— as sureties, are held and firmly bound unto the United States of America in the sum of ———— dollars ($————), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ———— day of ————, 19——.

Whereas, the said ———— have (has) been authorized to smelt or refine, or both, imported metal-bearing materials in bond

*May be executed by the secretary, assistant secretary, or other officer of the corporation.

without the payment of duty thereon, as provided in section 312, Tariff Act of 1930, as amended, in the premises situated at ————, and more particularly described by metes and bounds in exhibits ————, attached hereto and made a part hereof, which premises are owned, controlled, and operated by ————; and

Whereas, metal-bearing materials will be entered for warehouse to be smelted or refined, or both; and

Whereas, metal-bearing materials (as well as merchandise generally) will be entered for consumption or for warehouse, and in warehouses of classes 2, 3, or 4 at any of the following ports of entry ————

————; and ————

Whereas, certain merchandise, in whole or in part, may be entered under the provisions of section 484, Tariff Act of 1930, as amended, and duties deposited under the provisions of section 505(a), Tariff Act of 1930, as amended; and

Whereas, Pursuant to the regulations promulgated under section 448(b), Tariff Act of 1930, the said principal may find that immediate delivery of the merchandise will be necessary and desires the release of such merchandise prior to the making of formal entry therefor and payment of duties thereon; and

Whereas, imported merchandise generally, and dutiable metal-bearing materials (including products partly smelted or refined) will, to the extent permitted by law and regulations and in accordance therewith, be transferred from one warehouse to another, or be withdrawn for consumption, for transportation and rewarehousing, for exportation, for transportation and exportation, or for any other purpose provided for by law and regulations, as shown in the required documents.

Whereas, the above-bounden principal may request that the merchandise be examined elsewhere than at the public store, wharf, or other place in charge of a Customs officer;

Now, therefore, the condition of this obligation is such, that—

1. *Agreement to pay costs and expenses.* If principal is allowed to operate a bonded smelting and refining warehouse and enters any metal-bearing material without payment of duty, obligors agree to pay any costs or expense associated with Customs supervision of the warehouse and indemnify Customs for any loss associated with the entry, deposit, storage, smelting, refining, withdrawal, transfer, or removal of any metal-bearing material or any product of a metal-bearing material in or from the warehouse.

2. *Agreement on recordkeeping.* If principal operates a bonded smelting and refining warehouse, principal agrees to:

(a) Maintain complete smelting and refining records in accordance with Customs Regulations showing the receipt and disposition of each shipment of materials (hereinafter includes metal-bearing materials, products of metal-bearing materials, and dutiable metal) received (actual and theoretical), into the warehouse;

(b) File with Customs, at end of the principal's business year, a complete statement of the annual smelting and refining operations done which shows:

(i) The quantity of metal-bearing materials in the warehouse and their dutiable metal content at the beginning of the year;

(ii) The quantity of metal-bearing materials received during the year and their dutiable metal content;

(iii) The quantity of metal-bearing materials in the warehouse at the end of the year and their dutiable metal content;

(iv) The quantity of metal-bearing materials worked during the year which shall include the quantity of foreign material and the quantity of domestic material put in process;

(v) The quantity and kind of metal and intermediate products produced;

(vi) Disposition of all materials transferred, withdrawn, or removed (actually or theoretically) from the warehouse during the year;

(c) Maintain the report of sampling, weighing, and assaying on each shipment of metal-bearing materials received into the warehouse for five years from the date of liquidation;

(d) Maintain for five years from date of liquidation any report of sampling, weighing, and assaying on any smelting and unrefined product or bullion obtained from the smelting of imported material that is to be transferred to another warehouse;

(e) Maintain all Customs permits (blanket or specific) to enter, transfer, withdraw, or remove (actual or theoretical) any materials into or from the warehouse;

(f) Complete and file with Customs within 30 days after exportation of metal under the memorandum withdrawal procedure set forth in 19 U.S.C. 1312(b)(1) and the Customs Regulations all records on the exportation; and

(g) File with Customs a complete inventory of all metals in the warehouse as required by the Customs Regulations.

If principal defaults, obligors agree to pay liquidated damages of $100 for each default.

3. *Agreement on entry and withdrawals.* If principal operates a bonded smelting and refining warehouse, principal agrees to:

(a) Receive actual or theoretical deposit of any metal-bearing material, a product of a metal-bearing material, or any metal, which may be subject to duty, only after receipt of a Customs permit;

(b) Keep separate any metal-bearing material which may be subject to duty from all other materials until that material has been sampled, weighed, and assayed; and

(c) Obtain Customs permit to transfer, withdraw, or remove (physically or theoretically) any material before transfer, withdrawal, or removal is begun.

If principal defaults, obligors agree to pay liquidated damages equal to the amount of duty on all materials involved in the default.

4. *Agreement to pay duty.* If principal operates a bonded smelting and refining warehouse, obligors agree to pay on demand all duty determined to be due on liquidation or by regulation with respect to any material withdrawn for consumption and any dutiable metal found to be missing from the warehouse without a proper withdrawal or removal.

5. *Agreement to secure facility.* If principal operates a bonded smelting and refining warehouse, principal agrees to:

(a) Secure the warehouse by meeting each of the general standards and recommended specifications that are listed in T.D. 72-56; so long as they do not conflict with those provisions of 4(b);

(b) Meet every applicable Federal, State, and local requirement (such as fire codes) for the safe, sanitary, and secure storage of meterials in the warehouse;

(c) Place materials in the warehouse so that no door, entrance, or exit is blocked;

(d) Establish and maintain the warehouse so that Customs has ready access to all materials at all reasonable hours; and

(e) Hold the warehouse and all records open for Customs inspection at all reasonable hours.

If principal defaults, obligors agree to pay liquidated damages or $100 for each failure to comply.

Then this obligation to be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) ————
(Address) ————
(Name) ————
(Address) ————
(Principal) ————
[Seal]
(Name) ————
(Address) ————
(Name) ————
(Address) ————
(Surety) ————
[Seal]
(Name) ————
(Address) ————
(Name) ————
(Address) ————
(Surety) ————
[Seal]

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Certificate as to Corporate Principal

I, ————, certify that I am the ———— secretary of the corporation named as principal in the within bond; that ————, who signed the said bond on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for in behalf of said corporation by authority of its governing body.

———— [corporate seal]

Note.—To be used when no power of attorney has been filed with the district director of Customs.

Appendix E

U.S. Customs Service, Bonded Warehouse Proprietor, Submission Instructions

The preparation and filing of this submission, with the Regional Director, Regulatory Audit Division, U.S. Customs Service, is to occur within 45 days

* May be executed by the secretary, assistant secretary, or other officer of the corporation.

subsequent to the company's year end. Should you have qestions regarding this submission, contact the Regional Director, Regulatory Audit Division, at————.

A warehouse proprietory is required to file a submission for each warehouse facility. The definition of a warehouse facility is as follows: A warehouse facility will be determined by street address, location, or both. For example, if a proprietor has two warehouses located at one street address and three warehouses located at three different street addresses, the two would be considered as one warehouse facility and the thru warehouses would each be considered as separate facilities.

The following instructions are to assist you in preparing the "Bonded Warehouse Proprietors Submission."

On the front page of each warehouse submission record the information requested as shown below.

Name of warehouse facility
Address
Telephone number
IRS number
Contact person

The Warehouse Proprietor Submission form follows on page three. The form is divided into eight sections labeled A through H.

In:

Column (A). Record the number and date of all entries which were included in:

1. The beginning inventory of the year just ended.
2. The ending inventory, based on the physical inventory just taken.
3. Also, include all entries which were opened and closed during the year which do not appear in either the beginning or ending inventory listings.

Column (B). Provide an adequate description of all merchandise covered by those entries listed in column (A). The description should be concise but specific enough to identify the commodity, i.e., "scotch" rather then "liquor." For entries listing multuple commodities, the term "various" may be used, however this will not be acceptable for all situations.

Column (C). Record in Column (C) the quantity stated on the entry for each commodity described in column (B).

Column (D). Record any quantity actually received that is over/short that recorded in column (C).

Column (E) and (F). Record the quantities relating to all breakage occurring upon arrival and/or in the warehouse pertaining to each commodity listed in Column (B).

Column (G). Record the quantity of merchandise that is on hand at the end of the business year.

Column (H). Record the date on which the entry was closed and forwarded to Customs.

An authorized representative of the company must sign the document where indicated prior to issuing it to Customs.

APPENDIX E.—WAREHOUSE PROPRIETOR SUBMISSION

Entry and date	Description of merchandise	Quality		Breakage		Ending inventory quantity	Date entry closed and forwarded to customs
		Per entry	Over/ short on receipt	Upon receipt quantity	In ware-house quantity		
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)

Certification: I hereby certify that the information contained in this submission completely and accurately represents all entry transactions as well as beginning and ending inventories of (Name) warehouse facility for the year ending ————.

(Signed)
(Title)
(Company)
(Date)

[FR Doc. 82-5883 Filed 3-3-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 628

[FHWA Docket No. 77-16, Notice 3]

Skid Resistant Pavement Surface Design

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The FHWA is withdrawing the proposed rulemaking on skid resistant pavement surface design, issued on April 2, 1980, and is closing Docket No. 77-16. Based on the negative comments received and upon a review of current procedures and research findings, it has been determined that this proposal is unnecessary.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Leon M. Noel, Highway Design Division, Office of Engineering, (202) 426-0327; or Lee J. Burstyn, Office of the Chief Counsel, (202) 426-0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On November 10, 1977, the FHWA published an advanced notice of proposed rulemaking (42 FR 58542) to solicit comments on the effectiveness of its current policy relating to skid accident reduction on Federal-aid highways. Comments were received and reviewed. Based on these comments and FHWA policy, a notice of proposed rulemaking was issued on April 2, 1980 and published on April 10, 1980 (45 FR 24505).

The proposed rule was intended to provide for a wide application of the relevant portion of Highway Safety Program Standard Number 12, which was issued by FHWA and set out in 23 CFR 1204. Standard 12 and other traffic safety standards, which are to be followed by the States, were issued by FHWA and the National Highway Traffic Safety Administration, pursuant to the implementation of section 402 of Title 23, United States Code. Standard 12 provides that each State shall develop and implement, as a continuing basis, a highway safety improvement program which reduces the number and severity of highway accidents.

Standard 12 includes the use of standards for pavement design and construction with specific provisions for high skid resistant qualities. The standard prescribes that there be a program for resurfacing to correct locations on streets or highways with low skid resistance and high or potentially high accident rates susceptible to reduction by providing improved surfaces.

In addition, 23 CFR Part 626 sets forth a pavement design policy for Federal-aid projects. Section 626.5(c) specifically provides: "Each Federal-aid project involving construction of the pavement surface, * * * shall have a skid resistant surface.

The FHWA encourages the implementation of Standard 12 and adherence to Part 626 by the State highway agencies. However, the proposed pavement design rule would have required not only the use of skid resistant surfaces, but would have established a policy and guidelines for the design of surfaces. Various procedures and factors would have been established for a State highway agency to consider in the design of its skid resistant pavement surfaces.

A review of the proposed rule and the comments received indicates that the existing provisions of Standard 12 and Part 626 are adequate, and, that each State can determine what factors should be considered in providing for skid resistant surfaces in that State. Therefore, the FHWA has determined that this proposed rule is not warranted.

Thirty-nine replies were received in response to the proposed rule; 16 from

State highway agencies, 8 from aggregate and paving associations, 5 from aggregate producers and paving contractors, 3 from cities, 2 from the Insurance Institute for Highway Safety, 2 from private citizens, and 1 each from the National Transportation Safety Board, the National Association of Counties Research, Inc., and a consulting engineering company.

Nine of the fifteen States which responded (two received from one State) were opposed to the proposed rule. These States indicated that the rule was not necessary and was inappropriate since the States already had adequate programs to insure that skid resistance is maintained. These States felt that existing FHWA policy was adequate. The other six States offered comments on the proposed rule, but did not specifically comment on its necessity.

The aggregate and paving associations suggested that the use of skid resistant pavements should not be based solely on skid numbers, but should also be based on running speed and traffic and accident data. They were also concerned that the proposed rule would result in specific criteria, other than cost factors.

The aggregate producers and paving contractors were opposed to the proposed rule because it would eliminate the use of locally available aggregate in some areas. It was their contention that if a required aggregate could not be reasonably obtained in an area it would dramatically increase the cost of pavements.

The three cities suggested that local agencies should be allowed to use their own criteria instead of a Federal standard, unless it is shown that their criteria are inadequate.

Two other responders suggested that FHWA establish standards of skid numbers for minimum performance. One also suggested that FHWA establish a skid resistance program based on wet-pavement accident histories as well as minimum skid numbers. Three States were concerned that the proposed rule might result in the establishment of minimum skid numbers. These States did not favor minimum skid numbers because of the variability in measuring skid resistance and the lack of correlation between skid resistance of road pavements and automobile accidents. The States commented that the use of skid resistant surfaces should be based on such factors as accidents, traffic volumes, availability of materials and attributable costs in relation to expected benefits.

Thus, the majority of the comments demonstrate that the existing policy on the use of skid resistant surfaces is adequate and should continue. The FHWA believes that State and local officials have the expertise and information to best determine what type of skid resistant surfaces should be used. The FHWA has aproved for use the "Guidelines For Skid Resistant Pavement Design," AASHTO, 1976. This publication can be used for evaluating the skid resistance of pavement surfaces and it has been incorporated by reference at 23 CFR 625.3(a).

Therefore, the FHWA is hereby withdrawing its proposed rule on skid resistant pavement surface design and closing Docket No. 77–16. Existing Federal-aid highway procedures contained in Title 23, United States Code, and Title 23, Code of Federal Regulations, will apply to the use of skid resistant pavement surfaces on Federal-aid highway projects. These Federal-aid procedures include applicable items, such as the aforementioned design standards and pavement design, in addition to construction, maintenance, and contract requirements, and requirements applicable to each Federal-aid system including Federal share payable.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Withdrawal of this notice of proposed rulemaking will not have a significant economic effect inasmuch as no costs will be associated with this action. Accordingly, a full regulatory evaluation is not required. Under the criteria of the Regulatory Flexibility Act, it is certified that his action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the notice of proposed rulemaking published in the **Federal Register** on April 10, 1980 (45 FR 24505), and circulated as notice 77–16, notice 2, is hereby withdrawn.

This withdrawal is issued under the authority of 23 U.S.C. 109, 315, and 402, and the delegation of authority in 49 CFR 1.48(b).

(Catalog of Federal Domestic Assistance Program Number 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 19, 1982.

R. D. Morgan,

Associate Administrator for Engineering and Traffic Operations, Federal Highway Administration.

[FR Doc. 82–5575 Filed 3–2–82; 8:45 am]

BILLING CODE 4910–22–M

Coast Guard

33 CFR Part 159

[CGD 81–097]

Marine Sanitation Devices

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for program review.

SUMMARY: In the **Federal Register** of December 24, 1981 (46 FR 62479) the Coast Guard and the Environmental Protection Agency (EPA) jointly invited public comment on a regulatory program review currently being conducted by both agencies. A review of the costs and benefits of the current Marine Sanitation Device (MSD) program and possible alternative programs was initiated by both agencies because of the many complaints by the public regarding the costs and impracticability of the existing program. The original closing date for public comments was February 22, 1982. The public comment period is being unilaterally extended by the Coast Guard to April 19, 1982 in response to requests from several organizations and individuals who feel that the original period of time for public comment was not adequate. Also, the extension is considered necessary in light of an inadvertent failure to mail out, as intended, copies of the original notice from an extensive public mailing list. The EPA is not extending this period because it is conducting a legislative review and preparing proposed amendments for the Clean Water Act due to the imminent expiration of that Act. The unilateral extension will allow the Coast Guard to complete its regulatory review of the MSD regulations as tasked by the Department of Transportation under the requirements of E.O. 12291.

DATES: As discussed above, the public comment period has been extended to April 19, 1982.

ADDRESS: Written comments may be mailed or delivered to and will be available for inspection and copying at the Marine Safety Council (G–CMC), Room 4402, U.S. Coast Guard

Headquarters, 2100 Second St. S.W., Washington, DC 20593, between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, except holidays. An EPA report on the existing MSD program recently prepared for the Senate Appropriations Committee may be inspected and copied at this address during the same working hours. Requests for copies of this report should be directed to the above address. The cost for each copy is $4.30.

FOR FURTHER INFORMATION CONTACT: Ensign J. E. Arner, U.S. Coast Guard (202) 755–7917. Normal working hours are 6:00 a.m. to 4:30 p.m., Monday through Thursday, except holidays.

Dated: February 25, 1982.

Signed:

W. E. Caldwell,

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

[FR Doc. 82–5938 Filed 3–3–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 81 and 83

[Docket No. 20074; FCC 82–71]

Establish Minimum Performance Requirements for Radio Receivers Employed at Coast Stations or Used Aboard Ships

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action will terminate the proceeding initiated in 1974 to include in Parts 81 and 83 minimum performance requirements for very high frequency (VHF) receivers employed at coast stations or used aboard ships and operating on frequencies in a certain MHz band in the maritime services. This action is part of the Commission's deregulation effort. The intended effect is to minimize the regulatory burden placed on the public.

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

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Proceeding Terminated

Adopted: February 11, 1982.

Released: February 23, 1982.

In the matter of amendment of Parts 2, 15, 81 and 83 of the Commission's rules to establish minimum performance requirements for radio receivers employed at coast stations or used aboard ships and operating on frequencies in the band 156–162 MHz in the maritime services.

1. A Notice of Proposed Rulemaking in the above-captioned matter was released on June 13, 1974, and was published in the **Federal Register** on June 19, 1974 (39 FR 21166).

2. The Notice of Proposed Rulemaking would have established minimum performance standards for marine VHF receivers. Proposing rules to regulate receiver standards was a departure from Commission and International Telecommunication Union policies of generally regulating only transmitters. Marine VHF receivers were considered for regulation because of the international use of the service for all types of vessels in close proximity to one another. The majority of the commenters supported the proposed rules.

3. However, we see a number of adverse affects from receiver regulation. First, it would likely increase the cost of the equipment, and that could result in fewer receivers being purchased and used. Safety is enhanced by more, not less, receivers in use. Second, receiver type acceptance would require Commission staff and expenditures when both are being reduced. We conclude that our existing regulatory efforts, which are being constricted by budget reductions, merit a higher priority than receiver regulations at this time. Finally, we note that we are attempting to reduce regulation wherever possible in accord with the public interest. The record in this proceeding does not persuade us that receiver regulation is required, and we decline to expand our regulatory activities significantly by regulating these receivers. The absence of mandatory receiver standards would not preclude adoption of voluntary standards by the manufacturers, which would benefit users without the detriments specified above.

4. The Commission concludes, therefore, that adoption of the proposed receiver regulations is not in the public interest at this time and that this proceeding should be terminated.

5. Accordingly, it is ordered, That the proceeding in Docket No. 20074 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–5940 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 82–8; RM–3950]

TV Broadcast Station in Seattle and Tacoma, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to reassign UHF–TV Channels *28 and *62 between Seattle and Tacoma, Washington, at the request of the Tacoma School District No. 10, licensee of Station KTPS (Channel *62), Tacoma, Washington. The proposal will help effectuate a settlement agreement between previously competing applicants for Channel 20 in Tacoma.

DATE: Comments must be filed on or before April 15, 1982, and reply comments must be filed on or before April 30, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 11, 1982.

Released: January 20, 1982.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Seattle and Tacoma, Washington), BC Docket No. 82–8, RM–3950.

1. The Commission has before it the Petition for Rule Making filed by the Tacoma School District No. 10, seeking the exchange of UHF TV Channels *28 and *62 now allocated to Seattle, Washington, and Tacoma, Washington, respectively.[1] Comments were filed by the Association of Maximum Service Telecasters, Inc.

2. Seattle (population 493,846),[2] the seat of King County (population 1,269,749) is located in northwest Washington. Tacoma (population 158,501), the seat of Pierce County (population 485,643) is located approximately 40 kilometers (25 miles) south of Seattle.

3. Seattle is served by three commercial TV stations KOMO–TV (Channel 4); KING–TV (Channel 5); KIRO–TV (Channel 7) and one noncommercial educational station, KCTS–TV (Channel *9). One additional commercial channel (Channel 22) has

[1] Public Notice of the petition was given on August 5, 1981, Report No. 1301.

[2] Population data are taken from the 1980 U.S. Census.

three applications pending. One other noncommercial educational channel (Channel *28) is unoccupied and unapplied for.

4. Tacoma is served by two commercial TV stations (KSTW (Channel 11) and KCPQ–TV (Channel 13)). A third commercial TV station was recently approved for Channel 20. Also, Tacoma has two noncommercial channels (Channel *56 unoccupied and unapplied for and Channel *62 Station KTPS, licensed to Tacoma School District No. 10, the petitioner herein).

5. Petitioner relates that it was one of three applicants for Channel 20 in Tacoma. It proposed to convert its noncommercial educational operation from Channel *62 to Channel 20. Two other applicants had proposed commercial use of the station. When it became clear to petitioner that the three-way contest for Channel 20 would become costly and time consuming, a settlement agreement was reached whereby petitioner would instead seek the reassignment of Channel *28 from Seattle to Tacoma so it could modify its operation on Channel *62 to Channel *28 and allow Channel *62 to be moved to Seattle. A three-way settlement was reached in which Family Broadcasting, the successful applicant for Channel 20 at Tacoma, agreed to specify a site for Channel 20 which would meet the mileage separation requirements to petitioner's present site on Channel *62. The other commercial applicant, Tacoma Community TV, Inc., agreed to a dismissal of its application. As a result, both Seattle and Tacoma would retain two noncommercial educational assignments and a first commercial UHF station could be authorized for Tacoma.

6. Petitioner offers several public interest reasons for having a lower UHF noncommercial educational TV station in Tacoma. Petitioner argues that by making the lower UHF channel available to Tacoma, the Commission would thereby effectuate the settlement agreement reached between the applicant for Channel 20 so as to avoid a lengthy and costly hearing. In turn, service to the public from a station on Channel 20 could commence much earlier. Petitioner notes that in most communities with only two VHF channels (commercial) and two UHF channels (noncommercial), at least one of the UHF channels is in the lower portion of the band. This appears to have been done, according to petitioner, as a matter of policy in the original Table (1952) and later in the Fourth and Fifth Reports (1965–1966). Also, petitioner asserts that, in the southwestern portion of Washington, the terrain and the lack of large communities combine to make the area dependent on translators which are authorized on Channel 55–69 (§ 74.702(c)(7) and (d). Thus operation on Channel *28 instead of *62 at Tacoma would avoid potential interference problems to reception in that area. Finally, petitioner argues that Seattle will not be left without noncommercial educational service since it already has a VHF station (Channel *9) and will get Channel *62 while Tacoma would retain two reserved UHF channels.

7. Regarding its request for modification of license should Channel *28 be substituted for Channel *62, petitioner alleges that the principles set forth in *Cheyenne, Wyo.*, 62 FCC 2d 62 (1976) (regarding modification from a Class A channel to a Class C channel in the absence of an expressway of interest), do not preclude modification here even if another interest is forthcoming. Petitioner analogizes the circumstances here (one UHF for another UHF channel) as the same as the substitution of one equivalent channel for another (Class A for Class A). Furthermore, if another interest exists in a noncommercial educational station in Tacoma, Channel *56, presently unoccupied and unapplied for, would be available. In addition, two other UHF channels could be assigned (Channels 23 and 33) according to petitioner.

8. It has been our policy to refuse to assign lower UHF TV channels solely because the interested party desires the lower portion of the UHF band.[3] However, where a public interest reason for doing so is found, we generally have no objection to the substitution of a lower UHF channel. Here, several valid reasons exist for further considering the request. We found merit in eliminating a contested hearing and thereby bringing service to the public more expeditiously. Further, while we need not consider the impact that a proposal may have on translators, § 74.702(d) and (c)(3) of the Commission's rules, we also have no desire to disturb the current service provided by the translators in southwestern Washington. In particular here, the translators are limiting the signal of Station KTPS in this area. The use of Channel *28 could provide better service by covering more area since the translators are primarily confined to the upper portion of the UHF band. We note that neither Seattle nor Tacoma would suffer a net reduction in reserved assignments by this proposal.

9. We do wish to call attention to one other matter. When a new channel is assigned to a community, all interested parties should be permitted to apply for the channel. See, *Cheyenne, Wyo.*, 62 F.C.C. 2d 63 (1976).[4] Thus if some other party expressed a desire to apply for Channel *28, if assigned to Tacoma, the requested modification of Station KTPS may not be possible.[5]

10. Petitioner's consent to the modification of its channel of license from Channel *62 to Channel *28 avoids the necessity to issue an *Order to Show Cause*.

11. Accordingly, the Commission proposes to amend the Television Table of Assignments (See § 73.606(b) of the Commission's rules), as follows:

City	Channel No.	
	Present	Proposed
Seattle, Washington	4, 5+, 7, *9, 22+, and *28+.	4, 5+, 7, *9, 22+, and *62.
Tacoma, Washington	11+, 13–, 20, *56, and *62.	11+, 13–, 20, *28, and *56.

12. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below 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.

13. Interested parties may file comments on or before April 15, 1982, and reply comments on or before April 30, 1982.

14. 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 TV Table of Assignments, Section 73.606(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 §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

15. For further information concerning this proceeding, contact Mark N. Lipp, 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

[3] See, High Point, N.C., 44 FR 67665 (1979); Kalamazoo, Mich., 44 FR 67667 (1979); Vancouver, Wash., 46 R.R. 2d 1498 (1980) and Mansfield and Marion, Ohio, 45 FR 81203 (1980).

[4] See also San Francisco-San Mateo, CA. 68 F.C.C. 2d 860 (1978), recons. den. 70 F.C.C. 2d 2013 (1979); El Paso, Texas, 45 FR 13152 (1980).

[5] See Tulsa, Okla., (Notice), 46 FR 40776 (1981) (BC Dkt. 81–491).

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

[BC Docket No. RM 82-8 3950]

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 TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

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. 82-5872 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 74

[BC Docket No. 82-20; RM-2500; FCC 82-29]

Operation of Microwave Boosters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Commission has proposed amending its rules to permit microwave boosters to be used to relay the signals of microwave stations in the broadcast services. The action was taken in response to a petition from Marti Electronics, Inc. The proposed rules would permit more efficient use of the spectrum allocated for broadcast microwave stations since microwave boosters use only one radio frequency to traverse a path which requires two frequencies using a standard repeater.

DATES: Comments must be filed on or before April 7, 1982, and reply comments on or before April 22, 1982.

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

FOR FURTHER INFORMATION CONTACT: Ralph H. Smith, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1982.

Released: March 1, 1982.

In the matter of amendment of Subparts E and F of Part 74 to provide for the operation of microwave boosters; BC Docket No. 82-20 RM-2500.

Introduction

1. The Commission has before it a petition for rule making filed by Marti Electronics, Inc. ("Marti"), requesting amendment of the rules to permit the operation of microwave boosters under subpart E of Part 74. Subpart E governs the operation of aural broadcast studio-transmitter link ("STL") and intercity relay ("ICR") stations.

2. A microwave booster is a radio relay device that receives a transmission on a particular frequency and retransmits it on the same frequency. Most radio relay devices receive a signal on one frequency and "translate" it to another for rebroadcast. A microwave booster uses the same frequency for both reception and retransmission.

3. Marti's petition argues that the ten 500 kHz channels now allocated for aural STL and ICR operations cannot meet the demand for service in the large metropolitan areas. The use of microwave boosters will provide a measure of relief for broadcasters located in these areas, according to Marti, as it will permit more intensive use of the present spectrum allocation.

Background

4. Two types of facilities are normally available to a broadcast licensee to relay program material from the studio to a remotely-located transmitter site. These are either wire circuits operated by communications common carriers or station-owned STL microwave facilities. In the case of FM broadcasting where high quality aural circuits are required, and in the case of television, where special video as well as high-quality aural circuits are required, the common carrier in a certain area may be unable to supply the desired service because it lacks adequate facilities. Apart from the better performance and higher reliability provided by a microwave STL, there are other reasons that a broadcaster may select a radio STL over a wire circuit provided by a common carrier. These include having all operations under station control, giving greater flexibility and versatility, and saving on operating expenses. Because microwave frequencies are used in the STL service, an adequate line-of-sight must be maintained between antennas at the transmitter and receiver sites.

5. However, as Marti points out, many broadcasters have been unable to use this mode of interconnecting studio and transmitter sites because of physical obstructions that prevent establishing a clear line-of-sight transmission path between the two points (due to intervening hills, tall buildings or other obstacles). One way to achieve path clearance is simply to increase the height of the antenna systems at the

ends of the path. This can be done in several ways but the cost is generally prohibitive according to Marti.

6. Where physical obstructions or the ruggedness of intervening terrain either makes a direct transmission path impossible or requires that the antenna towers be extremely high, Marti indicates that under the present rules a signal may be redirected by means of either a passive or an active repeater, which is effect "bends" the radio beam to provide the necessary path clearance. The principal advantages of the passive repeater are that it requires no power, provides a fixed amount of signal loss and requires little or no maintenance. The most commonly used passive repeater is the "billboard" type—a large flat radio-reflective surface—which redirects microwave signals in much the same way light is reflected by a mirror. Another type of passive repeater uses two parabolic antennas connected "back-to-back" by a short length of waveguide or coaxial cable. Whereas passive elements are satisfactory for short microwave hops over and around obstructions (where signal amplification is not needed), Marti claims that because of low gain [1] large physical size, and the requirement for critical positioning, there is no economic advantage in using passive instead of active repeaters for redirecting aural STL signals.

7. Under the present STL rules, active repeaters of either the baseband or heterodyne type be used to amplify and redirect the signal. In a baseband repeater, the microwave signal is translated to an intermediate frequency, amplified, then demodulated and amplified again at the baseband frequency. Finally the signal is remodulated for transmission on another microwave frequency. In the heterodyne repeater, amplification of the incoming signal is provided at an intermediate frequency and then the signal is translated back up to a different microwave frequency for transmission without going through the demodulation and remodulation processes.

8. Marti notes that both of these translating repeaters involve the use of a second STL channel. This requires more frequency spectrum than a microwave booster which can accomplish the same purpose. On a cost-versus-performance comparison, Marti contends, the microwave booster can provide a simple, economical solution to STL path redirection problems. Furthermore, since it uses the original incoming signal and does not involve the use of a second STL frequency, more intensive use of the spectrum space allocated to this service can be achieved. Moreover, according to Marti, the risk of interference from such devices is minimal by virtue of the relatively low gain, limited power output capability, and the directivity of the booster's input and output antennas.

9. It appears that microwave boosters would offer an innovative solution to broadcasters in such metropolitan areas as Los Angeles, New York, Chicago and Dallas where, because the STL bands are extremely congested, it is not possible to grant requests for additional STL frequencies needed for intermediate relay stations over a path which cannot be covered with a single transmitter. However, our rules do not contain specific provision for such repeaters. At present, if a clear line-of-sight transmission path cannot be established between the studio and transmitter, the broadcaster must use more than one STL channel with "translating" active repeaters to provide intermediate relay stations in order to redirect his signal around an obstruction. The rules proposed in this *Notice* are designed to accommodate Marti's request to provide for the operation of microwave boosters with aural STL and ICR stations. At the same time, the Commission recognizes that the transmission path problems encountered by aural broadcast stations are also encountered by television auxiliary broadcast stations in Subpart F of Part 74. It would appear that in the TV broadcast auxiliary service there are numerous situations where, because of tall buildings, terrain or other obstructions, it is impractical or impossible to provide clear line-of-sight microwave transmission paths. In such cases, the broadcaster may use active translating or passive repealers to redirect signals around obstructions; however these solutions are not always desirable. Therefore, consolidated for consideration in this proceeding are rules that would provide for the use of microwave boosters with the various TV broadcast auxiliary stations that are regulated under Subpart F of Part 74.

10. Because the input and output frequencies of a microwave booster are the same, we are concerned about the possibility of interference between the input and output signals at the repeater location. There is the possibility that the booster may go into an oscillating condition because of side-to-side coupling or signal "overshoot." For stable operation, isolation between the input and output circuits must exceed the maximum overall gain of the repeater. Marti indicates that proper spacing of input and output antennas in combination with cross polarization yields a minimum isolation of 60 dB between the input and output permitting an amplifier gain of 55 dB to be routinely used without danger of instability.

11. The Commission is not convinced that practical operation can be achieved in all situations if the isolation between the input and output circuits is only 5 dB greater than the gain of the booster. The margin of difference is quite narrow. Nonetheless, we recognize that individual circumstances vary widely. An insufficient margin in one situation may be adequate in another. Recognizing this, we shall not propose a minimum margin requirement. We believe licensees should be able to judge their particular needs and choose appropriate boosters and antennas to satisfy them. With no requirement for a minimum margin, licensees will be able to specifically tailor their equipment choices to yield only the margin necessary for their circumstances. As the cost and performance of the equipment is related to the margin requirements, licensees will be able to exercise their judgment in balancing these factors. We do believe that when unstable conditions arise, the booster should terminate operation immediately. To do so, they should be equipped with suitable automatic circuits to cease radiation in the event of amplifier oscillation. Comments are requested on the feasibility of providing this protection.

12. We are also concerned about the interference potential of co-channel and adjacent channel signals, since the boosters being proposed provide a high degree of amplification. This is of particular concern in cities where, because of frequency sharing, special attention must be given to directivity characteristics and polarization discrimination properties in the selection of antennas. Potential problems arise when operation is in the presence of strong radio frequency fields from other aural broadcast STL or TV broadcast auxiliary stations in the vicinity of a booster and there is the possibility that such fields may result in the retransmission of signals on frequencies other than that of the signal intended for relaying. Further, we are concerned about interference which may be caused by spurious emissions and other out-of-band signals. Therefore, the proposed rules would require that the booster apparatus be operated so as to limit spurious emissions to the lowest practical value,

[1] The gain of a passive repeater is proportional to its size and operating frequency. For large gains the beamwidth is quite narrow, making the positioning of the reflector rather critical.

and it would be the responsibility of the licensee to correct any condition of interference which would result from the radiation of radio frequency energy by its equipment on any frequency outside of the assigned channel. In addition, the proposed rules would require that the booster apparatus incorporate automatic circuits which will not permit power output to exceed the maximum rated output under any condition and in no case to be greater than 1 watt. The apparatus would also be required to contain automatic controls which would place it in a nonradiating condition except when the desired signal is being received. To further safeguard against interference, a licensee should take full advantage of the focusing properties of directive antennas to provide the needed service. The transmitting antenna should concentrate the power as much as possible toward the receiver point. The receiving antenna should be designed to pick up as much of the incoming signal as possible and to reject unwanted signals. With regard to concern about safeguards against improper operation of microwave boosters, the Commission is expecting actual tests to be performed by manufacturers and broadcasters to demonstrate the risk of interference from such devices. To facilitate the production of test data, the Commission encourages requests for experimental authorization to conduct developmental tests.

13. To insure that microwave boosters comply with our proposed standards, the proposed rules would require type acceptance by the FCC for such equipment. The proposed rules set out the conditions under which type acceptance will be granted.

14. Regulatory Flexibility Act Initial Analysis:

I. *Reason for action:* It appears that use of microwave boosters at aural broadcast STL and intercity relay stations and at television auxiliary broadcast stations could improve utilization of spectrum allocated for these stations, but the Commission's Rules at present do not provide for such use.

II. *The objective:* The Commission proposal is to provide for the use of microwave boosters with aural broadcast STL and intercity relay stations and with television auxiliary broadcast stations in order to make this equipment available to licensees when it is necessary to redirect microwave signals over a path that cannot be covered with a single station.

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

IV. *Description, potential impact and number of small entities affected:* The proposed rule change would affect aural broadcast STL and intercity relay station licensees and TV broadcast auxiliary station licensees. Provision for microwave boosters could be expected to have a beneficial effect on parties desiring to use, or now using, aural and video relay equipment under Part 74.

V. *Recording, recordkeeping and other compliance requirements:* None.

VI. *Federal rules which overlap, duplicate or conflict with this rule:* None.

VII. *Any significant alternative minimizing impact on small entities and consistent with stated objective:* The Commission's alternative is to maintain the status quo and not to propose rules for the operation of microwave boosters. This alternative would not accomplish the beneficial objective sought in this rule making.

15. For further information concerning this proceeding, contact Ralph H. Smith, Broadcast Bureau, (202) 632–9660. However, for purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments in this proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

16. This action is taken pursuant to authority found in Sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended.

17. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested parties may file comments on or before April 7, 1982, and reply comments on or before April 22, 1982. All relevant and timely comments will be considered by the Commission before further action is taken in this proceeding.

18. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comment may file an additional six copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the docket number is specified. Such informal participants who wish members of the staff to have a personal copy and to have an extra copy available to the Commissioners may file an additional five copies. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written summary indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW).

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,
Secretary.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Appendix

1. Section 74.501 in Subpart E, Part 74, would be amended to add a new paragraph (c) defining aural broadcast microwave booster stations, to read as follows:

§ 74.501 Classes of stations.

* * * * *

(c) *Aural broadcast microwave booster station.* A fixed station in the broadcast auxiliary service operated for the purpose of retransmitting signals of an aural broadcast STL of intercity relay station by amplifying and reradiating signals received directly through space, without significantly altering any characteristic of the incoming signal other than its amplitude.

2. Section 74.531 would be amended by the addition of a new paragraph (c), and the redesignation of existing paragraphs (c), (d), and (e) as (d), (e), and (f) respectively, to read as follows:

§ 74.531 Permissible service.

* * * * *

(c) An aural broadcast microwave booster station is authorized to retransmit the signals of an aural broadcast STL or intercity relay station.

* * * * *

3. Section 74.532 would be amended by the addition of a new paragraph (d), the modification of existing paragraph (d) to include the term "aural broadcast microwave booster," and the redesignation of this paragraph as paragraph (e), to read as follows:

§ 74.532 Licensing requirements.

* * * * *

(d) Licensees of aural broadcast STL and intercity relay stations may be authorized to operate one or more aural broadcast microwave booster stations for the purpose of relaying signals over a path which cannot be covered with a single station.

(e) Each aural broadcast STL, intercity relay, and microwave booster station will be licensed at a specified transmitter location to communicate with a specified receiving location, and the direction of the main radiation lobe of the transmitting antenna will be one of the terms of the license.

4. Section 74.533 would be amended by the modification of paragraphs (a) and (b), and subparagraph (b)(4), to include the term "aural broadcast microwave booster," to read as follows:

§ 74.533 Remote control and unattended operation.

(a) Aural broadcast STL, intercity relay, and microwave booster stations may be operated by remote control, provided that such operation is conducted in accordance with the conditions listed in this section, and provided the FCC is notified at least 10 days prior to such operation. Such notification must be accompanied by a detailed description of the proposed remote control installation showing the manner of compliance with the following conditions:

* * * * *

(b) Aural Broadcast STL, intercity relay, and microwave booster stations may be operated unattended, provided that such operation is conducted in accordance with the conditions listed below, and provided the FCC in Washington, D.C., is notified at least 10 days prior to the beginning of such operation. Such notification must be accompanied by a detailed description showing the manner of compliance with the following conditions:

* * * * *

(4) Whenever an unattended aural broadcast STL, intercity relay, or microwave booster station is in operation, appropriate observations must be made at the receiving end of the circuit once each calendar day at intervals not exceeding 30 hours by an operator designated by the licensee. However, for an aural broadcast STL (and any aural broadcast microwave booster station) associated with a radio or TV broadcast station operated by remote control, observations may be made by monitoring the broadcast station's transmitted signal at the remote control point.

* * * * *

5. Section 74.534 would be amended by the designation of the existing text as paragraph (a), and the addition of a new paragraph (b), to read as follows:

§ 74.534 Power Limitations.

(a) * * *

(b) The output power of an aural broadcast microwave booster station must be limited to that required to perform the proposed service and must not exceed 1 watt. The apparatus must contain automatic circuits which will not permit power output to exceed the maximum rated output under any condition.

6. Section 74.535 would be amended by modifying paragraph (c) and adding a new paragraph (d) to read as follows:

§ 74.535 Emission and bandwidth.

* * * * *

(c) The channels assigned to aural broadcast STL, intercity relay, and microwave booster stations are 500 kHz in width, the assigned frequency being at the center of the channel. Emissions appearing outside the assigned channel shall be attenuated as follows:

* * * * *

(d) The following limitations apply to the operation of aural broadcast microwave booster stations:

(1) The booster apparatus must be capable of receiving, amplifying, and retransmitting the signals of the originating station without significantly altering any electrical characteristic of the received signal other than its amplitude.

(2) It shall be the responsibility of the licensee to correct any condition of interference which results from the radiation of radio frequency energy outside the assigned channel. Upon notice by the FCC to the station licensee that interference is being caused, operation of the apparatus must be immediately suspended and may not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions. However, short term test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(3) In each instance where suspension of operation is required, the licensee must submit a full report to the FCC after operation is resumed. The report must contain details of the nature of the interference, the source of interfering signals, and the remedial steps taken to eliminate the interference.

7. Section 74.536 would be amended by the designation of the existing text as paragraph (a), and the addition of a new paragraph (b), to read as follows:

§ 74.536 Directional antenna required.

(a) * * *

(b) Each aural broadcast microwave booster station must employ a directional transmitting antenna. The horizontal beamwidth between half-power points must not exceed 11°, and radiation in any minor lobe of the antenna radio pattern 20° or more removed from the main lobe of radiation shall be attenuated at least 20 dB.

8. Subpart E of Part 74 would be amended by adding new § 74.537 to read as follows:

§ 74.537 Isolation of aural broadcast microwave booster stations.

The isolation between the input and output circuits of an aural broadcast

microwave booster station, including the receiving and transmitting antenna systems, should be sufficiently greater than the gain of the booster apparatus to permit satisfactory operation. In addition, automatic circuits must be incorporated into the apparatus to place it in a non-radiating condition in the event of unstable operation.

9. Part 74 would be revised by adding new § 74.552 to read as follows:

§ 74.552 Type acceptance.

Applications for aural broadcast microwave booster stations will not be accepted unless the equipment specified therein has been type accepted for use pursuant to the provisions of this Subpart and Part 2, Subpart J of the FCC Rules.

10. Section 74.562 would be amended by adding the term "aural broadcast microwave booster station" to the present text, to read as follows:

§ 74.562 Frequency monitors and measurements.

The licensee of each aural broadcast STL, intercity relay, and microwave booster station shall provide the necessary means for determining that the frequency of the station is within the allowed tolerance. The date and time of each frequency check, the frequency as measured, and a description or identification of the method employed shall be entered in the station log. Sufficient observations shall be made to insure that the assigned carrier frequency is maintained within the prescribed tolerance.

11. Section 74.563 would be amended by the addition of the term "aural microwave booster station" to the present text to read as follows:

§ 74.563 Station inspection.

The licensee of each aural broadcast STL, intercity relay, and microwave booster station shall make the station available for inspection by representatives of the Commission at any reasonable hour.

12. Section 74.582 would be amended by the addition of the term "aural broadcast microwave booster station" to paragraph (a), subparagraph (a)(2), and paragraph (c), to read as follows:

§ 74.582 Station identification.

(a) Each aural broadcast STL, intercity relay, and microwave booster station shall transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means:

* * * * *

(2) Aural transmission of the call sign of the radio broadcast station with which it is licensed as an aural broadcast STL, intercity relay, or microwave booster station.

* * * * *

(c) Where one or more aural broadcast STL, intercity relay, or microwave booster stations are employed in an integrated relay system, the station at the point of origination may originate the transmission of the call signs of all of the stations in the relay system.

* * * * *

13. Section 74.601 in Subpart F, Part 74, would be amended by the modification of the headnote, and the addition of a new paragraph (e) defining TV microwave booster stations, to read as follows:

§ 74.601 Classes of TV broadcast auxiliary stations.

* * * * *

(e) *TV microwave booster station.* A fixed station in the TV broadcast auxiliary service operated for the purpose of retransmitting the signals of a TV pickup, TV STL, TV intercity relay, or TV translator relay station by amplifying and reradiating signals received directly through space, without significantly altering any characteristic of the incoming signal other than its amplitude.

14. Section 74.631 would be amended by the addition of a new paragraph (h) and the redesignation of existing paragraph (h) as paragraph (i), to read as follows:

§ 74.631 Permissible service.

* * * * *

(h) A TV microwave booster station is authorized to retransmit the signals of a TV pickup, TV STL, TV intercity relay, or TV translator relay station.

* * * * *

15. Section 74.632 would be amended by the addition of a new paragraph (f) to read as follows:

§ 74.632 Licensing requirements.

* * * * *

(f) Licensees of TV pickup, TV STL, TV intercity relay, and TV translator relay stations may be authorized to operate one or more TV microwave booster stations for the purpose of relaying signals over a path which cannot be covered with a single station.

16. Section 74.635 would be amended by the addition of the term "TV microwave booster stations" to paragraph (a), and by the modification of subparagraphs (a)(2) and (a)(4), to read as follows:

§ 74.635 Unattended operation.

(a) TV intercity relay stations, TV translator relay stations, TV STL stations, and TV microwave booster stations may be operated unattended, provided that such operation is conducted in accordance with the conditions listed below and provided the FCC, in Washington, D.C., is notified at least 10 days prior to the beginning of such operation. Such notification must be accompanied by a detailed description showing the manner of compliance with the following conditions:

(1) * * *

(2) The transmitters shall be provided with adequate safeguards to prevent improper operation of the equipment. TV microwave booster stations must be equipped with automatic circuits which will permit it to radiate only when a signal which it is intended to retransmit is present at the input terminals of the apparatus;

(3) * * *

(4) In the case of TV intercity relay stations, TV STL stations, TV translator relay stations, and TV microwave booster stations used with these stations, observations shall be made once each calendar day at intervals not exceeding 30 hours, at the receiving end of the microwave circuit, by a person designated by the licensee, who shall institute measures sufficient to ensure prompt correction of any condition of improper operation that is observed. However, for an STL station (and any TV microwave booster station) associated with a television station operated by remote control, the observations may be made by monitoring the television station's transmitted signal at the remote control point. In addition, for a TV translator relay station, (and any associated TV microwave booster station) the observations may be made by monitoring the associated television translator station's transmitted signal.

* * * * *

17. Section 74.636 would be amended by the designation of the existing text as paragraph (a), and the addition of a new paragraph (b), to read as follows:

§ 74.636 Power limitations.

(a) * * *

(b) The output power of a TV microwave booster station must be limited to that required to perform the proposed service and must not exceed 1 watt. The apparatus must contain automatic circuits which will not permit power output to exceed the maximum rated output under any condition.

18. Section 74.637 would be amended by the addition of a new paragraph (d), to read as follows:

§ 74.637 Emissions and emission limitations.

* * * * *

(d) The following limitations also apply to the operation of TV microwave booster stations:

(1) The booster apparatus must be cable of receiving, amplifying, and retransmitting the signals of the originating station without significantly altering any electrical characteristic of the received signal other than its amplitude.

(2) It shall be the responsibility of the licensee to correct any condition of interference which results from the radiation of radio frequency energy outside the assigned channel. Upon notice by the FCC to the station licensee that interference is being caused, operation of the apparatus must be immediately suspended and may not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions. However, short term test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(3) In each instance where suspension of operation is required, the licensee must submit a full report to the FCC after operation is resumed. the report must contain details of the nature of the interference, the source of interfering signals, and the remedials steps taken to eliminate the interference.

19. Subpart F of Part 74 would be revised by the addition of a new § 74.638, to read as follows:

§ 74.638 Isolation of TV microwave booster stations.

The isolation between the input and output circuits of a TV microwave booster station, including the receiving and transmitting antenna systems, should be sufficiently greater than the gain of the booster apparatus to permit satisfactory operation. In addition, automatic circuits must be incorporated into the apparatus to place it in a non-radiating condition in the event of unstable operation.

20. Section 74.641 would be amended by the addition of a new paragraph (e) to read as follows:

§ 74.641 Antenna systems.

* * * * *

(e) Each TV microwave booster station must employ a directional transmitting antenna. The horizontal beamwidth between half-power points for boosters not operating in the 12,700 to 13,200 MHz band must not exceed 15°, and radiation in any minor lobe of the antenna radio pattern 20° or more removed from the main lobe of radiation shall be attenuated at least 20 dB. Boosters operating in the 12,700 to 13,200 MHz band must comply with the other provisions of this Section.

21. Section 74.655 would be amended by revising paragraph (e) to read as follows:

§ 74.655 Type acceptance.

* * * * *

(e) Type acceptance by the FCC is required for all TV broadcast auxiliary station transmitters or TV microwave boosters first licensed, or marketed as specified in Section 2.803 of the FCC Rules, except as provided for in paragraph (a) of this Section.

* * * * *

[FR Doc. 82-5887 Filed 3-3-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. 100; Notice No. 82-3]

Written Examination of Drivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is considering possible options to the written examination requirement for commercial motor vehicle drivers operating in interstate or foreign commerce under the Federal Motor Carrier Safety Regulations (FMCSR). The options under consideration include (1) a pass/fail test requirement, or (2) rescinding the requirment for the written test, or (3) retaining the requirement as it stands and updating the questions. This document sets forth a number of questions for the purpose of gathering information which will assist the FHWA in determining which course of action would be most cost beneficial while causing no degradation of highway safety. Public comment is being sought on the options being considered.

DATE: Comments must be received on or before May 3, 1982.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 391.35 of the FMCSR (49 CFR 391.35) requires every commercial motor vehicle driver operating in interstate or foreign commerce to take a written examination and be issued a certification of that examination by the administering motor carrier prior to driving a motor vehicle. The written examination and the certification of that examination is valid for the duration of the driver's employment with the administering motor carrier. Exceptions are provided for drivers who were employed before Janaury 1, 1971 (49 CFR 391.61), drivers of lightweight vehicles (49 CFR 391.62), and drivers of certain farm vehicles (49 CFR 391.67). In addition, a written examination is not required in the case of a driver who has a valid certification of examination issued by another motor carrier within the preceding 3 years (49 CFR 391.37).

Background

The original intent of the current requirement, which became effective in January 1971, was to require each driver to pass a knowledge test of the FMCSR to qualify to operate a commercial motor vehicle in interstate or foreign commerce. This was a true/false examination with a pass/fail score of 70 percent.

Use of written examinations as a condition of employment must be "validated," in accordance with Title VII of Civil Rights Act of 1964, to assure that its use does not produce unlawful discrimination against members of minority groups seeking employment, retention, or promotion. The Equal Employment Opportunity Commission (EEOC) judged this true/false examination discriminatory on the grounds that the written examination requirement did not meet the EEOC guidelines on Employee Selection Procedures.

Subsequent to the EEOC's action, a contract for the development of a new, validated examination was awarded in 1971. As a result of that effort, the contractor, in July 1972, supplied the Bureau of Motor Carrier Safety (BMCS)

with its final report [1] which contained a multiple choice examination with a pass/fail score of 70 percent.

This report was then submitted to the EEOC for approval. The EEOC refused to concur in its use as proposed but was willing to accept it as a learning tool with no pass/fail requirements. Thus, since its inception, the written examination has been used strictly to familiarize drivers with the FMCSR.

It is estimated that motor carriers and commercial vehicle drivers expend over 236,000 hours annually complying with the written examination requirement. The resulting safety effects from this educational type of testing have not been measured. Therefore, the FHWA cannot say with certainty that it serves its intended purpose.

The BMCS invites comments from interested persons on the options under consideration. Comments are especially invited on the questions set forth below.

1. Should the written examination requirement remain as it is, become a pass/fail examination, or should the requirement be rescinded? (Please explain your answer.)

2. What validity, if any, does the present written examination requirement have as an indication of a driver's ability to safely operate a motor vehicle?

3. Using the presently prescribed examination in the screening process of new employees, do the benefits justify the paperwork/cost burden imposed on the industry? If yes, what are the benefits?

4. If in favor of a pass/fail examination requirement, what should the cut-off score be? (Please explain.)

5. Based on your past experience, what is the average time taken by an applicant to complete the current examination? How much time is required to process and file the examination? What is the total cost of processing the examination?

6. If the examination is made pass/fail, what would be the additional cost burden to a motor carrier?

7. If the examination was a pass/fail situation and used in the screening process of new employees, would the benefits justify the paperwork/cost burden imposed on the industry? If yes, what are the benefits?

8. If a pass/fail examination is adopted, should it be an open or closed book examination?

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. A draft regulatory evaluation has been prepared and is available in the public docket for review.

Based on the information available to the FHWA at this time, it is not believed that action taken in this rulemaking would have a significant economic impact on a substantial number of small entities.

(49 U.S.C. 304, 1655; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: February 22, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-5576 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-22-M

[1] A copy of the report, "Development of Written Examination of the Motor Carrier Safety Regulations," PB-213402, is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487-4650, at a cost of $12.50.

Notices

Federal Register
Vol. 47, No. 43
Thursday, March 4, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Grants, Benefits and Contracts; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, to be held at 10:30 a.m., Thursday, March 11, 1982, at 400 Maryland Avenue, SW., Room 7096, Washington, D.C. 20546.

The Committee will meet primarily to discuss draft recommendations on procedures for resolution of disputes relating to federal grant programs.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,

General Counsel.

March 1, 1982.

[FR Doc. 82–5851 Filed 3–3–82; 8:45 am]

BILLING CODE 6110–01–M

CIVIL AERONAUTICS BOARD

[Order 82–2–127; Docket No. 40488]

Airlift International, Inc.; Revocation of Certificate Authority To Provide Scheduled All-Cargo Service Between United States, Brazil, and Argentina

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 82–2–127, Docket 40488.

SUMMARY: The Board is proposing to revoke the certificate authority of Airlift International, Inc. to provide scheduled all-cargo service between the United States, Brazil and Argentina. The complete text of Order 82–2–127 is available as noted below.

DATES: All interested persons having objections to the Board's tentative findings and conclusions in Order 82–2–127 shall file by March 16, 1982, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Such filings shall be served upon all persons listed below.

ADDRESSES: Objections to the tentative findings and conclusions in Order 82–2–127 should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 40488.

In addition copies of such filings should be served on: Airlift International, Inc., the Ambassadors of Brazil and Argentina in Washington, D.C., and the United States Departments of State and Transportation.

FOR FURTHER INFORMATION CONTACT:

Ronald A. Brown, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–2–127 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–2–127 the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 26, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–5852 Filed 3–3–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–2–111]

Application of Delta Development Corporation, d.b.a. Western Yukon Air for Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82–2–111).

SUMMARY: The Board is proposing to authorize Delta Development Corporation d.b.a. Western Yukon Air to provide all-cargo air transportation in Alaska between and among the 66 points listed in its application.

DATE: Objections: All interested persons having objections to the Board issuing the proposed certificate amendment shall file, and serve upon all persons listed below no later than March 16, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40365, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Delta Development Corporation d.b.a. Western Yukon Air; the mayor and airport manager of each city to which the pleading refers; the Governor of Alaska; the Alaska Transportation Commission; and the American Association of Airport Executives.

FOR FURTHER INFORMATION CONTACT:

Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5384.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–2–111 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send

a postcard request for Order 82-2-111 to that address.

By the Bureau of Domestic Aviation: February 24, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5853 Filed 3-3-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 3-82]

Foreign-Trade Zone 49; Newark/ Elizabeth, New Jersey; Extension of Comments Period

The period for comments on the above case involving the proposed expansion of Foreign-Trade Zone 49 to include the entire Port Newark/Elizabeth Port Authority Marine Terminal (47 FR 2898, 1-20-82), is extended for 60 days to May 5, 1982.

During the first 30 days interested parties may submit comments on the proposal, including additional information and arguments on issues raised during the initial open record period that ended February 22. Submissions postmarked after April 5 are limited to rebuttal comments on the record as of that date.

Submissions shall include 6 copies. The material submitted for the record will be available at the places where the application has been available to the public:

U.S. Department of Commerce District Office, Gateway Building, 4th Floor, Market Street and Penn Plaza, Newark, New Jersey 07102

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution NW., Washington, D.C. 20230

Dated: March 1, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-5895 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Applications; for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before March 24, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 82-00085. Applicant: Geophysical Institute, University of Alaska, Fairbanks, AK 99701. Article: EM 38 Shallow Sounding Magnetic Induction Tool. Manufacturer: Geonics Ltd., Canada. Intended use of article: The article is intended to be used for studies of conductivity in ground ice and permafrost. Application received by Commissioner of Customs: January 6, 1982.

Docket No.: 82-00063. Applicant: Duke University, Department of Zoology, Durham, NC 27706. Article: 340789 Goniometer for Electron Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is an accessory to an existing electron microscope which will be used to tilt thin slices of material during chromosome distribution studies. The article will also be used to train eight to ten graduate or post-doctoral students in instrument maintenance and its use in biological research. Application received by Commissioner of Customs: December 11, 1981.

Docket No.: 82-00089. Applicant: SUNY College of Environmental Science and Forestry, Business Affairs, Syracuse N.Y. 13210. Article: Modelscope w/ Mount and Brace. Manufacturer: Weinberger AG, Switzerland. Intended use of article: The article is intended to be used to study visual perception of urban spaces by viewing scale models via 35mm photography and video simulation of pedestrian movement. In addition, the article will be used for educational purposes in the courses LSA522 Urban Design and LSA621 Community Design. Application received by Commissioner of Customs: January 7, 1982.

Docket No.: 82-00093. Applicant: The Pennsylvania State University, Department of Biology, 208 Mueller Laboratory, University Park, PA 16802. Article: Scanning-integrating Microdensitometer, M85a. Manufacturer: Vickers Instruments, United Kingdom. Intended use of article: The article is intended to be used for analysis at the subcellular and cellular level. The experiments to be conducted will include the following:

(1) Use of cytochemical probes to investigate specific types of pathogenic changes in central nervous system and other tissue compartments associated with exposure to sublethal levels of herbicides, insecticides and different types of nerve toxins.

(2) Development of improved cytodiagnostic procedures for detection of early stages of carcinogenesis.

(3) Evaluation of the metabolic events associated with the onset and progression of vascular disease processes.

(4) Development of cytochemical indicators which are useful in the evaluation of antidotal therapeutic regimens used in treatment of subjects exposed to toxic drugs or environmental pollutants.

Application received by Commissioner of Customs: January 19, 1982.

(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. 82-5896 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Venezuela is being, or is likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before March 25, 1982, and we will make ours on or before July 19, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT:
Paul McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Petitions

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Incorporated, Korf Industries, Incorporated, Penn-Dixie Steel Corporation, and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of carbon steel wire rod from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determination, July 19, 1982.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Venezuela is being, or is likely to be, sold at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by July 19, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982, whether there is a reasonable indication that imports of carbon steel wire rod from Venezuela are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 1, 1982.

[FR Doc. 82-5893 Filed 3-3-82; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Argentina

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Argentina of carbon steel wire rod receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT:
Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26) the petition alleges that producers, manufacturers, or exporters in Argentina of carbon steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Critical circumstances also have been alleged.

Since Argentina is not a "country under the Agreement", section 303 of the Act applies to this investigation. In addition, the merchandise is dutiable; therefore, an injury determination is not required.

Initiation of Investigtion

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Argentina of carbon steel wire rod receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Since Argentina is not a "country under the Agreement" and this investigation is under section 303 of the Act, the critical circumstances provision is not applicable (see section 303(b)(3)). Accordingly, we will take no further action on the critical circumstances allegation.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not

tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters of carbon steel wire rod in Argentina receive the following benefits that constitute bounties or grants: overrebates of indirect taxes, preferential export financing, regional development assistance, long-term financing at preferential rates, income tax exemptions, and direct investment subsidies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1982.

[FR Doc. 82-5889 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Belgium of carbon steel wire rod receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or treatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determinations on or before March 25, 1982, and we will make ours on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Incorporated, Korf Industries, Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Company, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Belgium of carbon steel wire rod receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determination, May 4, 1982.

Belgium is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Belgium of carbon steel wire rod receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Belgium of carbon steel wire rod receive the following benefits from the Belgian government that constitute subsidies: capital grants; interest rebates; preferential loans and loan guarantees; special government purchases of convertible debentures; debt consolidation, extension, and conversion; tax incentives; labor-related aid; and research and development advances and loans.

The petition also alleges that producers, manufacturers, or exporters in Belgium of carbon steel wire rod benefit from the following European Communities subsidies: preferential loans and loan guarantees, research and development incentives, coal and coke input subsidies, and labor-related aid.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982, whether there is a reasonable indication that imports of carbon steel wire rod from Belgium are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1982.

[FR Doc. 82-5894 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether

producers, manufacturers, or exporters in Brazil of carbon steel wire rod receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination or before March 25, 1982, and we will make ours on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Petitions

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Incorporated, Korf Industries, Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Company, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Brazil of carbon steel wire rod receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determination.

Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of carbon steel wire rod receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufacturered; and valued over 4 cents per pound, as currently provided for in items 607.17 of the *Tariff Schedules of the United States.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Brazil of carbon steel wire rod benefit from the following subsidies: preferential capital loans, preferential working-capital and export financing loans, tax exemptions, investment subsidies from tax rebates, overrebate of indirect taxes, special depreciation privileges for export-oriented projects, preferential factor pricing and transportation subsidies.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982, whether there is a reasonable indication that imports of carbon steel wire rod from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 1, 1982.

[FR Doc. 82-5890 Filed 3-3-82; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in France of carbon steel wire rod receive benefits that constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make is preliminary determination on or before March 25, 1982, and we will make ours on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377–4036.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation, and Raritan River Steel Company, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in France of carbon steel wire rod receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the

"Act") and that imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determination, May 4, 1982.

France is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in France of carbon steel wire rod receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investingation proceeds normally, we will make our preliminary determination by May 4, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch or over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in France of carbon steel wire rod receive the following benefits that constitute subsidies: preferential loans and loan guarantees, the recapitalization of the French carbon steel industry under the 1978 Rescue Plan, research and development funding, incentives to supplier industries, preferential export credits, and export insurance.

The petition also alleges that producers, manufacturers, or exporters in France of carbon steel wire rod benefit from the following European Communites subsidies: preferential loans and loan guarantees, research and development incentives, assistance to coal/coke suppliers, and assistance to labor.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982 whether there is a reasonable indication that imports of carbon steel wire rod from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1982.

[FR Doc. 82-5891 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in South Africa of carbon steel wire rod receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-1774.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown-Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26) the petition alleges that producers, manufacturers, or exporters in South Africa of carbon steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Critical circumstances also have been alleged.

Since South Africa is not a "country under the Agreement", section 303 of the Act applies to this investigation. In addition, the merchandise is dutiable; therefore, an injury determination is not required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in South Africa of carbon steel wire rod, as listed in the "Scope of the Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Since South Africa is not a "country under the Agreement" and this investigation is under section 303 of the Act, the critical circumstances provision is not applicable (see section 303(b)(3)). Accordingly, we will take no further action on the critical circumstances allegation.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled

carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters of carbon steel wire rod in South Africa receive the following benefits that constitute bounties or grants: reduced transportation rates; refunds of shipping costs; export credit insurance; preferential pre-shipment and post-shipment financing for exports; preferential development loans, direct grants, and preferential loans given to a government-owned steel producer; tax deductions and investment allowances for certain export development expenses, employee training programs, doing business in certain development areas, and beneficiation of base minerals; the steel export incentive scheme; and other export incentives.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1982.

[FR Doc. 82-5892 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Motorcycle Batteries From Taiwan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that motorcycle batteries from Taiwan are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission will determine on or before April 19, 1982, whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-2613.

SUPPLEMENTARY INFORMATION:

Case History

On May 1, 1981, we received a petition from Yuasa-General Battery Corporation of Reading, Pennsylvania. The petition, which was filed on behalf of the U.S. industry producing motorcycle batteries, alleged that various producers in Taiwan are selling this merchandise in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the "Act"). The petition also alleged that these imports are materially injuring a U.S. industry.

After reviewing the petition, we determined it contained sufficient grounds upon which to initiate an antidumping investigation. Therefore, we initiated the investigation on May 27, 1981 (46 FR 28465-66), and we notified the U.S. International Trade Commission (the "ITC") of our action.

On June 9, 1981, the ITC found that there is a reasonable indication that imports of motorcycle batteries from Taiwan are threatening to materially injure a U.S. industry. The ITC published its determination in the **Federal Register** on June 24, 1981 (46 FR 32696-8).

On October 14, 1981, we preliminarily determined that motorcycle batteries from Taiwan are being, or are likely to be, sold in the United States at less than fair value (46 FR 50577).

On December 15, 1981, we extended the period for making a final determination (46 FR 61160) from December 22, 1981 to February 26, 1982.

Scope of Investigation

For purposes of this investigation, the term "motorcycle batteries" means lead-acid storage batteries, principally dedicated for use in motorcycles, having a nominal output of either 6 or 12 volts, and rated between 2 and 28 ampere-hours (10 hour discharge rate). Motorcycle batteries are currently classified under item 683.10 of the *Tariff Schedules of the United States.*

This investigation covers sales made between December 1, 1980 and May 31, 1981. Our investigation covered six Taiwanese manufacturers:

1. Cheng Kwang Storage Battery Co., Ltd. ("Cheng Kwang"),
2. China Storage Battery Co., Ltd. ("CSB"),
3. Great King Electricity Co., Ltd. ("Great King"),
4. Tahming Battery Co., Ltd. ("Tahming"),
5. Yuasa Battery Taiwan Co., Ltd. ("Yuasa"),
6. Ztong Yee Industrial Co., Ltd. ("Ztong Yee").

These six manufacturers account for about 90 percent of the exports of this merchandise to the United States.

Methodology of Fair Value Comparisons

Comparisons were made between United States price and the price of such or similar merchandise sold for consumption in either the home market of Taiwan or in third country markets.

Purchase price was used to represent United States price in cases where the price of batteries to unrelated purchasers in the United States was agreed to before the batteries were imported into the United States.

Exporters' sales price was used in cases where the price of batteries to unrelated purchasers in the United States was not agreed to before the batteries were imported into the United States.

In the case of four manufacturers (CSB, Tahming, Yuasa, and Ztong Yee), we compared either purchase price or exporter's sales price, as applicable, with the price of such or similar merchandise sold for consumption in the home market of Taiwan.

In the case of Cheng Kwang, all home market sales were of a single battery model, whereas sales to the United States were of seventeen battery models which varied widely in specifications. We therefore compared purchase price with the price of such or similar merchandise sold for consumption in the home market of Taiwan in the case of one battery model, and with the price of such or similar merchandise sold for consumption to a third country (Sweden) in the case of ten other battery models. Using this methodology, we were able to make comparisons on 62 percent of Cheng Kwang's sales to the United States.

In the case of Great King, the quantity sold for home consumption was so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison. Therefore, in the case of Great King, we compared purchase price with the price of such or similar merchandise sold to a third country (Greece), pursuant to § 353.4(a) of the Commerce Department's regulations ("Regulations").

For both Cheng Kwang and Great King, the third country selected was chosen because the batteries exported to that third country had a greater degree of similarity to the batteries exported to the United States than those exported to other countries and the volume of sales to that country was deemed adequate.

Purchase Price

We calculated purchase price on the basis of the FOB or CIF prices to unrelated U.S. importers or Taiwanese exporters. We made deductions, where applicable, for royalty, fees, shipping and FOB charges and commissions. In the case of "third country" comparisons.

we also made a deduction for the stamp tax (a charge incurred for affixing required stamps to certain documents). We made additions (except in the case of third country comparisons), as applicable, for both import duties which were rebated and taxes which were rebated, or not collected, by reason of the exportation of the merchandise to the United States, pursuant to sections 772(d)(1) (B) and (C) of the Act.

Exporter's Sales Price

Exporter's sales price was calculated in the same manner as purchase price, except that further deductions were made for inland freight in the United States, indirect selling expenses in the United States and, where applicable, the amount of increased value added in the United States.

Foreign Market Value

Foreign market value based on home market sales was calculated by deducting, where applicable, inland freight, royalty fees, sales bonus, and insurance. Adjustments were made, where applicable, for differences in circumstances of sale (differences in credit costs, and technical services, advertising directed at consumers, warranty, and sales promotion expense, differences in the merchandise and differences in packing costs).

Foreign market value based on sales to third countries was calculated by deducting shipping and FOB charges, stamp tax and, where applicable, sales commission.

Verification

In accordance with section 776(a) of the Act, we verified all information used in making this determination. We were granted access to the books and records of the six foreign manufacturers and of a related importer. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents containing relevant information.

Submitted Views

In response to our preliminary determination of sales at less than fair value, counsel for various interested parties submitted written views which were also discussed in a public hearing held on November 25, 1981. The written views and the Department of Commerce's ("DOC") position on them are summarized below.

A. Issues Raised by Counsel for the Petitioner

1. Counsel has argued that in calculating United States price we should make deductions for containerization fees, customs declaration charges, and bank negotiation charges incurred on shipments of motorcycle batteries to the United States by all six manufacturers.

DOC Position: At the time we made our preliminary determination, we did not have complete information on these charges for all six companies. Subsequently, we have gathered complete information and we have deducted these charges for all six manufacturers for all shipments on which such charges were incurred.

2. Counsel has argued that in calculating United States price we should have deducted the amount of the stamp tax (0.1 percent) incurred by all companies on their shipments to the United States.

DOC Position: During the course of this investigation, we have verified that the "stamp tax" (a charge incurred for affixing required stamps to certain documents) is assessed in the amount of 0.4 percent in the case of home market sales and 0.1 percent in the case of export sales (including sales to the United States). In other words, 0.3 percent of this tax is *not collected* in the case of exports. We have therefore determined that in this instance it is appropriate to *add* the difference (0.3 percent) in calculating United States price pursuant to section 772(d)(1)(C) of the Act which states that the United States price shall be "increased by . . . the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation . . . ." In the case of comparisons between sales to the United States and sales to third countries, we did deduct the 0.1 percent stamp tax from the sales price in both markets.

3. Counsel has argued that in calculating United States price we should not have made an addition for import duties rebated.

DOC Position: We have verified that upon export the manufacturers investigated earn a rebate totaling 7.22 percent for various taxes paid on imported raw materials. The total rebate consists of 5.72 percent for import duties, 0.63 percent for harbor tax (sometimes referred to as harbor dues) and 0.87 percent for cargo (or commodity) tax. We have determined that it is appropriate, in calculating United States price, to make an addition for the import duty component (5.72 percent) of this rebate pursuant to section 772(d)(1)(B) of the Act, which requires that the United States price be "increased by . . . the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." The balance of this rebate (0.63 percent for harbor tax and 0.87 percent for cargo tax) we added in calculating United States price pursuant to the aforementioned section 772(d)(1)(C) of the Act.

4. Counsel has argued that in calculating United States price we should have made no additions for the non-collection or reduced collection of gross receipts tax, education surtax and stamp tax, because these taxes are not levied directly upon motorcycle batteries and therefore are not included within the ambit of section 772(d)(1)(C) of the Act.

DOC Position: Our treatment of the stamp tax is discussed above at point A.2. We have verified that the gross receipts tax (0.6 percent) and the education surtax (0.15 percent) are not collected in the case of exports but are collected in the case of home market sales. It has been the consistent policy of DOC (and the Treasury Department before it) that the gross receipts tax (sometimes referred to as business or sales tax) and the education surtax are both indirect taxes imposed directly on the merchandise and are properly added in calculating United States price pursuant to Section 772(d)(1)(C) of the Act. (This policy was most recently restated in "Carbon Steel Plate from Taiwan; Final Results of Administrative Review of Antidumping Finding" (46 FR 48280).

5. Counsel has argued that in making an adjustment for differences in credit terms, the DOC should have used the interest rate applicable to savings deposits. (This adjustment, permissible under § 353.15 of the Commerce Regulations as a "circumstance of sale," was a part of all of the fair value comparisons except those involving third countries).

DOC Position: An adjustment for difference in credit terms is warranted because each of the manufacturers investigated receives payment earlier in the case of sales to the United States

than in the case of home market sales. However, it is our position that the adjustment should be based on each respondent's actual annual *loan* rate of interest, rather than the rate applicable to savings deposits.

6. Counsel has argued that we should have made no adjustment in the case of the manufacturer Tahming for promotional expense.

DOC Position: This adjustment is proper because it was found to meet the criteria of § 353.15(b) of the Regulations, which requires that such expenses must "be attributable to a later sale of the merchandise by a purchaser."

7. Counsel has argued that in the case of the manufacturer Cheng Kwang, no adjustments should have been made for repair cost, after service cost, and advertising costs.

DOC Position: These adjustments were proper because they were for expenses which meet the criteria of § 353.15(b) of the Regulations. The repair and after service costs bear a "direct relationship to the sales which are under consideration" and the advertising costs are "attributable to a later sale of the merchandise by a purchaser". It should be notedn however, that these adjustments were improperly calculated by Cheng Kwang. When recalculated by the DOC, the resulting adjustments were much smaller than originally claimed.

8. Counsel has argued that no adjustment should be made for advertising expense in the case of the manufacturer Yuasa-Taiwan, because the claimed expense was not incurred solely for the sale of motorcycle batteries.

DOC Position: Our investigation showed that this expense did meet the aforementioned criteria and was properly allocated over Yuasa-Taiwan's home market sales of motorcycle batteries.

9. Counsel has argued that in the case of Yuasa-Taiwan, adjustments for advertising, bad debts and interest on inventory goods should be made in the case of comparisons between foreign market value and exporter's sales price, pursuant to § 353.15(c) of the Regulations which provides in part that: "In making comparisons using exporter's sales price, reasonable allowance will be made for all actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States market." (This section is referred to as the ESP offset provision.)

DOC Position: As noted above, we have adjusted for the advertising expense pursuant to § 353.15(b) of the Regulations. With regard to the bad debts and interest on inventory goods, these items do not meet the criteria of the ESP offset provision because they are not *actual* selling expenses. Yuasa-Taiwan was unable to offer any evidence of actual bad debt losses on sales of motorcycle batteries in the home market. Nor did Yuasa-Taiwan offer evidence of any other *actual* selling expenses.

10. Counsel has argued that in the case of the manufacturer Great King, we should not have selected sales to Greece to represent fair value because: (1) Great King did not provide full information on all its sales to third countries; (2) the sale to Greece was made outside the period of investigation; (3) only nine models of batteries were sold to Greece, whereas 31 models were sold to the United States; and (4) the sales to Greece are too small a percentage of non-US sales.

DOC position: (1) The total third country sales of Great King were provided and verified. (Counsel had not yet seen the verification report at the time he filed his brief); (2) the sale to Greece was made on November 27, 1980, whereas the period of investigation was from December 1980, to May 1981. However, § 353.38(a) of the Regulations authorizes the DOC to amend the period of investigation where necessary; (3) actually, the sale to Greece included 15 of 29 models of batteries sold to the United States. More importantly, the sale to Greece included models comprising 63 percent by value of Great King's sales to the United States. The corresponding percentages for the third countries of Malaysia, Iran, and Italy are 17, 13, and zero respectively; and (4) sales to Greece comprised 4.9 percent of Great King's third country sales. Moreover, as noted above, the product mix sold to Greece more closely approximated the product mix sold to the United States than any other third country. Also, the single sale to Greece was comparable to each of the four sales to the United States in terms of total value and in quantity sold per battery model.

B. Issues raised by counsel for Exide Corporation (a domestic manufacturer of motorcycle batteries who is a party to the proceeding). Counsel for Exide Corporation raised a number of issues most of which were also raised by the petitioner. Listed below are the issues raised solely by counsel for Exide.

1. Counsel has argued that Cheng Kwang did not provide information concerning all its home market sales.

DOC position: We have verified that the home market sales information submitted by Cheng Kwang is complete and accurate.

2. Counsel has argued that we should expand the investigation to include another manufacturer. This point was not raised until mid-November 1981.

DOC position: The six manufacturers we investigated accounted for about 90 percent of the exports of motorcycle batteries from Taiwan during the period of investigation, an adequate percentage based on previous determinations. In any event, manufacturers not investigated will be subject to this determination and will be required to post security in the amount of 8 percent of the f.o.b. value.

C. Issues raised by counsel for the Taiwan Electric Applicance Manufacturers Association ("TEAMA").

1. Counsel argues that in the case of all six manufacturers, in calculating United States price, we should have made no deductions for bank service charges, customs declaring fees, freight forwarding charges, and containerization fees.

DOC position: The above charges were all properly deducted under the provisions of section 772(d)(2)(A) of the Act which provides that the United States price shall be reduced by ". . . the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States. . .".

2. Counsel has argued that based on the results of our investigation we should exclude Great King from any final affirmative determination of sales at less than fair value under the *de minimis* principle.

DOC position: The weighted average margin of dumping for Great King was found to be 1.0 percent. Margins of this magnitude may not be ignored under the *de minimis* principle.

3. Counsel has argued that in the case of Ztong Yee, Tahming, and CSB, pursuant to § 353.19 of the Regulations, we should have made comparisons at the same level of trade or at different levels of trade with adjustments for differences affecting price comparability.

DOC position: We have, wherever possible, made comparisons at the same level of trade. However, not every model battery for every manufacturer was sold at the same level of trade in both markets. Furthermore, there was no consistent pattern of price variation in the home market according to the level of trade which would form a reasonable basis upon which to make an adjustment.

4. Counsel has argued that in the case of Ztong Yee, Tahming, and CSB, pursuant to § 353.14 of the Regulations, we should have made comparisons on sales of comparable quantities or with adjustments for differences in quantities.

DOC position: We have, whereover possible, made comparisons at comparable quantities. However, not every model, for every manufacturer, was sold in comparable quantities in both markets considered. Furthermore, there was no consistent pattern of price variation according to quantity per sale. None of the manufacturers provided information that would satisfy either of the criteria necessary for making allowances for quantity stated in § 353.14(b) of the Regulations.

5. Counsel has argued that in the case of Ztong Yee and Tahming, in the calculation of foreign market value, we should have made an adjustment for "interest on inventory" as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: This claimed adjustment, based on the cost of financing borne by the manufacturers for carrying a large number of batteries of various models for prospective sale in the home market, does not meet the criteria of § 353.15 of the Regulations which states that "allowances generally will not be made for advertising and other selling costs of a seller *unless such costs are attributable to a later sale of the merchandise by a purchaser.*"

6. Counsel has argued that in the case of Ztong Yee, in calculating foreign market value, we should have made an adjustment for salesmens' salary expense as a difference in circumstances of sale pursuant to 353.15 of the Regulations.

DOC Position: This claimed adjustment was also not appropriate because the expense was not attributable to a later sale of the merchandise by a purchaser. Salaries can not generally be taken as an adjustment except as an offset to United States selling expenses in cases involving exporter's sales price comparisons. There are no such comparisons for this manufacturer.

7. Counsel has argued that in the case of Ztong Yee, in calculating foreign market value, an adjustment should have been made for warranties, guarantees and servicing expenses as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: Adjustments such as these are specifically allowed under § 353.15(b) of the Regulations. However, in support of the claimed amount for this adjustment, Ztong Yee offered only the *total* corporate travel expenses for the period of investigation. In the absence of any evidence concerning expenses incurred for warranty, guarantee, or service related travel, no adjustment can be made.

8. Counsel has argued that in the case of Ztong Yee, in calculating foreign market value, an adjustment should have been made for advertising expense as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: Sufficient evidence concerning this claim had not been provided at the time of our preliminary determination. Subsequently, Ztong Yee has provided adequate evidence that it did incur home market advertising expense attributable to later sales of motorcyle batteries for which an adjustment is proper. However, we found that Ztong Yee improperly allocated the portion of this expense for FM radio advertising. Therefore, the adjustment we made is lower than that claimed.

9. Counsel has argued that in calculating foreign market value for Tahming, we should have made an adjustment for obsolescense loss as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: This claim is based upon the cost of inventory financing incurred by Tahming for battery models that prove unsaleable and are eventually scrapped. The claim was rejected because the expense did not meet the criteria of § 353.15 of the Regulations. The expense bore no direct relationship to the sales which are under consideration.

10. Counsel has argued that in the case of Tahming, in calculating foreign market value, an adjustment should have been made for bad debt reserve as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: This claim was rejected because the expense bore no direct relationship to the sales under consideration. No evidence was presented that Tahming suffered any losses because of bad debts on its home market sales of motorcycle batteries during the period of investigation.

11. Counsel has argued that in the case of Cheng Kwang, we should have calculated foreign market value based on sales to a third country, Sweden, with adjustments made for differences in level of trade and quantities.

DOC Position: Cheng Kwang's sales of motorcycle batteries in its home market were valued at about 10 percent of its sales to third countries. Under normal circumstances, pursuant to § 353.4(a) of the Regulations, home market sales of such magnitude would be considered to be an adequate basis to represent foreign market value. However, as noted above under "Methodology of Fair Value Comparison", all home market sales were of a single battery model, whereas sales to the United States were of seventeen battery models, with a wide variance in specifications. The single model sold in the home market accounted for less than 3 percent of the sales to the United States. We therefore based foreign market value on home market sales for one model and on third country (Sweden) sales for 10 other models. Using this methodology, we were able to make comparisons on 62 percent of Cheng Kwang's sales to the United States. No adjustments were made for differences in level of trade or quantities because there was no consistent pattern of price variation in concert with differences in either level of trade or quantity pursuant to § 353.19 of the Commerce Regulations.

12. Counsel has argued that in the calculation of foreign market value for Cheng Kwang we should have adjusted for the full amount claimed by Cheng Kwang for warranties, guarantees, and servicing expenses as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: Cheng Kwang was unable to identify which of its warranty, guarantee, and servicing expenses were devoted to motorcycle batteries. It therefore allocated its entire amount of such expenses between motorcycle and automobile battery sales based upon the *number* of units sold of each type (motorcycle or automobile) battery. It is our position that since the unit value of automobile batteries is much greater than the unit value of motorcycle batteries, Cheng Kwang's method of allocation loads a disproportionate amount of the expense on motorcycle batteries. We therefore recalculated this adjustment by allocating this expense by the value of motorcycle battery sales over the total value of sales of both motorcycle and automobile batteries.

13. Counsel has argued that CSB should be excluded from any final affirmative determination because there were no sales at less than fair value for that manufacturer.

DOC Position: On October 14, 1981, we preliminarily determined, based on the best information available, that CSB had no sales at less than fair value. However, since that time, we have gathered, verified, and analyzed more data, and have calculated a weighted-average margin for CSB of sales at less than fair value of 1.7 percent. Therefore, an exclusion from the final determination for CSB is not warranted.

D. Issues raised by Counsel for Dorsey International, Incorporated ("Dorsey") (an American importer of motorcycle batteries from Taiwan who is a party to the proceeding).

The issues listed below raised by counsel for Dorsey are issues which differ from those raised by counsel for TEAMA which are discussed above.

1. Counsel has argued that in the case of Tahming, we should have compared sales to the United States of battery model 6N6–1D–2 to sales in the home market of model 6N6–1B(K) rather than model 6N6–1D because "the sale of the former was to the buyer occupying a market position comparable to that of the U.S. importer and the quantities sold in both cases were equal."

DOC Position: All three models are quite similar in terms of specifications and configuration. Model 6N6–1D was not sold in the home market in quantities comparable to the quantities at which model 6N6–1D–2 was sold to the United States. For the final determination, we have compared sales to the United States of model 6N6–1D–2 with home market sales of model 6N6–1B(K) which was sold in comparable quantities. In making this comparison we have also made an adjustment for the difference in production cost between the two models pursuant to section 353.16 of the Regulations. A further discussion of the methodology we employed for Tahming appears below under "D2".

2. Counsel has argued that in the case of Tahming, (1) sales of "similar" merchandise to Taiwanese original equipment manufacturers ("OEM's") should be used rather than sales of "such" merchandise to Taiwanese dealers to form a basis for calculating foreign market value, or, alternatively, (2) if sales of such merchandise to dealers are used for comparison purposes, then a level of trade adjustment on the basis of the weighted-average price differential between sales to OEM's and dealers should be made.

DOC Position: There is no consistent pattern of price varying according to level of trade for this manufacturer. For the purposes of this final determination, for Tahming, we have compared sales to the United States with the weighted-average sales price of identical battery models sold in comparable quantities in the home market to either OEM's or dealers. In instances where identical models were not sold in comparable quantities in the home market, we based our comparison on sales of the most similar battery model sold in the home market in comparable quantities, with an adjustment for the difference in cost of production between the battery model sold to the United States and the similar home market model with which it is compared.

3. Counsel has argued that in the case of Tahming, in calculating foreign market value, we should have made an adjustment for "small quantity orders" versus large quantity orders.

DOC Position: During the course of the on-site verification of information submitted by Tahming, the company was unable to substantiate this claimed adjustment.

4. Counsel has argued that we should expand the period of investigation to include purchases by Dorsey from Tahming which were made prior to December 1980 (the beginning of the investigation period) but not shipped until later.

DOC Position: The criterion for inclusion of a transaction within our investigation is the date of sale, not shipment. To expand the period of investigation to include the Dorsey sales would skew the results of our investigation unless we required additional sales data from the other five manufacturers covering the period of the Dorsey sales.

Final Determination

Based on the preceding criteria and in accordance with § 353.44 of the Regulations, we have determined that exports of motorcycle batteries from Taiwan are being sold at less than fair value within the meaning of section 731 of the Act. Margins were found on 59 percent of the sales compared, and the margins ranged from 0.02 to 47.4 percent. The weighted-average margin on all sales compared was 8.0 percent. The weighted-average margin found for each manufacturer is listed in the table in the next section of this notice. We have provided interested parties with an opportunity to present oral views in accordance with 19 CFR 353.47 and written views in accordance with 19 CFR 353.46(a). All views presented have been considered in making this determination.

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The U.S. Customs Service will continue to require posting of a cash deposit, bond, or other security in the amounts listed below, expressed as a percentage of the F.O.B. value of the motorcycle batteries.

Manufacturer	Weighted-average margins (percent of f.o.b. value)
Ztong Yee Industrial Co., Ltd	16.8
Tahming Battery Co., Ltd	11.1
Yuasa Battery Taiwan Co., Ltd	7.4
Cheng Kwang Storage Battery Co., Ltd	7.2
China Storage Battery Co., Ltd	1.7
Great King Electricity Co., Ltd	1.0
All Others	8.0

ITC Notification

We have referred this case to the ITC so that so that it may determine whether these imports are materially injuring a U.S. industry. That determination is due within 45 days of the publication of this notice.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within 7 days we will issue an antidumping order, directing customs officers to assess an antidunmping duty on all motorcycle batteries from Taiwan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 82-5882 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico 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 research requirements for all of the Council's fishery management plans.

DATES: The public meetings will convene on Tuesday, March 23, 1982, at approximately 1 p.m., and adjourn at approximately 5 p.m.; reconvene on Wednesday, March 24, 1982, at approximately 8 a.m., and adjourn at approximately 12 noon.

ADDRESS: The public meetings will take place at the Landmark Motor Hotel, 2601 Severn Avenue, Metairie, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: March 1, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–5899 Filed 3–3–82; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Auto-Syringe, Inc.; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Auto-Syringe, Incorporated, having a place of business at Hooksett, New Hampshire 03104 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Infusion Apparatus," U.S. Patent Application 6,271,271 (dated June 8, 1981). The availability of this invention for licensing was announced in the **Federal Register** (46 FR 56002, November 13, 1981). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials, relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: February 26, 1982.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82–5854 Filed 3–3–82; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Man-Made Fiber Textile Products From the Republic of Korea

March 1, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing from 3,248,346 to 3,215,922 dozen the level of restraint established for man-Made fiber sweaters in Category 645/646, produced or manufactured in Korea and exported during the agreement year that began on January 1, 1982, to account for exports in the category which exceeded the 1980 limit.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on Februay 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), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, notes were exchanged on August 13 and September 9, 1981 which provided for an adjustment in the 1982 level for man-made fiber textile products in Category 645/646 to account for overshipments in the category which occurred during the 1980 agreement year.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61692) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 645/646, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with agreement reached pursuant to the terms of the bilateral agreement, to reduce the level of restraint established for Category 645/646 to 3,215,922 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you December 14, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Effective on March 8, 1982, you are directed to amend paragraph 1 of the directive of December 14, 1981 to include a reduced level of restraint for man-made fiber textile products in Category 645/646 of 3,215,922 dozen.[1]

The action taken with respect to the Government of the Republic of Korea and with respect to imports of man-made fiber textile products from Korea has 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. 82–5904 Filed 3–3–82; 8:45 am]

BILLING CODE 3510–25–M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

COUNCIL ON ENVIRONMENTAL QUALITY

Letter of Approval of HUD's NEPA Procedures

February 25, 1982.

AGENCY: Council on Environmental Quality.

ACTION: Information only: Publication of Council's Letter Containing Approval of HUD's NEPA Procedures.

SUMMARY: Section 1507.3(a) of the "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," 40 CFR Part 1500, *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations, in consultation with the Council on Environmental Quality. It further provides that agencies shall continue to review their policies and procedures, and, in consultation with the Council, revise them as necessary to ensure full compliance with the purposes and provisions of NEPA.

On May 5, 1981, the Council published a letter from the General Counsel of CEQ to the Assistant Secretary Designate for Community Planning and Development, Department of Housing and Urban Development. 46 **Federal Register** 25121–22. That letter stated that the Council disapproved the Part 58 procedures for the Urban Development Grant Program (UDAG).

The Council has recently received HUD's amended interim Environmental Review Procedures for Title I, Community Development Block Grant Programs (24 CFR 58). The Council approves of the interim HUD procedures, as applicable to all Title I programs including UDAG.

FOR FURTHER INFORMATION CONTACT: Nancy Nord, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; Telephone: (202) 395–5754.

Nancy Nord,

General Counsel.

February 24, 1982.

Mr. Stuart Sloame,

General Deputy Assistant, Secretary for Field Operations and Environment/ Energy Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C.

Dear Mr. Sloame: Section 1507.3(a) of the "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," 40 CFR Part 1500 *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations, in consultation with the Council on Environmental Quality. It further provides that agencies shall continue to review their policies and procedures, and, in consultation with the Council, revise them as necessary to ensure full compliance with the purposes and provisions of NEPA.

On December 14, 1981, your staff transmitted interim Environmental Review Procedures for Title I, Community Development Block Grant Programs, as authorized and amended under the Housing and Community Development Acts of 1979 and 1981. The new interim rules implement procedures under which block grant recipients and States may assume the environmental responsibilities of the Secretary of Housing. 24 CFR 58.

In reviewing your interim rules the Council has given close examination to the question of delegating responsibilities under NEPA. Several courts have also had occasion to examine the relationship between the Housing and Community Development Act and the National Environmental Policy Act. These cases have held that the provisions of the Housing and Community Development Act delegating environmental review responsibilities to the applicant apply to the UDAG program, as well as all other programs under Title I of the Act. The responsibility to ensure that HUD procedures are complied with by the applicant remains with HUD, but, "neither the Secretary nor HUD has an independent duty to evaluate the conclusions of an environmental review record where such a record in in accord with HUD regulations." *Colony Federal Savings and Loan Association v. Harris,* 482 F.Supp 296, 303 (W.D. Penn. 1980). *See also, National Center for Preservation Law v. Landrieu,* 496 F.Supp. 716 (D. South Carolina) (1980), aff'd., 635 F.2d 324 (4th Cir. 1980); cf. *Monarch Chemical Works v. Exxon,* 466 F.Supp. 639 (D. Neb. 1979), aff'd., 604 F.2d 1083 (8th Cir. 1979).

The Council has completed its review of the interim rules. Based upon that review, the Council has determined that the procedures adequately address all the sections of the regulations required to be addressed by § 1507.3.

Sincerely,

Nacy Nord,

General Counsel.

[FR Doc. 82–5711 Filed 3–3–82; 8:45 am]

BILLING CODE 3125–01–M

Basin Electric Power Co.; Availability of Report

February 24, 1982.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Notice of Availability of Report.

SUMMARY: This notice announces the availability of the Annual Report submitted by Basin Electric Power Cooperative, as Project Manager for the Missouri Basin Power Project in the matter of an exemption granted from the requirements of the Endangered Species Act to Grayrocks Dam. The lead Federal agency in the Project is the Rural Electrification Administration.

DATE: The Report was submitted to the Council on February 2, 1982.

SUPPLEMENTARY INFORMATION: Subsection (L)(2) of the Endangered Species Act Amendments of 1978 (16 U.S.C. 1536) requires that any agency granted an exemption under subsection (h) of the Endangered Species Act must submit to the Council on Environmental Quality an annual report describing its compliance methods with the mitigation and enhancement measures prescribed by the law. Subsection (L)(2) further requires that the Council publish availability of the report in the Federal Register.

On February 7, 1979 the Endangered Species Committee granted an exemption from the requirements of the Endangered Species Act to Grayrocks Dam. In granting the Exemption Order, the Committee, as required by the Act, established requirements for reasonable mitigation and enhancement measures. These requirements are set out in an "Agreement of Settlement and Compromise" and is part of the Annual Report announced herein.

ADDRESS: The Annual Report is available from Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58501; Telephone: 701/223–0441.

FOR FURTHER INFORMATION CONTACT: Nancy Nord, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006. 202/395–5754.

Nancy Nord,

General Counsel.

[FR Doc. 82–5714 Filed 3–3–82; 8:45 am]

BILLING CODE 3125–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of Meeting: Tuesday, March 23, 1982; Wednesday, March 24, 1982

Times: 0830–1700 hours, March 23, 1982 (Closed); 0830–1200 hours, March 24, 1982 (Closed)

Place: Fort Monroe, Virginia

Agenda: The Army Science Board Summer Study Group on Chemical Warfare will meet to receive classified briefings on Nuclear, Biological, and Chemical defenses

and an operational overview. There will also be classified discussions of same. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-5855 Filed 3-3-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Hearings

AGENCY: National Commission on Excellence in Education.

ACTION: Notice of hearings.

SUMMARY: This notice sets forth the schedule of hearings of the National Commission on Excellence in Education. Notice of these hearings is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: March 11, 1982 (8:30 a.m.—5:30 p.m.); April 16, 1982 (8:30 a.m.—5:30 p.m.); May 12, 1982 (8:30 a.m.—5:30 p.m.); June 23, 1982 (8:30 a.m.—5:30 p.m.); September 16, 1982 (8:30 a.m.—5:30 p.m.); October 7, 1982 (8:30 a.m.—5:30 p.m.)

LOCATIONS:

March 11, 1982, *Science, Mathematics and Technology,* Tresidder Student Union, Room 281, Stanford University, Stanford, California

April 16, 1982, *Language and Literacy,* Houston, Texas

May 12, 1982, *Teaching and Teacher Education,* Atlanta, Georgia

June 23, 1982, *Admission Standards,* Chicago, Illinois

September 16, 1982, *Education and the Student's Life Work,* Denver, Colorado

October 7, 1982, *Gifted and Talented Students,* Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, 1200 19th Street, N.W., Washington, D.C. 20208 (202) 254-7920 or Susan Traiman, Research Associate, (202) 254-7920

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 et seq.) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

Each hearing will follow the same three-part format. In the morning, the Commission members will hear invited testimony from key national experts on the topic under consideration. Following the presentation of testimony, the invited experts will discuss relevant issues among themselves and respond to questions from Commission members. After the luncheon recess, local and regional experts will present invited testimony about their experiences and perspectives on the topic. Again, the Commission members will pose questions to those witnesses. At the end of the day, there will be an opportunity for members of the audience to submit testimony on specific examples of educational excellence. These testimonials may address either the day's topic or other topics related to the pursuit of educational quality.

In addition to the testimony the Commission receives the day of the hearing, individuals and organizations across the country are invited to submit 2-5 pages of written testimony that will assist the Commission in developing recommendations on this topic. The record will remain open for one month following the hearing.

Testimony should be submitted to: Commission Hearings, National Commission on Excellence in Education, Washington, D.C. 20208, (202) 254-7920.

The hearings of the Commission are open to the public. The public is being given less than fifteen days notice of these hearings because of the delay in receiving confirmation on all 6 hearing dates.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, N.W., from the hours of 8:00 a.m. to 5:00 p.m.

Dated: February 23, 1982.

Fred W. Decker,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-5856 Filed 3-3-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Magnetic Fusion Program; Intent To Prepare a Generic Environmental Impact Statement and To Conduct a Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare a generic environmental impact statement (GEIS) to assess the DOE magnetic fusion program.

SUMMARY: The Department of Energy announces its intent to prepare a GEIS in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA), as amended, to assess the environmental implications of the DOE Magnetic Fusion Program. In order to comply with the mandate of the Magnetic Fusion Engineering Act of 1980 (Pub. L. 96-386), a DOE decision is expected within the next several years on proceeding with the demonstration of engineering feasibility which will include design and construction of a major fusion engineering device (FED). The GEIS is intended to assure that potential environmental impacts associated with the engineering feasibility demonstration including FED, as well as those associated with ultimate commercial deployment, are properly addressed.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the identification of the scope of this draft GEIS. Additionally, interested agencies, organizations, and the general public are also invited to attend a public scoping meeting to be held in Washington, D.C. on April 22, 1982, to assist DOE in identifying significant environmental issues associated with the development and implementation of this program. Upon completion of the draft GEIS, notice of its availability will be announced in the **Federal Register**, and comments will be solicited. Comments received on the draft GEIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the draft GEIS and requests to speak at the scoping meeting may be submitted to: Mr. John E. Baublitz, Division of Development and Technology, Office of Fusion Energy, U.S. Department of Energy, ER-532, GTN, Washington, D.C. 20545, (301) 353-4952.

General information on the process followed by DOE in preparing EIS's may be obtained from: NEPA Affairs Division, U.S. Department of Energy, Ms. Carol M. Borgstrom, EP-33, Room 4G-064, Forrestal Bldg., 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-4600.

DATES: Written comments postmarked by April 30, 1982, will be considered in the preparation of the draft GEIS.

Comments postmarked after that date will be considered to the maximum extent practicable. A scoping meeting will be held at the U.S. Department of Energy, Room GE–086, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. on April 22, 1982. Requests to speak at this meeting should be received by Mr. John E. Baublitz at the address above by April 7, 1982.

SUPPLEMENTARY INFORMATION:

Background Information

Fusion potentially represents a major inexhaustible and flexible power source which could complement existing energy options that may be limited by resources, safety, environmental, or other considerations. Presently, no single energy option appears to be an adequate national power resource; thus, a complementary development program of multiple energy options is desirable. The objective of the magnetic fusion program is to develop fusion's highest potential; i.e., to realize the most promising uses for fusion energy. The Magnetic Fusion Engineering Act of 1980 (Pub. L. 96–386) calls for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century. In order to achieve a successful demonstration, the Act mandates that the DOE achieve at the earliest practicable time, but not later than the year 1990, the operation of a magnetic fusion engineering device (FED) based on the best available confinement concept; and demonstration of the engineering feasibility of magnetic fusion by the early 1990's. The DOE has determined that in order to further the purposes of the NEPA and facilitate the timely achievement of the objectives of the magnetic fusion program, environmental information regarding the program options should be available for consideration prior to a major commitment of resources based on any particular program option.

The goals of the engineering development activities of the program will be guided primarily by the long term objective of providing central station electric power generation and this will provide the basis for the projections of environmental impacts of commercial fusion to be analyzed in the GEIS.

Depending on the future funding levels which are actually applied to fusion development, the program may proceed at various paces. Although these variations in pace clearly would affect the timing of achievement of program goals, they would not, in themselves, produce differential environmental effects and are, therefore, not considered as alternatives for the purposes of this GEIS.

The GEIS will address the potential environmental and socioeconomic impacts of future commercial applications of magnetic fusion energy, should the magnetic fusion program succeed, as well as those associated with the research and technology development program itself. The GEIS will focus on central station electric power generation, the principal goal of the current program. Construction and operation of central-station fusion power plants are expected to result in many environmental interactions that also occur from the construction and operation of conventional steam-electric power plants. However, the GEIS will focus on those environmental and socio-economic effects uniquely associated with magnetic fusion plants and on other elements of the fuel cycle for a magnetic fusion economy (e.g., presence of magnetic fields, tritium management). The likelihood of programmatic changes or new information as the program evolves which may be significant environmentally is recognized, and further NEPA reviews will be conducted as appropriate if such changes occur.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation.

Preliminary Identification of Environmental Issues and Alternatives

To assess the environmental implications of developing a magnetic fusion economy, an array of magnetic fusion plants with supporting facilities will be hypothesized. The designs of the magnetic fusion power plants will be based on conceptual reactor designs which represent the best information available at this stage of development. The current program is based on the deuterium-tritium-lithium (D–T–Li) fuel cycle. Because of the relatively low temperature required and the high reaction energy, a favorable energy gain is far easier to achieve with D–T–Li fuel cycle than with any other; however, alternate fuel cycles will be treated appropriately. The following issues have been identified for analysis in the GEIS. This list is presented to facilitate public comments on the scope of the GEIS and is not intended to be all inclusive, nor is it intended to be a predetermination of impacts.

1. The effects resulting from procurement of the fuels—lithium (mining, chemical preparation, and transportation); tritium (chemical preparation and transportation of initial shipment); and deuterium (extraction from water and transportation)—and other materials needed for power plant construction and operation. Consideration also will be given to the extent various industries (for fuels and raw materials) would have to expand to support a magnetic fusion economy;

2. The potential for exposure of the public and occupational work force to radiation during all phases of the fuel cycle;

3. The effects of a reasonable range of expected accidents and radioactive releases;

4. The nature and effects of thermal and chemical plant effluents;

5. The effects of various radioactive waster management schemes, including power plant decommissioning and recycling of radioactive structural materials; and

6. The potential for and effects of exposure of the public and occupational work force to magnetic fields.

The DOE will consider all reasonable alternatives with respect to the development of a magnetic fusion program, including alternatives to the program as well as alternative approaches within the program.

Alternatives to the program may include alternative inexhaustible sources of energy, i.e., solar, geothermal, fission breeder reactors and inertial confinement fusion, as well as "no action," i.e., terminate the magnetic fusion energy program. Alternatives within the program may include:

(1) Alternative technological approaches to magnetic confinement, e.g., tokamaks and mirrors;

(2) Alternative fuel cycles, i.e., deuterium-tritium-lithium, deuterium-deuterium; and

(3) Alternative reactor systems and material choices currently under consideration.

In addition, decisions on several options which could influence the direction of the fusion program would need to be made during the demonstration of engineering feasibility and prior to the construction and operation of a fusion engineering device. Examples of these options which also would be assessed in the GEIS include:

(1) Selection of the magnetic system, e.g., superconducting or conventional magnets, and magnet field configuration;

(2) Selection of the plasma heating system, e.g., neutral beams, radiofrequency; and

(3) Selection of the blanket cooling concept, e.g., lithium, helium, pressurized water.

Comments and Scoping Meeting

All interested parties are invited to submit written comments or suggestions concerning the scope of issues that should be addressed in the GEIS and to attend a scoping meeting in which oral comments and suggestions will be received. Those desiring to submit written comments or suggestions should submit them to Mr. John E. Baublitz at the address listed above no later than April 30, 1982.

Those wishing to participate in the scoping process may also attend a public scoping meeting to be held at the U.S. Department of Energy, Room GE-086, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. on April 22, 1982, beginning at 10:00 a.m. Written and oral comments will be given equal consideration.

The DOE will establish procedures governing the conduct of the meeting. The meeting will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. To provide the Department of Energy with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

1. Those individuals desiring to make oral comments should mail their requests to Mr. John E. Baublitz at the address listed above.

The DOE reserves the right to arrange the time and schedule of presentations to be heard and to establish procedures governing the conduct of the meeting. Interested individuals and organizations should notify DOE of their desire to speak before April 7, 1982, DOE will in turn notify prospective speakers before the meeting of the time and schedule for presentation. Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting and will be called on to present their comments, if time permits. Depending on the number of speakers, DOE reserves the right to place time limits on the speakers.

2. If any speaker desires to provide further informatin for the record subsequent to the meeting, it must be submitted in writing by April 30, 1982, to Mr. John E. Baublitz at the address listed above.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the draft GEIS for review and comment when it is issued, should notify J. E. Baublitz at the address listed above.

When the draft GEIS is complete, its availability will be announced in the Federal Register, and public comments again will be solicited.

A transcript of the meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue NW., Washington, D.C. 20585 between 8:00 and 4:00 p.m., Monday through Friday. Other locations where transcripts will be available are:

Albuquerque Operations Office, National Atomic Museum, Albuquerque, New Mexico 87115

Chicago Operations Office, Room A1136, 175 West Jackson Boulevard, Chicago, Illinois 60604

Idaho Operations Office, Public Reading Room, 550 Second Street, Idaho Falls, Idaho 83401

Nevada Operations Office, Public Reading Room, 2753 South Highland Drive, Las Vegas, Nevada 89114

Oak Ridge Operations Office, Public Document Room, Oak Ridge, Tennessee 37830

Denver Public Library, Government Publications Department, 1357 Broadway, Denver, Colorado 80210

Richland Operations Office, Document Room. Hanford Science Center, Federal Building, Richland, Washington, D.C. 99352

San Francisco Operations Office, Energy Resources Center, 2nd Floor, 1333 Broadway, Oakland, California 94612

Savannah River Operations Office, Public Reading Room, Federal Building, Savannah River Plant, Aiken, South Carolina 29801.

In addition, members of the public also may inspect at the above addresses, a copy of a document which provides information on environmental aspects of the Magnetic Fusion Program. This document is: U.S. Department of Energy, *Environmental Development Plan (EDP): Magnetic Fusion Program, 1979*, DOE/EDP-0052, Washington, D.C., September 1979.

Dated at Washington, D.C. this February 26, 1982.

For the Department of Energy.

Barton R. House,

Deputy Assistant Scretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82-5857 Filed 3-3-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order by the Office of Hearings and Appeals; Period of January 25 Through February 5, 1982

During the period of January 25 through February 5, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 26, 1982.

Diamond Shamrock Corp., Amarillo, Texas, BEE-1680, crude oil

Diamond Shamrock Corp. filed an

Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit Diamond Shamrock Corp. to submit an amended entitlements report to the Economic Regulatory Administration for the month of June 1980 to correct a recently discovered reporting error. On February 5, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82-5859 Filed 3-3-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Period of January 4 Through January 29, 1982

During the period of January 4 through January 29, 1982 the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before March 24, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 26, 1982.

The Standard Oil Company, Cleveland, Ohio, HRO-0028, petroleum products

On January 29, 1982, The Standard Oil Company (Sohio) Midland Building, Cleveland, Ohio 44115 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel issued to the firm on December 29, 1981.

In the PRO the OSC found that during the period December 1, 1974 to January 28, 1981, Sohio improperly calculated its increased refinery fuel costs and other nonproduct costs.

According to the PRO the Sohio violation resulted in a total estimated violation of $168,369,970.

The Standard Oil Company, Cleveland, Ohio, HRO-0029, refined petroleum products

On January 29, 1982, The Standard Oil Company (Sohio) Midland Building, Cleveland, Ohio 44115 filed a Notice of Objection to (a Proposed Remedial Order) which the DOE Office of Special Counsel issued to the firm on December 29, 1981.

In the PRO the Office of Special Counsel found that during August 1973 to May 1974, Sohio charged Tenneco Oil Company prices for refined petroleum products which included a cost increment that exceeded the maximum permissible "di^{a}."

According to the PRO the Sohio violation resulted in $3,700,000 of overcharges.

[FR Doc. 82-5858 Filed 3-3-82; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures to be followed in refunding to members of the public $160,000 in consent order funds. The funds are maintained in an escrow account that was established in settlement of enforcement proceedings brought by the Office of Enforcement in the matter of Anderson Butane Service, Inc.

DATE AND ADDRESS: Applications for Refund must be postmarked on or before June 2, 1982 and should be addressed to: Anderson Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue, NW. Washington, D.C. 20461. All applications should display conspicuously a reference to case number BEF-0066.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the final decision and order set out below. The final decision and order relates to a consent order entered into by the Office of Enforcement of the DOE's Economic Regulatory Administration and Anderson Butane Service, Inc., *see* 44 FR 33925 (1979). Pursuant to the consent order, Anderson, a producer of natural gas liquids (NGLs), has agreed to make refunds totaling $160,000 with respect to violations of DOE price regulations alleged to have occurred between August 1, 1973 and November 30, 1974.

The Office of Hearings and Appeals has previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds. The proposed decision and order discussing the distribution of funds obtained through the Anderson consent order was issued on September 28, 1981, 46 FR 48747 (1981).

The final decision and order reflects our analysis of comments received from interested parties. As we indicate in the final decision, applications for refund from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than ninety days from the date of publication of this notice. *See* 10 CFR 205.283. We will accept applications from all claimants that can affirmatively demonstrate that they have been directly injured by the violations alleged in the consent order. A detailed discussion of what information a party must provide in order to assert a successful claim is set forth in the final decision and order appended to this Notice.

With respect to the portion of the proposed decision and order concerning the funds, if any, which may remain after all meritorious claims have been paid, the final decision reaches no determination with regard to the disposition of any funds in the second stage of the proceeding, because the most appropriate disposition of these funds may be determined, to a great extent, by the amount of money that remains after the first stage of the proceeding.

Issued in Washington, D.C. on February 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 25, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Anderson Butane Service, Inc.

Date of Filing: June 25, 1981.

Case Number: BEF-0066.

Under the procedural regulations of the Department of Energy, the Eonomic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds to injured persons in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the OE filed a Petition for the

Implementation of Special Refund Procedures in connection with a consent order entered into with Anderson Butane Service, Inc. Under the terms of the consent order, the firm agreed to make refunds for its alleged violations of the DOE price regulations in sales of butane and propane in the amount of $160,000. (*1*) The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding their distribution.

Background

A proposed decision and order which tentatively established special refund procedures to be used in adjudicating claims to the settlement funds involved in this proceeding has been previously issued, and comments have been received from interested parties concerning the proper disposition of the consent order funds. (*2*) In the proposed decision we tentatively established a two-stage refund procedure for the consent order funds. In the first stage, we determined that those firms which purchased NGLs during the relevant period from Anderson and which believe they are eligible for a portion of the consent order funds should file Applications for Refund pursuant to 10 CFR 205.283. Downstream purchasers could also file Applications for Refund during the first stage of the refund process. Each application would be analyzed, determinations on the merits of each application would be rendered, and all meritorious claims would then be paid. Finally, we suggested as the second stage of the refund process that first purchasers submit proposals which set forth appropriate mechanisms for returning moneys to the parties who likely paid increased prices as a result of the alleged overcharges. Alternatively, we proposed that if such plans proved infeasible, the portion of the settlement fund which, because of prohibitive administrative costs, might otherwise go undistributed be deposited into the Treasury of the United States. *See* 10 CFR 205.287(c).

The proposed decision and order was published in the **Federal Register**, and copies were sent to interested parties. 46 FR 48747 (1981). The comment period specified in the **Federal Register** has passed. This decision establishes the mechanism by which firms that purchased propane or butane from Anderson may file Applications for Refund. We shall first discuss the comments which we received concerning the first-stage refund procedures which we tentatively adopted in the proposed decision and order in this case. Next we shall discuss in detail the Application for Refund procedures that we have decided to adopt. We shall not, however, discuss the second-stage refund process in this decision since the first purchasers identified in this proceeding may file claims which, if meritorious, would thoroughly deplete the consent order funds. In that event no second stage would be necessary. Moreover, our determination concerning the final disposition of any residual funds will necessarily depend on the amount of the funds remaining after all meritorious claims are paid. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). It is therefore unnecessary at this time for us to reach the issues raised by the commenters concerning the proposed second stage distribution of funds.

Jurisdiction

In our September 28 proposed decision we determined that we should assert jursidiction in this case. Specifically, we stated that:

> After reviewing the record developed in this proceeding, we have concluded that the implementation of Subpart V proceedings is appropriate. In the instant case, there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges. Moreover, even in cases where an injured person can be identified, it is difficult to ascertain the amounts that such persons should receive. Until recently, propane and butane were subject to a comprehensive price regulation scheme which could be used to channel refunds to ultimate consumers. However, on January 28, 1981, President Reagan exempted crude oil and all refined products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result, price rollbacks are now an ineffective means of making restitution to purchasers who have been injured since there are currently no price ceilings against which price rollbacks can be measured. Moreover, to make refunds to the parties affected by the alleged overcharges, a determination must be made regarding the extent to which the higher costs were passed through to downstream customers. As a result, the persons entitled to refunds are not readily identifiable, and the amounts of the refunds that such persons should receive are not readily ascertainable. Under these circumstances, we believe that subpart V provides the most useful mechanism to effect restitution to persons actually injured by alleged pricing violations. We have therefore decided to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceeding underlying the Petition for Implementation of Special Refund Procedures filed by the OE in this matter.

46 FR 48748. None of the parties filing comments in this proceeding objects to OHA's jurisdiction over this case or challenges our authority to fashion special refund procedures. Consequently, we have determined that we should accept jurisdiction over this matter.

Comments on the Proposed First Stage

In the proposed decision which we issued on September 28, 1981, we tentatively concluded that as the first stage of the refund process we would accept Applications for Refund from parties that had purchased propane or butane produced by Anderson. We will also accept an Application for Refund from an applicant who can demonstrate that it purchased during the relevant time period a specific quantity of products which was produced with or from the butane or propane sold by Anderson. In addition, unless an applicant was an ultimate consumer, a party claiming that it was injured would also have to demonstrate that it absorbed any cost increase resulting from the alleged overcharges. We also stated that we would accept and evaluate on a case-by-case basis applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers. Finally, we solicited comments from all interested parties concerning our proposals.

Some of the commenters complained that the proposed decision appeared to give priority to first purchasers and thereby prejudice the claims of downstream purchasers. In addition, those commenters objected to the proposed procedures because they believed the proposals would permit first purchasers to automatically recover refunds to the extent that their "banked" (unrecovered increased product) costs for the relevant period equalled or exceeded the amount claimed.

We believe that these commenters have taken an unnecessarily narrow view of the proceedings envisioned by the proposed decision and the Subpart V regulations. As an initial matter, our proposed decision clearly stated that Applications for Refunds would be accepted from *all* claimants, including consumers and representatives of groups of consumers. *See Office of Enforcement*, 46 FR 48749. In addition, the required showing of sufficient banks is only a threshold showing to be applied in making a determination as to whether a claimant actually suffered an injury. If a claimant meets this test, it will still be necessary for the firm to proffer some type of additional evidence to demonstrate that it indeed was injured by the alleged overcharges. To the extent that a first purchaser can establish that it did not pass on overcharges to its downstream customers, those customers were not injured and would have no claim. We therefore disagree with commenters who believe that first purchasers are being accorded an unwarranted priority status in this proceeding.

Several commenters also claim that the OHA cannot as a matter of law require a claimant to prove that it did not pass on the alleged overcharges to its customers. In support of that position, the commenters cite the antitrust case of *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720 (1977). In Illinois Brick, the Court held that the "pass-on" theory could not be used offensively by a plaintiff who was not a direct purchaser from the defendant but claimed that the effects of an antitrust violation had been passed on to it by an intermediate party. The Court had previously held, in *Hanover Shoe* v. *United Shoe Machine Corp.*, 392 U.S. 481 (1968), that "passing on" could not be used as a defense in a private antitrust action by a defendant alleging that the plaintiff had passed on the resulting overcharges to its customers and therefore suffered no injury.

In our recent decision in *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*), we discussed at great length the factors distinguishing private

antitrust actions brought under section 4 of the Sherman Act from government actions brought under section 209 of the Economic Stabilization Act (ESA), such as the instant case. In *Coline*, we held that the considerations underlying the exclusion of pass-on evidence in private antitrust actions, as well as private actions brought under section 210 of the ESA, were inapplicable to section 209 actions. Consequently we reaffirmed our authority to require proof by a claimant that it absorbed overcharges in order to establish entitlement to a portion of the settlement fund. This position was also adopted by the court in *Citronelle-Mobile Gathering, Inc.* v. *O'Leary*, 499 F. Supp. 871 (S.D. Ala. 1980), *modified on other grounds*, No. 77-101-P (Temp. Emer. Ct. App. January 21, 1982). No new arguments have been presented in this proceeding which would lead us to alter our position on this matter.

Application for Refund Procedures

After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our Proposed Decision and Order, we have concluded that: (i) the OHA has properly asserted jurisdiction over this case pursuant to 10 CFR Part 205, Subpart V; (ii) the OHA has authority to implement all of the procedures which were tentatively adopted in the Proposed Decision for this case; and (iii) Applications for Refund should now be accepted from parties who purchased propane or butane from Anderson or who purchased products made from propane or butane supplied by Anderson. We shall now discuss the specific requirements for Applications for Refunds that we have decided to adopt.

Applications for Refund of a portion of the Anderson consent order funds will be accepted if they are filed on or before. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Anderson refund proceeding, Case No. BEF-0066. If the applicant is not a direct purchaser from Anderson, if should submit evidence indicating from whom the butane or propane was purchased and what basis the applicant has for its belief that the products which it purchased originated from Anderson.

Any application for a refund in excess of $100 must be filed in duplicate, and a copy of that application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th Street & Pennsylvania Avenue NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Anderson Consent Order Refund Proceeding, Case No. BEF-0066, Office of Hearings and Appeals, Department of Energy, 12th Street & Pennsylvania Avenue NW., Washington, D.C. 20461. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showings that should be made by refiners, resellers, retailers and end-users of the propane or butane covered by the consent order:

A. Each applicant should report its volume of purchases of propane or butane by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges;

B. Each applicant should specify how it used the propane or butane products, *e.g.*, as a petrochemical producer, refiner, reseller or utlimate consumer;

C. If the applicant is a refiner or reseller, it should state whether it maintained banks of unrecouped product cost increses from the date of the violation through January 27, 1981, and where those records are located. It should also furnish the OHA with quarterly bank calculations for the entire period;

D. The applicant must submit evidence to establish that it did not pass on the overcharges to its customers. For example, a firm may submit market surveys to show that price increases to recover overcharges were infeasible; and

E. The applicant should report whether it is or has been involved as a party in other DOE enforcement proceedings or section 210 actions. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

Distribution of the Remainder of the Consent Order Funds

Several comments addressed our proposed distribution of the remainder, if any, of the consent order funds after all meritorious claims have been paid. Those comments can be divided into two groups. First, some comments contend that the Office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Secondly, some comments acknowledge that this Office possesses the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. In this Decision, we are not implementing the second-stage refund procedure. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution mechanism, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution. Moreover, in the present case claimants may assert claims which, if meritorious, would completely exhaust the consent order funds. We will therefore consider this issue at a later date through the issuance of a supplemental order in this proceeding.

It is therefore ordered that:

The refund amounts provided by Anderson Butane Service, Inc. will be distributed in the manner set forth in the foregoing Decision.

Dated: February 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) As a part of its enforcement activities the OE conducted an audit of Anderson in order to determine whether the firm had complied with the DOE pricing regulations applicable to NGLs. *See* 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K. In its audit the OE found possible violations with respect to first sales of butane and propane during the period from August 1, 1973 through November 30, 1974. During that period Anderson sold its output of propane and butane to four firms: Scott Petroleum Corporation; Consolidated Aluminum Company; Sewanee Petroleum Company; and Myers Propane Company. In order to settle all claims and disputes between the parties, Anderson agreed to remit $160,000 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V. On June 13, 1979, the DOE published notice of the Anderson consent order in the Federal Register and requested that persons believing that they had a claim to all or a portion of the settlement fund file written notification of such claim with ERA within 30 days, 44 FR 33925 (1979). Buckeye Gas Production Company, the successor to Myers Propane Company, has indicated that it intends to file an Application for Refund.

(*2*) We issued a proposed decision and order discussing the distribution of the funds obtained through the consent order with Anderson on September 28, 1981. *See* 46 FR 48747 (October 2, 1981).

[FR Doc. 82-5791 Filed 3-3-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders, Week of February 8 Through February 12, 1982

During the week of February 8 through February 12, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of

Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 25, 1982.

Proposed Decisions and Orders

Champlin Petroleum Co., Forth Worth, Texas; BEX–1487 crude oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Champlin to continue to sell certain quantities of crude oil which it produces from the Wilmington Field at upper tier ceiling prices. On February 8, 1982, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

UCO Oil Company, Whittier, California; DEE–2487 motor gasoline

On March 15, 1979, UCO Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit UCO to purchase motor gasoline from suppliers with lower prices than its base period suppliers beginning in March 1979. The relief requested would ratify and augment emergency relief granted to the firm in Temporary Stay and Stay Decisions and Orders issued in March and April, 1979. On February 12, 1982, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

[FR Doc. 82–5790 Filed 3–3–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59082; TSH–FRL–2064–5]

Modified Polyester Polyurethane From Substituted Alkanediols, Alkanedioic Acid and a Diisocyanate Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by March 19, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59082]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the TME received by the EPA:

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 Street, SW, Washington, DC 20460.

TME 82–5

Close of Review Period. April 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid and a diisocyanate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use that will release more than 50 but less than 5,000 kg/yr into the environment.

Production Estimates

2,000 kg/yr—Maximum.

Physical/Chemical Properties

Appearance—Translucent to opaque.

Flash point—>190°F.

Viscosity—1.8 sec (Gardner Holdt).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that a maximum of 27 workers may have skin and eye exposure during manufacture for up to 6 hrs/day, 1 day/yr and during processing, a maximum of 8 workers may have skin and eye exposure 6 hrs/day, 5 days/yr at 3 sites. Consumer use will involve an infrequent potential for skin contact with an article containing the new substance in a solid state.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the air, land and water.

Dated: February 24, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–5669 Filed 3–3–82; 8:45 am]

BILLING CODE 6560–31–M

[WEN-FRL-2064-7]

National Pollution Discharge Elimination System (NPDES); Availability of Treatability Manual; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

In FR Doc. 82-2347, appearing on apge 4330, in the issue for Friday, January 29, 1982, in the "**ADDRESSES**" paragraph, the date after which interested persons may purchase the second edition of the Treatability Manual from the U.S. Government Printing Office should read "March 1, 1982."

Dated: February 25, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-5860 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-29-M

FEDERAL COMMUNICATIONS COMMISSION

Canadian Standard Broadcast Stations; Notification List

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

CANADIAN LIST NO. 410, JANUARY 29, 1982

Call letters	Location	Power (kilowatt)	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							No. of radials	Length (feet)	
		910 kHz							
CKDO	Drumheller, Alberta, N 51 24 50 W 112 44 10 (Change of call letters from CJDV) (In operation at 10 kW).	10	DA-2	U	III				
		1220 kHz							
CHSC	St. Catharines, Ontario, N 43 03 23 W 79 13 22 (Day Pattern augmentation) (In operation at 10kW).	10	DA-2	U	III				
		1230 kHz							
New	Canmore, Alberta, N 51 04 42 W 115 20 58	1D/0.25N	ND-191	U	IV	200 (90°)	120	320	1-29-83
		1340 kHz							
CIBQ	Brooks, Alberta, N 50 29 35 W 111 53 05 (Change of call letters from CKBR).	1D/0.25N	ND-190	U	IV	185	120	294	
		1400 kHz							
CKSQ	Stettler, Alberta, N 52 18 48 W 112 37 19 (Change of call letters from CHOA.	1D/0.25N	ND-190	U	IV	176	120	280	
		1490 kHz							
CKBM	Montmagnyu, Quebec, N 46 58 29 W 70 36 09 (P.O. N 46 59 55 W 70 31 01, ND-225).	1D/0.25N	ND-187.5	U	IV	149.9	120	264	1-29-83
		1570kHz							
CHLO	St. Thomas, Ontario, N 42 42 22 W 81 06 20 (Change of call letters from CKIS).	10	DA-2	U	II				

Laurence E. Harris,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 82-5863 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-117-82-120; File Nos. BPH-801203AE, etc.]

HGB Corp. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 23, 1982.

Released: March 1, 1982.

In re aplications of HGB Corporation, Manhattan, Kansas, Req: 103.9 MHz, Channel No. 280A, 2.3 kW (H&V), 342.1 feet, BC Docket No. 82-117, File No. BPH-801203AE; Kaldor Communications, Inc., Manhattan, Kansas, Req: 103.9 MHz, Channel No. 280A, 3.0 kW (H&V), 275 feet, BC Docket No. 82-118, File No. BPH-810420AC; Robert L. Hinze, Marion Latimore & Dean Kokanson, Jr., a partnership, d/b/a Wildcat Broadcasting Co., Manhattan, Kansas, Req: 103.9 MHz, Channel No. 280A 1.1 kW (H&V), 490 feet, BC Docket No. 82-119, File No. BPH-810427AI; Ogden Broadcasting Service, Inc., Ogden, Kansas, Req: 103.9 MHz, Channel No. 280A, 3.0 kW (H&V), 255 feet, BC Docket No. 82-120, File No. BPH-810427AK, for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by HGB Corporation (HGB), Kaldor Communications, Inc. (Kaldor), Robert L. Hinze, Marion Latimore and Dean Hokanson, Jr., a partnership d/b/a Wildcat Broadcasting Co. (WBC), and Ogden Broadcasting Service, Inc. (OBS).

2. *Kaldor.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Kaldor published the required notice. To remedy this deficiency, Kaldor will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside the community. Kaldor proposes to locate its main studio near Manhattan at the east side of Staff Hill Road which is 1.02 miles south southwest of the intersection of State Route 18 and State Route 113. The applicant requests a waiver pursuant to Section 73.1125, however its waiver request fails to demonstrate that good cause exists for locating the main studio outside of Manhattan, the principal community to be served. Accordingly, an issue will be specified.

4. *WBC.* WBC petitions for leave to amend its application to report the assignment of an option to lease the proposed WBC transmitter site from Michael J. Tracy to Robert L. Hinze by agreement of September 18, 1981.[1] The petition was filed September 30, 1981, and is a post cut-off date amendment. The petition is unopposed and WBC has complied with Section 1.65 of the Rules by the filing of the amendment. Accordingly, the petition will be granted and the amendment will be accepted for filing.

5. *OBS.* Analysis of the financial data submitted by OBS reveals that $72,861 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$1,000
Equipment lease payments (5 months less down payment)	9,636
Buildings	7,500
Miscellaneous	26,000
Operating costs (3 months)	28,725
Total	72,861

OBS plans to finance construction and operation with only $65,100, comprised of the following funds: $50,000 bank loan, $15,000 loan from stockholder J. Robert Bond and his wife Constance Bond, and $100 cash in the corporate account. A financial issue will therefore be specified.

6. Although the respective proposals are for different communities, they would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communication Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. The proposals are mutually exclusive and must be designated for hearing in a consolidated proceeding. The applicants are qualified to construct and operate as proposed, except as specified by the issues below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the areas which would receive primary aural service of 1 mV/m or greater from the proposed operations of HGB, Kaldor, WBC, and OBS and the availability of other primary service to such areas and populations.

(2) To determine whether the proposal of Kaldor to locate the main studio outside its community of license is in compliance with Section 73.1125 of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances warrant a waiver of that section.

(3) To determine with respect to OBS:

(a) the source and availability of additional funds over and above the $65,100 indicated, and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(4) To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(5) To determine, in the event it is concluded that a choice between the applicatins should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis best serve the public interest.

(6) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

9. It is further ordered, That WBC's Petition for Leave to Amend its application is granted, and the accompanying amendment is accepted for filing.

10. It is further ordered, That Kaldor shall publish local notice of its application and shall file a statement of publication with the presiding Administrative Law Judge.

11. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, shall advise the Commission of the publication of such notice required by § 73.3594(g) of the Commission's Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-5864 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[1] By amendment of August 12, 1981 (pre cut-off amendment) WBC reported assignment of Michael Tracy's partnership interest to Dean Hakanson, Jr.

[FCC 82-83; BC Docket Nos. 82-86, 82-87; File Nos. BRCT-801201KI, BPCT-810302KE]

International Television Corp. and Lake Champlain Television Corp.; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: February 11, 1982.

Released: February 23, 1982.

In re applications of International Television Corporation, BC Docket No. 82-86, File No. BRCT-801201KI, for renewal of license of Station WEZF-TV, Burlington, Vermont and Lake Champlain Television Corporation, BC Docket No. 82-87, File No. BPCT-810302KE, Burlington, Vermont, for construction permit.

1. The Commission has before it for consideration the above-captioned application of International Television Corporation (ITC) for renewal of its license for Station WEZF-TV, Burlington, Vermont; the above-captioned application of Lake Champlain Television Corporation (LCTC) for a construction permit for the facilities of WEZF-TV; a petition to deny the construction permit application filed by ITC on July 20, 1981; an opposition thereto filed by LCTC on August 3, 1981; a reply filed by ITC on August 7, 1981; and supplemental pleadings filed by both sides.[1]

2. *ITC's Petition to Deny.* ITC asserts that the LCTC application should be dismissed for failure to specify an available site. Although LCTC specified the site and facilities of WEZF-TV, ITC states that it is unwilling to permit LCTC to use the WEZF-TV site. ITC argues that since it has outstanding contracts with communications companies to lease out tower and adjacent space and also will continue to operate WEZF(FM), the intrusion of LCTC will adversely affect those interests. LCTC answers that it is no longer specifying the WEZF-TV site, but has reasonable assurance of the availability of an

[1] The supplemental pleadings include a supplement to the petition to deny and a supplement to the opposition to peition to deny. In the interest of resolving the public interest issues presented, we will exercise our discretion and accept these pleadings, notwithstanding the parties' noncompliance with § 1.45(c) of the Commission's Rules.

alternate site for its proposed station. LCTC subsequently filed a supplement to its opposition which contains letters from the owner of the newly proposed transmitter site and from the owner of a tower on the land which demonstrate that LCTC will have a transmitter site and tower available to it if its construction permit is granted. In light of the representations made by LCTC of site availability, LCTC has shown that it has reasonable assurance of a transmitter site should a construction permit be issued to it. Therefore, the petition to deny filed by ITC will be denied.

3. However, though the supplemental pleading filed on August 28, 1981, established the availability of a new site for LCTC's transmitter, the construction permit application was not amended to reflect the change. There is, therefore, a variance between the exact coordinates proposed for the new site and the site given in the application, although the new and old tower sites are located on the same mountain summit. LCTC is hereby given thirty (30) days in which to conform its engineering representations in its application to the new proposed site. There will be no issue specified because even if a new site had not been obtained, the Commission's policy is to "hold in abeyance all considerations relating to a challenger's transmitter site until a final determination can be made as to which applicant would best serve the public interest." *Belo Broadcasting Corp.*, FCC 81–561, 50 RR 2d 806, 810 n. 19 (1981).

4. *LCTC's Construction Permit Application.* LCTC indicates that $1,661,140 would be required to construct and operate its proposed station for three months:

Equipment	$1,212,600
Buildings	25,000
Legal fees	40,000
Engineering, installation and miscellaneous costs	59,900
Operating costs (3 months)	323,640
Total	1,661,140

Examination of LCTC's application indicates that it has failed to provide a complete itemization of operating costs, as required by Section III, paragraph 1(b) of Form 301. The application contains only a general statement that operating costs will be $323,640 for three months. Further, although an equipment credit letter is included which offers to lease equipment to applicant up to a cost of $1,800,000, the letter is deficient since it does not specify any monthly costs for rental of the equipment.[2] Accordingly, we are unable to determine the total amount of applicant's costs.

5. To meet its expenses, LCTC relies on $100 in cash, intangible assets totalling $1,000 and three months' estimated revenues from operation of the proposed station amounting $450,000. However, LCTC has not described its "intangible assets" and, accordingly, cannot be given credit for that amount. In addition, estimated revenues may not be used to establish financial qualifications absent a showing of reasonable availability of such projected funds. No such showing has been submitted and reliance upon $450,000 in station revenues is not warranted. *Ultravision*, 1 FCC 2d 544 (1965).

6. In light of the above, the total costs necessary to construct and operate the proposed station are unclear. Moreover, the ability of LCTC to cover its construction and operating costs through its present method of funding is also questionable. Aside from $100 in cash, LCTC has not shown that it has any funds at all that may be applied toward its anticipated expenses. Because of the substantial questions presented concerning applicant's cost estimates and sources of financing, a general financial issue will be specified.

7. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. The affidavit filed by LCTC does not set forth the text of the public notice, but merely states that a legal notice was published. To remedy this deficiency, LCTC will be required to file a proper statement of publication according to § 73.3580(h) with the presiding Administrative Law Judge.

8. Examination of ITC's renewal application indicates that it is legally, financially and technically qualified to operate as proposed. However, since the ITC and LCTC applications are mutually exclusive, they must be designated for a comparative hearing.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether LCTC is financially qualified to construct and operate as proposed.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That LCTC shall submit an amendment to its application updating its engineering information, as detailed in paragraph 3 of this Order, within thirty (30) days after this Order is published in the **Federal Register.**

11. It is further ordered, That LCTC shall file a statement with the presiding Administrative Law Judge demonstrating compliance with the public notice requirement of § 73.3580(h) of the Commission's Rules within forty (40) days after this Order is published in the **Federal Register.**

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing, (either individually or, if feasible and consistent with the rules, jointly) within the time and manner prescribed in that rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

14. It is further ordered, That the Petition to Deny filed by ITC is denied.

15. It is further ordered, That the Broadcast Bureau shall send by Certified Mail—Return Receipt Requested a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–5885 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

[2] LCTC lists $1,800,000 in the column "Loans from Banks or Others" and identifies that sum as a loan guaranteed by Howard Green. However, it appears actually to be an equipment credit proposal from SGS equipment leasing company, of which Howard Green is a partner.

National Industry Advisory Committee, Maritime Communications Services Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Maritime Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Wednesday, March 24, 1982. The Subcommittee will meet at the RCA Corporation, located at 1800 K Street, NW., Washington, D.C., in Room 810 at 1:30 P.M.

Purpose: To consider emergency communications matters.

The meeting agenda is as follows:

1. Chairman's opening remarks.
2. Requirements for emergency communications.
   a. Navy.
   b. Maritime Administration.
3. Determination of action to be taken by the Subcommittee to meet emergency requirements.
4. Other business.

Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–5861 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 79, "Universal Marine Radiotelephone Compatibility," Notice of 5th Meeting, Wednesday, March 24, 1982—9:30 a.m., Conference Room A–106, FCC Annex, 1229 20th Street NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T. B. Miller, Chairman SC–79, WJG Telephone Company, P.O. Box 9363, Memphis, TN 38109, Phone: (901) 789–3800

Special Committee No. 81, "Review of FCC Rules Applicable to VHF–FM Maritime Frequencies," Notice of 5th Meeting, Wednesday, March 24, 1982—1:30 p.m., Room A–213, FCC Annex, 1229 20th Street NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Review of FCC Rules, Parts 81 and 83.

Carl Gray, Chairman SC–81, Consultant, American Waterways Operators, Inc., 1055 Dalebrook Drive, Alexandria, VA 22308, Phone: (703) 360–4625

Executive Committee Meeting, Notice of March Meeting, Thursday, March 25, 1982—9:30 a.m., Conference Room 9230, Nassif Building, 400 Seventh Street SW., Washington, D.C.

Agenda

1. Administrative Matters.
2. U.S. Coast Guard report concerning the status/prospectus of radar standards to be used when requiements are established for a second radar on board U.S. vessels of 1600 tons gross tonnage and upwards.

The RCTM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–5862 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications

March 2, 1982.

The Federal Communications Commission has established the Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications. The Committee will provide advice and recommendations on means to encourage increased private capital assistance for minorities entering the telecommunications industry. Commissioner Henry Rivera will serve as Chairman of this group.

The Committee will develop methods of alternative financing for minority participation in telecommunications. The final report will recommend possible sources for financing, methods of encouraging the development of additional sources, and means of encouraging minority groups to enter the field. The report will also discuss the effects of these actions on the economy in general and on the industry.

The second meeting of the Committee will be held on 16 March 1982 at the FCC's headquarters, 1919 M Street NW., Washington, D.C., Room 856. The meeting will begin at 9:30 a.m. and may be resumed on the next day if business requires. Anyone wishing to make an oral presentation should contact the Committee at least five days prior to the meeting date. Written presentations should be presented three business days prior to the meeting to allow for duplication and distribution to the Committee members.

Due to the extremely short deadline imposed on the Committee's final report by the FCC, this meeting is being held with less than the normal 15 days notice. The Commission's Advisory Committee Management Officer has reviewed this item and concurs in the necessity for the short notice.

For further information, contact Edmund Cardona (202) 632–6996.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–6096 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Ameribanc, Inc.; Aquisition of Bank

Ameribanc, Inc., St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Laurel Bancshares, Inc., Raytown, Missouri. 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 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 25, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5806 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; 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 section 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 26, 1982, except as noted.

A. **FEDERAL RESERVE BANK OF NEW YORK** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (financing activities; Kansas): to expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: 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. Such activity would be conducted from an office in Overland Park, Kansas, serving the entire state of Kansas.

B. **FEDERAL RESERVE BANK OF CLEVELAND** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

National City Corporation, Cleveland, Ohio (community revitalization activities; Cuyahoga County): to engage *de novo* through its subsidiary, National City Community Development Corporation, in promoting the revitalization of targeted low-to-moderate income neighborhoods in its banking subsididaries' local communities throughout Ohio, while concentrating on the interests of present neighborhood residents; by acquiring, developing, renovating, leasing, managing or selling residential or small business commercial real estate, or providing the financing for such activity in pre-determined target areas; or by acting as research counselors, consultants, and promotion counselors, particularly to those engaged in redevelopment projects. These activities would be conducted from offices at 1900 East Ninth Street, Cleveland, Ohio 44114, serving the State of Ohio. Comments on this application must be received not later than March 17, 1982.

C. **FEDERAL RESERVE BANK OF CHICAGO** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

P.N.B. Financial Corp., Chicago, Illinois (leasing activities; Illinois and Colorado): to engage in the leasing of personal property in accordance with provisions of the Board's Regulation Y. These activities would be conducted from an office in Chicago, Illinois, serving the states of Illinois and Colorado.

D. **OTHER FEDERAL RESERVE BANKS.** None.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5814 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Bay Bankshares, Inc.; Formation of Bank Holding Company

Bay Bankshares, Inc., Oldsmar, Florida, 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 Bank of Oldsmar, Oldsmar, Florida, and Clearwater Oaks Bank, Clearwater, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 26, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5807 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc.; Central Colorado Company, C.C.B., Inc.: Acquisition of Banks

Central Bancorporation, Inc., its parent company, Central Colorado Company, and C.C.B., Inc., the general partner of Central Colorado Company, all having their principal place of business in Denver, Colorado, have 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, directly or indirectly, 100 percent of the voting shares of Central Bank at Highlands Ranch, Highlands Ranch, Colorado, and Central Bank of Inverness, Inverness, Colorado. 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 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 29, 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 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5815 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Crowley Holding Company; Formation of Bank Holding Company

Crowley Holding Company, Crowley, 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 per cent or more of the voting shares of The Bank of Crowley, Crowley, 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 26, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5809 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Cullen Frost Bankers, Inc.; Acquisition of Bank

Cullen/Frost Bankers, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Sugar Land State Bank, Sugar Land, Texas, and United States National Bank, Galveston, Texas (through the acquisition of Galbank, Inc., San Antonio, Texas, and United States National Bancshares, Inc., San Antonio, Texas, both registered bank holding companies). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 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 23, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board

[FR Doc. 82-5808 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Exchange State Corp.; Formation of Bank Holding Company

Exchange State Corp., Knoxville, Iowa, 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 Exchange State Bank, Collins, Iowa. 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 24, 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 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5816 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

First National Bancorp, Inc.; Proposed Acquisition of First Mortgage Corporation of Shreveport

First National Bancorp, Inc., Shreveport, Louisiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Mortgage Corporation of Shreveport, Shreveport, Louisiana.

Applicant states that the proposed subsidiary would engage in the activities of making and servicing mortgage loans and other extensions of credit. These activities would be performed from offices of Applicant's subsidiary in Shreveport, Louisiana, and the geographic area to be served is the Shreveport-Bossier area in Louisiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than March 26, 1982.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5810 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

F.L. & T. Financial Corporation; Formation of Bank Holding Company

F.L. & T. Financial Corporation, Columbia City, Indiana, 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 (less directors' qualifying shares) of the Farmers Loan and Trust Company, Columbia City, Indiana. 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 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 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5817 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Graceville Bancorporation, Inc.; Formation of Bank Holding Company

Graceville Bancorporation, Inc., Graceville, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank of Graceville, Graceville, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 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 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5818 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

New Galveston Company, Inc.; Formation of Bank Holding Company

New Galveston Company, Inc., San Antonio, 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 (less directors' qualifying shares) of Sugar Land State Bank, Sugar Land, Texas, and United States National Bank, Galveston, Texas (through the acquisition of Galbank, Inc., San Antonio, Texas, and United National Bancshares, Inc., San Antonio, Texas, both registered bank holding companies). 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 23, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5811 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Northwest Bancshares, Inc.; Formation of Bank Holding Company

Northwest Bancshares, Inc., Houston, 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 percent of the voting shares of the successor by merger to Northwest Bank and Trust, Houston, 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 26, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5812 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorp; Formation of Bank Holding Company

Southern Bancorp, South Daytona, Florida, 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 percent of the voting shares of Central Bank of Volusia County, South Daytona, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 23, 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 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5813 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of Health Maintenance Organizations: Reestablishment of compliance.

SUMMARY: On January 13, 1982, the Office of Health Maintenance Organizations (OHMO) notified Health Care Plan of New Jersey, Inc. (HCP), 1101 Kings Highway North, Suite 405,

Cherry Hill, New Jersey 08034 a federally qualified health maintenance organization (HMO), that HCP had successfully reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the **Federal Register** notices of determinations made under that section.

On April 9, 1980, HCP was officially notified that it was not in compliance with the assurances it had given the Secretary that it would maintain a fiscally sound operation as required by section 1301(c)(1)(A) of the Act. This determination of noncompliance, published in the **Federal Register** at 45 FR 50658 on July 30, 1980, did not affect HCP's status as a federally qualified HMO. Subsequently, HCP successfully implemented corrective action to return to compliance with its assurances. On January 13, 1982, HCP was notified by OHMO that it had reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on October 1, 1981.

Dated: February 24, 1982.

Frank H. Seubold, Ph. D.,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-5819 Filed 3-3-82; 8:45 am]

BILLING CODE 4160-17-M

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of Health Maintenance Organizations: Reestablishment of compliance.

SUMMARY: On January 20, 1982, the Office of Health Maintenance Organizations (OHMO) notified Anchor Organization for Health Maintenance (Anchor), 1725 West Harrison Street, Chicago, Illinois 60612, a federally qualified health maintenance organization (HMO), that Anchor had successfully reestablished compliance with certain of the assurances it had provided the Secretary as described below under "Supplementary Information." This determination took effect on January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the **Federal Register** notices of determinations made under that section.

On September 29, 1980, Anchor was officially notified that it was not in compliance with the assurances it had given the Secretary that it would (1) maintain satisfactory administrative and managerial arrangements, (2) maintain organizational arrangements for an ongoing quality assurance program for its health services, and (3) include certain specified provisions in its contracts with health professionals. This determination on noncompliance, published in the **Federal Register** at 46 FR 46002, did not affect Anchor's status as a federally qualified HMO. Subsequently, Anchor successfully implemented corrective action to return to compliance with its assurances. On January 20, 1982, Anchor was notified by OHMO that it had reeestablished compliance with its assurances to the Secretary as listed above. This determination took effect on January 1, 1982.

Dated: February 24, 1982.

Frank H. Seubold, Ph. D.,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-5820 Filed 3-3-82; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Schaghticoke Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affair by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Schaghticoke Indian Tribe c/o Maurice T. Lydem, P.O. Box 67, Kent, Connecticut 06757 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on December 14, 1981. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

February 22, 1982.

[FR Doc. 82-5821 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management; Alaska

[F-14873-A]

Alaska Native Claims Selection

On November 19, 1974, Kasigluk, Inc., for the Native village of Kasigluk, filed selection application F-14873-A, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Kasigluk.

Kasigluk, Inc., in its November 19, 1974, application excluded several

bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under section 11(a)(1) and available for selection by the village pursuant to section 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provides that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 19, 1974 application are considered selected by Kasigluk, Inc.

As to the lands described below, the application, as amended, submitted by Kasigluk, Inc., is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, aggregating approximately 103,523 acres, is considered proper for acquistion by Kasigluk, Inc. and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 9 N., R. 75 W.,
Sec. 2, excluding Native allotment F–18252;
Sec. 3, excluding Native allotment F–17357;
Sec. 4, excluding Native allotments F–17352, F–17297, F–17355, F–17358, and F–17357;
Sec. 5, excluding Native allotment F–17355;
Secs. 6 and 7;
Sec. 8, excluding Native allotments F–17356 and F–17355;
Sec. 9, excluding Native allotments F–17355, F–17357, and F–17358;
Sec. 10, excluding Native allotments F–17247, F–17357, and F–18214;
Sec. 11, excluding Native allotments F–18252, F–17299, F–14563, F–18214, F–17353, and F–14562;
Sec. 12;
Sec. 14, excluding Native allotments F–17246, F–18881, F–14562, F–17294, and F–17298;
Secs. 15 to 22, inclusive;
Sec. 23, excluding Native allotment F–18880;
Sec. 24, excluding Native allotments F–17359, F–17292, and F–18879;
Sec. 25, excluding Native allotments F–17292 and F–17293;
Secs. 26 to 30, inclusive;
Secs. 33 to 36, inclusive.

Containing approximately 14,866 acres.

T. 10 N., R. 75 W.,
Sec. 6;
Secs. 7 and 8, excluding Native allotments F–14560 Parcel B and F–18103;
Secs. 9 and 13;
Sec. 14, excluding Native allotment F–18256;
Sec. 16;
Secs. 17 and 18, excluding Native allotments F–18886 and F–18103;
Sec. 19, excluding Native allotment F–18216;
Sec. 20, excluding Native allotments F–14174 and F–17494;
Secs. 21, 22, and 23;
Secs. 24 and 25, excluding Native allotments F–18213 and F–18215;
Secs. 26 and 27;
Sec. 28, excluding Native allotments F–17435, F–17351, and F–14980 Parcel C;
Sec. 29, excluding Native allotments F–17435 and F–17351;
Secs. 30 and 31;
Sec. 32, excluding Native allotments F–17349, F–17493, and F–16877;
Sec. 33, excluding Native allotments F–17350 and F–18217;
Secs. 34 and 35;
Sec. 36, excluding Native allotment F–14516.

Containing approximately 9,397 acres.

T. 9 N., R. 76 W.,
Sec. 1, excluding Native allotments F–18260 and F–17354;
Sec. 2, excluding Native allotment F–18259;
Secs. 3 to 12, inclusive;
Sec. 13, excluding Native allotment F–17296;
Secs. 14 and 15;
Sec. 16, excluding Native allotment F–18255;
Secs. 17, 18, and 19;
Sec. 20, excluding Native allotment F–14561;
Sec. 21, excluding Native allotments F–18255 and F–14561;
Sec. 22, excluding Native allotment F–17534;
Secs. 23 to 27, inclusive;
Sec. 28, excluding Native allotments F–14560 Parcel A, F–14561, and F–18258;
Sec. 29, excluding Native allotment F–14561;
Secs. 30 to 33, inclusive.

Containing approximately 17,863 acres.

T. 10 N., R. 76 W.,
Sec. 1, excluding Native allotment F–14981 Parcel A;
Sec. 2;
Secs. 3 and 4, excluding Native allotment F–18257;
Secs. 5 to 23, inclusive;
Sec. 24, excluding Native allotment F–18216;
Sec. 25, excluding Native allotment F–15827 Parcel A;
Secs. 26 to 36, inclusive.

Containing approximately 22,577 acres.

T. 8 N., R. 77 W.,
Secs. 3 to 7, inclusive;
Sec. 8, excluding Native allotment F–14564 Parcel A;
Secs. 9, 10, 11, and 13;
Sec. 14, excluding Native allotment F–14981 Parcel B;
Secs. 15 and 16;
Sec. 17, excluding Native allotments F–14981 Parcel C and F–14564 Parcel A;
Secs. 18 to 22, inclusive;
Sec. 23, excluding Native allotment F–14981 Parcel B;
Secs. 24 to 34, inclusive.

Containing approximately 17,150 acres.

T. 9 N., R. 77 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.

Containing approximately 11,520 acres.

T. 10 N., R. 77 W.,
Secs. 1 and 2;
Secs. 11 and 15, inclusive;
Sec. 22;
Sec. 23, excluding Native allotment F–15070;
Secs. 24 and 25;
Secs. 26 and 27, excluding Native allotment F–15070;
Secs. 34, 35, and 36.

Containing approximately 10,150 acres.

Aggregating approximately 103,523 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14873–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded as lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps

attached to this document, copies of which will be found in case file F–14873–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobile, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 1 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the left bank of the Johnson River in Sec. 2, T. 9 N., R. 75 W., Seward Meridian, through the village of Kasigluk easterly to Bethel. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 3 C3, E) An easement for a proposed access trail, twenty-five (25) feet in width, from the south end of the Kasigluk Airport, in Sec. 14, T. 9 N., R. 75 W., Seward Meridian, southwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 6a C4) An easement, twenty-six (26) feet in width, for an existing road from the Kasigluk airstrip in Secs. 13 and 14, T. 9 N., R. 75 W., Seward Meridian, northeasterly to the Johnson River. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 17 C5) An easement, twenty (20) feet in width, for the existing powerline from the village of Kasigluk in Sec. 1, T. 9 N., R. 75 W., Seward Meridian, easterly to the power plant at the village of Nunapitchuk. The uses are those associated with the construction, operation and maintenance of the powerline.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, F–15928, located in Secs. 11, 12, and 14, T. 9 N., R. 75 W., Seward Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kasigluk, Inc. is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 103,523 acres. The remaining entitlement of approximately 11,677 acres will be conveyed at later date.

Pursuant to Sec. 14 (f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Kasigluk, Inc., and shall be subject to the same conditions as the surface conveyance.

In accordance with the Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeals Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kasigluk, Inc., Kasigluk, Alaska 99609
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–5666 Filed 3–3–82; 8:45 am]
BILLING CODE 4310–84–M

[F–14949–A]

Alaska Native Claims Selection

On November 20, 1974, Tulkisarmute Incorporated, for the Native village of Tuluksak, filed selection application F–14949–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Tuluksak.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, aggregating approximately 79,388 acres, is considered proper for

acquisition by Tulkisarmute Incorporated, and is hereby approved for conveyance pursuant to section 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 13 N., R. 64 W.
Secs. 2 and 3;
Sec. 4, excluding Native allotment F-13075;
Sec. 5;
Sec. 8;
Sec. 9, excluding Native allotment F-13075;
Secs. 10 and 11;
Sec. 14;
Sec. 15, excluding Native allotment F-18420 Parcel B;
Secs. 16 and 17;
Secs. 18 and 19, excluding Native allotment F-17036;
Sec. 20;
Secs. 21 and 22, excluding Native allotment F-031214;
Sec. 23;
Sec. 27, excluding Native allotment F-031214;
Sec. 28, excluding Native allotments F-031214 and F-033646;
Sec. 29 to 33, inclusive.
Containing approximately 11,943 acres.

T. 14 N., R. 64 W.,
Secs. 20 to 24, inclusive;
Secs. 26, 27, and 28;
Sec. 29, excluding Native allotments F-17371 and F-17365;
Sec. 32, excluding Native allotments F-17365, F-17545, and F-17371;
Secs. 33, 34, and 35.
Containing approximately 5,680 acres.

T. 11 N., R. 65 W.,
Sec. 2, excluding Native allotment F-17037;
Secs. 3 to 8, inclusive.
Containing approximately 3,796 acres.

T. 12 N., R. 65 W.,
Secs. 4 to 9, inclusive;
Secs. 15 to 19, inclusive;
Sec. 20, excluding Native allotments F-033629 and F-15041;
Sec. 21, excluding Native allotment F-15041;
Sec. 22;
Sec. 27;
Sec. 28, excluding Native allotment F-15041;
Sec. 29, excluding Native allotments F-15041 and F-17042;
Secs. 30 and 31;
Sec. 32, excluding Native allotment F-17042;
Secs. 33 and 34.
Containing approximately 11,988 acres.

T. 13 N., R. 65 W.,
Sec. 13, excluding Native allotment F-17036;
Sec. 19;
Sec. 24, excluding Native allotment F-17036;
Secs. 25 to 36, inclusive.
Containing approximately 8,277 acres.

T. 11 N., R. 66 W.,
Secs. 1 and 2;
Sec. 3, excluding Native allotments F-17373, F-17034, and F-17370;
Sec. 4, excluding Native allotments F-17034, F-17370, F-033643, F-17368, and F-025285;
Sec. 5, excluding Native allotments F-033643, F-17368, and F-025285;
Secs. 6 and 7, excluding Native allotment F-17035;
Sec. 8, excluding Native allotments F-17368 and F-033642;
Sec. 9, excluding Native allotment F-17368;
Secs. 10 to 14, inclusive;
Sec. 15, excluding Native allotments F-033630 and F-033631;
Sec. 16 to 19, inclusive;
Sec. 20, excluding Native allotment F-033634;
Sec. 21;
Sec. 22, excluding Native allotments F-033630, F-033631, and F-17367;
Secs. 23 and 26, excluding Native allotment F-17369;
Secs. 27 to 34, inclusive.
Containing approximately 14,918 acres.

T. 12 N., R. 66 W.,
Secs. 1, 2, and 3;
Sec. 4, excluding Native allotment F-17363 Parcel A;
Sec. 5;
Sec. 6, excluding Native allotment F-17362;
Sec. 7;
Sec. 8, excluding Native allotment F-17364 Parcel B;
Sec. 9, excluding Native allotment F-17363 Parcel A;
Secs. 10 to 25, inclusive;
Sec. 26, excluding Native allotments F-11981 Parcel A, F-17039, Alaska Native Claims Settlement Act Sec. 3(e) application AA-40710 (F-033652—PLO 4091);
Sec. 27, excluding U.S. Survey No. 875, lots 1 and 4 of U.S. Survey No. 3797, PLO 2020, Alaska Native Claims Settlement Act Sec. 3(e) application AA-40710 (F-033652—PLO 4091), and Native allotment F-17039;
Sec. 28, excluding Native allotment F-17366;
Secs. 29 and 30;
Sec. 31, excluding Native allotment F-033626;
Sec. 32, excluding U.S. Survey No. 4205 and Native allotment F-025285;
Sec. 33, excluding lots 1 and 2 of U.S. Survey No. 3797, Native allotments F-17363 Parcel B, F-17373, F-17034, F-17370, F-033643, F-11981 Parcel B, and F-025285;
Sec. 34, excluding lots 1 and 3 of U.S. Survey No. 3797, Native allotments F-17363 Parcel B, F-17373, and F-17034;
Sec. 35, excluding Native allotment F-11981 Parcel A;
Sec. 36.
Containing approximately 16,106 acres.

T. 11 N., R. 67 W.,
Sec. 1, excluding Native allotments F-17040 and F-17035;
Sec. 12, excluding Native allotment F-17035;
Sec. 13;
Secs. 24 and 25;
Sec. 36.
Containing approximately 2,880 acres.

T. 12 N., R. 67 W.,
Sec. 1, excluding Native allotment F-17362;
Secs. 12 and 13;
Secs. 24 and 25;
Sec. 36.
Containing approximately 3,800 acres.
Aggregating approximately 79,388 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14949-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14949-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

26 Foot Road—The uses allowed on a twenty-six (26) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed on a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 4 C4, D9) A one (1) site easement upland of the ordinary high water mark in Sec. 2, T. 12 N., R. 66 W., Seward Meridian, on the right bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 5 C4, D1) An easement for a proposed access trail twenty-five (25) feet in width from the Tuluksak Airport in Sec. 27, T. 12 N., R. 66 W., Seward Meridian easterly to the Tuluksak River barge landing, and public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 13 C4) An easement for an existing access road twenty-six (26) feet in width in Sec. 27, T. 12 N., R. 66 W., Seward Meridian from the easterly boundary of U.S. Survey No. 875 southeasterly to the westerly boundary of lot 2 of proposed U.S. Survey No. 4435, a distance of approximately three hundred (300) feet. The uses allowed are those listed above for a twenty-six (26) foot road.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Tulkisarmute Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 79,388 acres. The remaining entitlement of approximately 12,772 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Tulkisarmute Incorporated, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four(4) consecutive weeks, in The Tundra Drums.

Any party claiming property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Tulkisarmute Incorporated, Tuluksak, Alaska 99679

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–5867 Filed 3–3–82; 8:45 am]

BILLING CODE 4310–84–M

[AA–39335]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public Law (Pub. L.) 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On March 4, 1980, Interim Conveyance No. 298 was issued to Cook Inlet Region, Inc., for approximately 10.92 acres of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The land was conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95–178

(91 Stat. 1369), and are described as follows:

INTERIM CONVEYANCE NO. 298 OF MARCH 4, 1980

Seward Meridian, Alaska (Surveyed)

T. 5 N., R. 8 W.
Sec. 36, lots 2, 3 and 4 and Tract A of Block 1 of ASLS 73–146.

Containing approximately 10.92 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc., for the above-described lands with no Sec. 17(b) easements reserved. The revised conveyance document will remain subject to all other rights, terms, conditions, and covenants contained in Interim Conveyance No. 298.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-5380 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Life Occupancy Lease of Public Lands; Shoshone County, Idaho; Cancellation and Correction

This notice cancels the notice on this subject which was published on pages 2514–15 of the Monday, January 18, 1982, issue of the **Federal Register.**

Through the land use planning process and subsequent considerations the following described lands have been examined and determined to be available for a life occupancy lease under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732):

In section 15, T.48N., R.3E., B.M., Shoshone County, Idaho adjacent to Mineral Survey 2274; Beginning at Corner No. 1 of the Monmouth Lode, M.S. 2274; Thence S.0°32'W. 170 feet along line 1–2 of the Monmouth Lode; thence East 180 feet; Thence North 170 feet more or less to the South line of Section 10; Thence S.89°12'W. 180 feet more or less to the point of beginning and containing 0.75 acre more or less.

The purpose of issuing the proposed life occupancy lease is to legalize the use of the lands by Pete and Enes Abruzzini. The Abruzzinis thought they had a legal right to use the lands and have built improvements on and used these lands as their principal residence for about 60 years. When they recently found that their occupancy of the lands is technically in trespass, they quickly asked what they could do to legalize their occupancy. A lifetime occupancy lease would be appropriate.

The terms and conditions of the proposed lease are:

1. The lease would be nontransferable.

2. The lease would be terminated when both Pete and Enes Abruzzini are no longer physically able to occupy their home.

3. The lease would not prohibit development of the minerals by the mining claimants of record or their agents.

4. The lease rental would be based upon a combination of fair market rental and the Abruzzini's ability to pay such rental.

5. More specific lease terms would be negotiated so the public would not have to bear unnecessary expenses while helping the Abruzzinis.

6. The proposed lease would be subject to valid existing rights, including any mining claims affecting the lands involved.

The issuance of this proposed lease has been categorically excluded from the environmental assessment process. More detailed information on the proposal is available for review at the Coeur d'Alene District Office, Bureau of Land Management, 1808 N. Third St., Coeur d'Alene, ID 83814.

The Bureau will now accept an application from the Abruzzinis for a lifetime occupancy lease of the subject lands. The application should be submitted to the District Manager, Coeur d'Alene District Office at the above address.

Dated: February 18, 1982.

Wayne Zinne,

District Manager.

[FR Doc. 82-5011 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Proposed Withdrawal

The Bureau of Land Management, Department of the Interior, proposes the following described lands be withdrawn, subject to valid existing rights, from appropriation under the public land laws, including the mining laws:

New Mexico Principal Meridian

T. 24 N., R. 11 W.,
Sec. 21, S½;
Sec. 22, S½;
Sec. 27;
Sec. 28;
Sec. 33, N½;
Sec. 34, N½.
T. 23 N., R. 12 W.,
Sec. 19, Lots 5 to 20, inclusive;
Sec. 30, Lots 1 to 4, inclusive, E½W½, E½;
Sec. 31, Lots 1 to 4, inclusive, E½W½, E½.
T. 23 N., R. 13 W.,
Sec. 13, W½, SE¼;
Sec. 14;
Sec. 15, NW¼;
Sec. 20, SE¼SE¼;
Sec. 22, S½SW¼;
Secs. 23, 24, 26 and 28.

The area described contains 8,445.31 acres in San Juan County.

The purpose of the proposed withdrawal is to protect the lands in aid of a proposed exchange with the Public Service Company of New Mexico.

The lands will be segregated from the operation of the public land laws, including the mining laws for a period of two years from the date of publication of this notice in the **Federal Register**, or until the withdrawal action is completed, whichever is the shortest period of time.

The temporary segregation of the lands in connection with a withdrawal proposal shall not affect grazing.

recreation or other surface uses. Neither will the segregation have the effect of authorizing any use of the lands by the Public Service Company of New Mexico.

All communications in connection with the proposed withdrawal should be addressed to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dated: March 2, 1982.

Leroy C. Montoya,

Chief, Division of Operations.

[FR Doc. 82-5991 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Conveyance of Public Land

Notice is hereby given that pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Ruth McCormick Tankersley, has purchased by noncompetitive sale public land in Cochise County, Arizona, described as:

Gila and Salt River Meridian, Arizona,

T. 14 S., R 31 E.,
Sec. 9, E½E½E½SW¼NW¼, NE¼NE¼NE¼NW¼SW¼, N½N½N½ NE¼SW¼,
containing 10.625 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of the patent to the above-named individual.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5825 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-

Arizona; Phoenix District Phoenix/ Lower Gila Resource Areas Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on Wednesday, April 7, 1982.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

The agenda for the meeting will include:

1. Review of the Lower Gila North Grazing EIS.
2. Review of the Rangeland Monitoring Plan.
3. Status of Range Improvements—F.Y. 1982.
4. Proposed Range Improvements—F.Y. 1983.
5. Revenue of Maintenance policy on Rangeland Improvememts.
6. Review Policy on the distribution of 8100 funds.
7. Report on vandalism of range improvements.
8. Arrangements for future meetings.

The meetings is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 26, 1982.

William K. Barker,

District Manager.

[FR Doc. 82-5832 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[PHX 075478, etc.]

Arizona; Order Providing for Opening of Public Lands

Feburary 24, 1982.

1. In exchanges of lands made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

PHX 075478

T. 20 N., R. 17 W.,
Sec. 36,
T. 20 N., R. 19 W.,
Secs. 16, 32 and 36,
T. 20 N., R. 20 W.,
Sec. 36, N½, N½SW¼, NW¼SE¼, S½SE¼,

PHX 080862

T. 23 N., R. 19 W.,
Sec. 5, S½N½, N½S½,

PHX 080871

That portion of the NW¼SW¼ of sec. 1, T. 23 N., R. 19 W., except 1.88 acres deeded the Citizens Utilities Company May 14, 1938, described as follows: Beginning at the quarter corner between sections 1 and 2 the boundary line of said tract of lands runs east along the north line of the NW¼SW¼ of said Section 1, for a distance of 351.55 feet, more or less, to the westerly right-of-way line of U.S. Highway No. 93; thence south 30°41' east, along said right of way line for a distance of 232.56 feet; thence west for a distance of 470.23 feet, more or less, to the line between said sections 1 and 2; thence north for a distance of 200 feet along said section line to the point of beginning; and except 2.4 acres deeded Citizens Utilities Company March 29, 1939, described as follows: Beginning at a point on the boundary line between sections 1 and 2,200 feet south of the quarter corner between said sections 1 and 2; thence east for a distance of 454.3 feet, more or less, to the westerly boundary line of the right-of-way of U.S. Highway No. 93; thence south 30°41' east, for a distance of 232.5 feet along the westerly boundary line of the right-of-way of said U.S. Highway No. 93; thence west for a distance of 572.7 feet, more or less, to said boundary line between said sections 1 and 2; thence north along said last mentioned boundary line for a distance of 200 feet to the place of beginning.

T. 23 N., R. 19 W.,
Sec. 13, Lots 1, 2, 3 and 4,
Sec. 15, NW¼,
T. 24 N., R. 21 W.,
Sec. 5, SE¼,

PHX 080916

T. 23 N., R. 19 W.,
Sec. 15, SE¼NW¼, SW¼ S½SE¼,
T. 24 N., R. 21 W.,
Sec. 1, Lots 1, 2, 3 and 4, S½N½,S½
Sec. 3, Lots 1, 2, 3 and 4, S½N½,S½
Sec. 11, N½N½, SW¼NW¼, NW¼SW¼, SE¼SW¼, SE¼, S½NE¼,
Sec. 13,
Sec. 15, NW¼,
T. 10 N., R. 18 W.,
Sec. 21, S½NE¼, NE¼NE¼,S½
Sec. 23, N½, N½SW¼, NW¼SE¼.

The areas described aggregate approximately 7491.80 acres in Maricopa, Mohave and Yuma Counties.

2. The United States did not acquire the mineral rights on any of the lands described in paragraph 1.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, generally. All valid applications received at or prior to 10:00 a.m. April 1, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department, 2400 Valley Bank Center, Phoenix, Arizona 85073 (620-261-3706).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5833 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Pub Laws 92-463 and 94-579 that the California Desert District Multiple Use Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet March 25 and 26, 1981, in the Imperial County Airport Terminal, Conference Room, Imperial, California. The meetings will be from

8:30 a.m. to 5 p.m. on the 25th and from 8 a.m. to 5 p.m. on the 26th. A field trip will follow the formal session on March 27. The purpose of the meeting is to review amendments to the Desert Plan, programs related to McCain Valley and other issues. The meeting is open to the public and interested persons may attend and file statements with the Advisory Council.

For further information and meeting confirmation contact the California Desert District, 1695 Spruce Street, Riverside, California (714) 351–6383.

Dated: February 23, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-5830 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Multiple Use Advisory Council, Subcommittee; Meeting

Notice is hereby given in accordance with Pub. Laws 92–463 and 94–579 that a subcommittee of the full California Desert District Multiple Use Advisory Council of the Bureau of Land Management, U.S. Department of the Interior, will meet March 18 at 10 a.m. in the California Desert District, Conference Room, 1695 Spruce Street, Riverside, California. The purpose of the meeting is to study route designation process issues that were raised at the February Advisory Council meeting held in Needles and to prepare recommendations for the full Council meeting in March.

Dated: February 23, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-5831 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[C-16101]

Colorado; Partial Termination of Forest Service Withdrawal Application and Opening of Land

February 24, 1982.

The U.S. Department of Agriculture filed withdrawal application C–16101 on April 24, 1972, which was published in the Federal Register on June 8, 1972, as FR Doc. 72–8661 and September 20, 1979, as FR Doc. 79–29118. The applicant agency has cancelled its application insofar as it pertains to the following described sites:

Sixth Principal Meridian

San Isabel National Forest

Muddy Creek Campground

T. 25 S., R. 72 W.,
Sec. 14: NE¼NE¼SW¼SE¼, S½N½SW¼SE¼, S½SW¼SE¼, NW¼NW¼SE¼SE¼
Sec. 23: S½SW¼NW¼NE¼, NW¼SW¼NE¼, N½SW¼SW¼NE¼, S½SE¼NE¼NW¼, N½NE¼SE¼NW¼, SE¼NE¼SE¼NW¼
67.5 acres in Huerfano County.

Lower Dry Creek Campground

T. 23 S., R. 73 W.,
Sec. 15: SE¼NW¼, N½N½NE¼SW¼
50 acres in Custer County.

North Colony Lakes Recreation Area

T. 24 S., R. 73 W., (Protraction #21, dated April 26, 1965)
Sec. 4: S½SE¼, S½S½SW¼
Sec. 8: NE¼NE¼, N½SE¼NE¼, NE¼SW¼NE¼, W½SW¼NE¼, E½SE¼NW¼
Sec. 9: N½NE¼NE¼, NW¼NW¼, NW¼NE¼NW¼
300 acres in Custer County.

New Mexico Principal Meridian

Banjo Lake Recreation Area

T. 45 N., R. 11 E.,
Sec. 1: W½NE¼SE¼, NW¼SE¼
60 Acres in Custer County.

South Branch Lake

T. 46 N., R. 11 E.,
Sec. 36: W½NW¼NE¼, NW¼SW¼NE¼, NE¼NW¼, N½SE¼NW¼
90 acres in Custer County.

Gibson Creek Campground

T. 45 N., R. 12 E.,
Sec. 24: N½NW¼, N½S½NW¼
120 acres in Custer Conty.
The areas described aggregate approximately 687.5 acres.

Therefore, in accordance with the regulations contained in 43 CFR 2091.2–4(b)(1), at 7:45 a.m. on April 5, 1982, the lands described shall be relieved of the segregative effect of the application and open to such forms of appropriation as may by law be made of National Forest land, subject to any valid existing rights.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, 1037–20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 82-5834 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Amendment to Williams Fork Management Framework Plan for Coal

Notice is hereby given in accordance with Pub. L. 94–579, section 603 and 43 CFR Parts 3400 and 1601, that the Bureau of Land Management, Craig District, Colorado, has applied the coal unsuitability criteria through the land use planning process. Public comments have been received and considered. The Management Framework Plan (MFP) for the Williams Fork Planning Unit is amended using the preferred alternative.

In order to alleviate emergency leasing and promote an orderly and desirable pattern of coal development, the Williams Fork Planning Unit should be included in the area of availability for future competitive coal leasing in the Green River/Hams Fork Coal Production Region. The 1976 land use plan for the Williams Fork Planning Unit did not address suitability for possible coal development, therefore, before competitive leasing of Federal coal can occur, the existing land use plan had to be amended. The information provided in this land use plan amendment has determined where coal production could occur without irreversibly damaging the environment.

An Environmental Impact Statement is not required for the preferred alternative because the area will be included in the next Green River/Hams Fork Regional Coal E.I.S. before a decision is made on coal leasing.

Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment.

A protest may raise only those issues which were submitted for the record to the District Manager during the planning process.

The protest shall be in writing and shall be filed with the State Director of Colorado. The protest shall be filed on or before April 5, 1982.

The protest shall contain:

1. The name, mailing address, telephone number and interest of the person filing the protest;
2. A statement of the issue or issues being protested;
3. A statement of the part or parts of the plan or amendment being protested;
4. A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and
5. A short, concise statement explaining why the District Manager's decision is wrong.

Corrections have been made to the Draft Williams Fork MFP Coal Amendment/Environmental Assessment and it has been accepted as the Final Williams Fork MFP Coal Amendment/Environmental Assessment.

Copies of the corrected pages and the Decision Record/Rationale are available from the Bureau of Land Management

Contact listed below. Copies of the Final Williams Fork MFP Coal Amendment/ Environmental Assessment will be printed and available for distribution after the protest period has ended and any protest has been resolved.

Official BLM Contact: Duane Johnson, Team Leader, Bureau of Land Management, P.O. Box 1136, Craig, CO 81626, or telephone (303) 824–4441.

Lee Carie,

District Manager.

[FR Doc. 82–5829 Filed 3–3–82; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. M 51799]

Montana; Conveyance of Public Land

February 23, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713 (1976)), the following public land was sold by modified competitive bidding to John G. Michunovich, Billings, Montana:

Principal Meridian

T. 5 N., R. 34 E.,
Sec. 2, Lot 8.

Containing 13.16 acres.

The land was conveyed by Fee Simple Interest Decision on February 12, 1982. A patent will issue after the official cadastral resurvey has been approved. The sale of the land was consistent with the Bureau's planning system since the tract was isolated with no convenient access, was unuseable by the general public, and was difficult and uneconomic to manage as part of the public lands system. The appraised fair market value of $1,000 has been paid to the United States.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–5828 Filed 3–3–82; 8:45 am]

BILLING CODE 4310–84–M

[ORE 018616]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the Federal Register on December 7, 1967 (32 FR 17546), 62,500.00 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. The lands are located in Benton, Clackamas, Clatsop, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety March 4, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States 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.

Dated: February 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82–5822 Filed 3–3–82; 8:45 am]

BILLING CODE 4310–84–M

[OR 6920]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the Federal Register on December 15, 1970 (35 FR 242), as corrected in the Federal Register of January 13, 1971, (36 FR 447), 9,841.50 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. The lands are located in Linn, Lane, and Douglas Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety March 4, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawls and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States 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.

Dated: February 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82–5823 Filed 3–3–82; 8:45 am]

BILLING CODE 4310–84–M

[ORE 018617]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the Federal Register on June 3, 1967 (32 FR 8042), 15,000 acres of public lands under the jurisdiction of the Bureau of Land Managment were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. the lands are located in Douglas and Coos Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety March 4, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States mining laws and mineral leasing laws.

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

Dated: February 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82–5824 Filed 3–3–82; 8:45 am]

BILLING CODE 4310–84–M

West-Central North Dakota Management Framework Plan (MFP); Public Comments Sought on Reapplication of Certain Unsuitability Criteria

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Dickinson District Office of the Bureau of Land Management (BLM) is inviting public review of reapplication of certain unsuitability criteria for the West-Central North

Dakota Management Framework Plan. All of the criteria that have been reapplied relate to federal coal leasing and are contained in 43 CFR Part 3461. By number, they are 9, 11, 12, 13, 14, and 15 (concerning wildlife habitat); and criterion 7 (concerning archaeological values).

The Dickinson District has prepared an MFP addendum showing the recommended areas to be excluded from further consideration for coal leasing, based on the analysis of new wildlife and cultural resources data. The document will be mailed to all persons on the West-Central MFP mailing list, including surface owners over federal coal, interest groups, energy companies, and various government agencies. Persons not on the mailing list can contact the Dickinson District Office to obtain the document, which will be available by March 12. After the public comment period the District Manager will assess the comments received and then make his final decisions.

DATE: Comments on the reapplication of unsuitability criteria will be taken through April 15, 1982.

ADDRESS: The MFP addendum can be obtained from the Bureau of Land Management, Dickinson District Office, P.O. Box 1229, Dickinson, North Dakota 58601, Telephone: (701) 225–9148.

FOR MORE INFORMATION CONTACT: Chuck Steele, Dickinson District Manager, at the above address.

SUPPLEMENTARY INFORMATION: In September 1980, the West-Central ND Management Framwork Plan was completed by the Dickinson District. A major part of the planning process involved applying unsuitability criteria to determine if federal coal lands should or should not be excluded from further leasing consideration.

All pertinent criteria were applied during the initial planning process; however, certain resource information was not adequate to fully apply all criteria. Wildlife habitat inventories were needed throughout the planning area to apply criteria 9, 11, 12, 13, 14, and 15. More cultural resource information was needed in the Dunn Center Deposit to more fully assess the significance of the Knife River Flint Quarries and associated archaeological sites. Cultural resource information was also needed to apply criterion 7 in the Dickinson, Garrison, and North Garrison deposits.

Charles E. Steele,

District Manager.

[FR Doc. 82-5828 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 78712]

Sheridan County, Wyoming; Exchange Proposal

Notice is hereby given that on January 28, 1982, Whitney Benefits, Inc. and its lessee, Peter Kiewit Sons' Company, filed a proposal to exchange lands and/or interests in lands with the Wyoming State Office, Bureau of Land Management. The proponent owns and leases to Peter Kiewit Sons' Company a coal interest in lands in Sheridan County described as:

Sixth Principal Meridian, Wyoming

T. 57 N., R. 83 W.,
Sec. 6, lots 2, 3, 4, 5, SE¼NW¼, and E½SW¼.
T. 58 N., R. 83 W.,
Sec. 31, lots 3, 4, E½NE¼, SW¼NE¼, E½SW¼, and W½SE¼.
T. 57 N., R. 84W.,
Sec. 1, NE¼NE¼, and S½SW¼;
Sec. 12, W½NE¼, NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 11, E½NE¼, SW¼NE¼, and NW¼SE¼.

Containing 1238.51 acres.

The State of Wyoming has determined that this tract is unsuitable for mining and has designated it as a alluvial valley floor. The Surface Mining and Reclamation Act provides that the Bureau may exchange coal where an alluvial valley floor determination precludes mining. The exchange would be made pursuant to the authority of SMCRA and the Federal Land Policy and Management Act of 1976.

In exchange, the proponent has expressed an interest in acquiring title to the coal and surface, where it is owned by the United States, in the following described lands:

Sixth Principal Meridian, Wyoming

T. 58 N., R. 84 W.,
Sec. 21, All (excluding lot 1);
Sec. 22, W½ and SE¼;
Sec. 23, SW¼, NW¼SE¼, and S½SE¼;
Sec. 24, SW¼SW¼SE¼;
Sec. 25, S½NW¼, SW¼NE¼, and E½NW¼NE¼;
Sec. 26, All;
Sec. 27, All;
Sec. 28, All;
Sec. 33, N½NE¼NW¼, N½NE¼, and N½SE¼NE¼;
Sec. 34, N½NW¼, N½SW¼NW¼, SE¼NW¼, NE¼, and N½N½SE¼;
Sec. 35, N½, N½N½SW¼, and N½SE¼.

Containing approximately 4,370.00 acres.

The proposal will be analyzed by this Bureau. The purpose of this notice is to inform the public that we have such a proposal pending. Any interested persons desiring to express their views or furnish any information about this proposal should do so in writing. Comments may be sent to the District Manager, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5827 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; McMoran Offshore Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoran Offshore Exploration Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2887, 2888, and 2889, Blocks 173, 174, and 175, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office oif the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 24, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5835 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0605, Block 86, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 26, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5836 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0248, Block 71, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34. of Title 30 of the Code of Federal Regulations.

Dated: February 26, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5837 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[No. 38704]

Motor Carriers; Gray Moving & Storage Inc., Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Gray Moving & Storage, Inc., a motor contract carrier, has requested exemption from the requirements in 49 U.S.C. 10702, 10761, and 10762 so that, in lieu of filing rate schedules, it could simply provide a copy of its contract (with rates attached) to interested parties, upon request. The sought relief is provisionally granted.

DATES: Comments are due within 15 days of publication in the **Federal Register**. The sought relief will become effective on April 5, 1982, unless, in response to comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESSES: An original and six copies of comments should be sent to: Interstate Commerce Commission, Room 5356, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw or Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: The exemption is sought with regard to the nationwide transportation of food and related products under contract(s) with Distressed Merchandise Assoc., Inc., of Arvada, CO. Petitioner's permit for this transportation, No. MC–112070 (Sub-No. 26), was served September 25, 1981.

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff. Section 10762 sets forth general tariff requirements, including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant relief to contract carriers when in the public interest and consistent with the transportation policy of section 10101.

Petitioner states that the administrative and financial burden of complying with the rate filing requirements would necessitate higher rate levels than if it were allowed instead simply to incorporate rules and rates into its contract as an appendix. Petitioner offers to provide a copy of the complete contract with Distressed Merchandise Assoc., Inc. to interested parties upon request.

Petitioner's request appears reasonable. The rate information will remain available to the limited number of persons who might be interested, and there seemingly is no reason to deny the carrier and the shipper the potential savings involved. See, No. 38649, 46 FR 36763, July 15, 1981.

Our approval of this arrangement, however, will be withdrawn if we receive timely filed comments convincing us the relief is inappropriate.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10702(b), 10761(b) and 10762(f))

Decided: February 23, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5915 Filed 3-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 15)]

Rail Carriers; The Atchison, Topeka and Santa Fe Railway Co.; Abandonment Between Clonmel and Anness, KS; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Atchison, Topeka and Santa Fe Railway Company to abandon its rail line between milepost 223 plus 4,124.3 feet near Clonmel to milepost 26 plus 5,067.3 feet near Anness, a distance of 11.88 miles, all in Sedgwick County, KS, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I § 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5913 Filed 3-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29846]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment Between Key West and East Grand Forks, MN; Petition for Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. § 10903 the abandonment by the Burlington Northern Railroad Company of 9.49 miles of track in Polk County, MN, from Milepost 92.99 near Key West to Milepost 92.89 near East Grand Forks.

DATES: This exemption will be effective on April 5, 1982. Petitions to stay the effectiveness of this decision must be filed no later than March 15, 1982. Petitions for reopening and reconsideration must be filed no later than March 24, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

(2) Petitioner's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 29846.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. For a copy of the full decision, write to Interstate Commerce Commission, Room 2227, Washington, D.C. 20423, or call toll free 800-424-5403.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5914 Filed 3-3-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-117]

Certain Automotive Visors; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 29, 1981, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Prince Corporation, Windcrest Drive, Holland, Michigan 49423. An amended complaint was filed on February 16, 1982. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain automotive visors into the United States, or in their sale, by reason of alleged direct infringement of (1) claims 1, 2, 4, 5, 6, 8, 10, 11 and 13 of U.S. Letters Patent 4,227,241, and (2) claims 1, 2, 3, 5 and 6 of U.S. Letters Patent 3,926,470. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue (1) an order excluding said visors, or automobiles equipped with said visors until the visors are removed, from entry into the United States for the life of each patent in issue and (2) a cease and desist order restraining Toyota and Daimler-Benz and those in privity with them from the sale and installation of imported visors which infringe U.S. Letters Patent Nos. 3,926,470 and 4,227,241.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's rules of practice and procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 23, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain automotive visors into the United States, or in their sale, by reason of alleged direct infringement of (1) claims 1, 2, 4, 5, 6, 8, 10, 11 and 13 of U.S. Letters Patent 4,227,241 and (2) claims 1, 2, 3, 5 and 6 of U.S. Letters Patent 3,926,470, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Prince Corporation, Windcrest Drive, Holland, Michigan 49423.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Toyota Motor Sales Co., Ltd., 1 Toyota-cho, Toyota City, Nagoya, Aichi, 471 Japan

Toyota Motor Sales, 2055 West 190th Street, Torrance, California 90504

Daimler-Benz, A.G., Mercedesstr. 136, D-7000 Stuttgart 60, Bad-Wuertt, Federal Republic of Germany

Mercedes-Benz, North America, 1 Mercedes Drive, Montvale, New Jersey 07645

Gebr Happisch Gmbh, Clauserbruke 1, West Germany

Voplex Corporation, 1100 Pittsford Victor Road, Pittsford, New York 14538

(c) Oreste Russ Pirfo, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission Investigative Attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours 8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Oreste Russ Pirfo, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–4693.

By order of the Commission.

Issued: March 1, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–5698 Filed 3–3–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–151 (Preliminary)]

Certain Nuts, Bolts, and Screws From Japan; Preliminary Countervailing Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty 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. 701–TA–151 (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 Japan of certain screws, bolts, nuts, and other screws having shanks or threads over 0.24 inch in diameter of iron or steel, provided for in items 646.4920, 646.5400, 646.5600, 646.6320, and 646.6340 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants are alleged to be paid.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Cates, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0369.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed February 22, 1982, on behalf of The United States Fastener Manufacturing Group. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by April 8, 1982 (19 CFR 207.17). The investigation 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 47 FR 6190), and particularly subpart B thereof.

Written Submissions.—Any person may submit to the Commission on or before March 23, 1982, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a 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 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 this investigation for 9:30 a.m., e.s.t., on March 18, 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 supervisory investigator for the investigation, Mr. John MacHatton, telephone 202–523–0439, not later than March 11, 1982, to arrange for their appearance.

For further information concerning the conduct of the investigation and rules of general application consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207), and part 201, subparts A through E (19 CFR 201). Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

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: March 1, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–5897 Filed 3–3–82; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants; Alcoa Generating Corp.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 12, 1982, a proposed consent decree in *United States of America* v. *Alcoa Generating Corporation and Southern Indiana Gas and Electric Company*, Civil No. EV–82–35–C, was lodged with the United States District Court for the Southern District of Indiana. The proposed decree requires additional pollution control equipment and other measures to assure compliance with the particulate and opacity provisions of the Indiana Implementation Plan at the defendants' Warrick Generating Station in Newburgh, Indiana, and payment of a civil penalty.

The proposed consent decree may be examined at the office of the United

States Attorney, Room 274, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204; at the Region V office of the Environmental Protection Agency, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States. The Department of Justice will receive comments relating to the proposed consent decree until April 5, 1982. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America* v. *Alcoa Generating Corporation and Southern Indiana Gas and Electric Company*, DOJ Reference #90–5–2–1–398.

Carol E. Dinkins,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 82–5838 Filed 3–3–82; 8:45 am]

BILLING CODE 4410–01–M

Proposed Consent Decree in Action To Enjoin Air Pollutant Emissions; Georgia Pacific Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 16, 1982, a proposed consent decree in *Gorsuch* v. *Georgia-Pacific Corporation*, No. 80–09–CIV–8, was lodged with the United States District Court for the Eastern District of North Carolina. The proposed decree provides for settlement of a suit under the Clean Air Act concerning the company's coreboard and plywood plant at Dudley, North Carolina. The proposed decree requires that company pay a civil penalty for alleged violations of prevention-of-significant-deterioration requirements of the Clean Air Act and the North Carolina State Implementation Plan.

The Department of Justice will receive, until April 5, 1982, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Gorsuch* v. *Georgia-Pacific Corporation*, D.J. Ref. No. 90–5–2–1–322.

A proposed consent decree may be examined at the office of the United States Attorney, Eastern District of North Carolina (Attn: Rhetta Lee), 874 Federal Building, 310 New Bern Avenue, Raleigh, N.C. 27611; at the Region IV Office of the United States Environmental Protection Agency, Enforcement Division, Second Floor, 345 Courtland Street NE., Atlanta, Georgia 30365; and the Environmental Enforcement Section, Land and Land and Natural Resources Division, United States Department of Justice, Room 1254, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82–5839 Filed 3–3–82; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

Arts Design Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Fellowships) to the National Council on the Arts to be held on March 29–31, 1982, from 9:00 a.m.–5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82–5840 Filed 3–3–82; 8:45 am]

BILLING CODE 7537–01–M

Music Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Solo Recitalists—Individuals) to the National Council on the Arts to be held on March 25–26, 1982 from 9:00 a.m.–6:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82–5841 Filed 3–3–82; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Determination of Renewal

The Foundation conducted an extensive study of its Advisory Committee structure. During the course of review by the Committee Management Secretariat of the General Services Administration, the advisory groups listed below were extended from February 15 to March 1, 1982 and are now being renewed for an additional two years.

Therefore, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, I have hereby determined that the sixteen advisory groups listed below are necessary and in the public interest in

connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law.

Advisory Committee for Astronomical Sciences
Advisory Committee for Atmospheric Sciences
Advisory Panel for Behavioral and Neural Science [1]
Advisory Committee for Chemistry
Advisory Committee for Earth Sciences
Advisory Committee for Engineering
Advisory Panel for Environmental Biology [1]
Advisory Committee for International Programs
Advisory Committee for Materials Research
Advisory Committee for Mathematical and Computer Sciences
Advisory Committee for Ocean Sciences
Advisory Committee for Physics
Advisory Panel for Physiology, Cellular, and Molecular Biology [1]
Advisory Committee for Polar Programs
Advisory Committee for Policy Research and Analysis and Science Resources Studies
Advisory Panel for Social and Economic Sciences [1]

Authority for these advisory committees shall expire on March 1, 1984, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

John B. Slaughter,

Director.

March 1, 1982.

[FR Doc. 82-5793 Filed 3-3-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-443 and 50-444]

Public Service Co. of New Hampshire (Seabrook Station, Units 1 & 2); Receipt of Petition Under 10 CFR 2.206

Notice is hereby given that by petition dated February 5, 1982, the Seacoast Anti-Pollution League filed a request for an order to show cause why Construction Permit Nos. CPPR-135 and CPPR-136 should not be suspended or revoked because of an alleged lack of financial qualification of the lead applicant, Public Service Company of New Hampshire. In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

[1] As a result of our review, the names of these groups were changed from Advisory Committees to Advisory Panels to more accurately reflect their proposal review role.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the local public document room for the Seabrook Station at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883.

Dated at Bethesda, Maryland this 25th day of February, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-5906 Filed 3-3-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Section XI; Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee), which revised the inservice inspection program for the North Anna Power Station, Unit Nos. 1 and 2 located in Louisa County, Virginia. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires August 20, 1982.

The action provides relief from performing hydrostatic testing requirements for North Anna Power Station, Units No. 1 and 2 weld repairs. In lieu of this, the licensee has proposed in the case of North Anna Unit 1 to use an augmented liquid penetrant examination supplemented by a leakage test at operating pressure. For North Anna Unit 2, the licensee has proposed an examination consisting of a radiographic and ultrasonic test supplemented by a leakage test at operating pressure. The licensee has received Commission approval in both cases as proposed by the licensee.

The request for relief 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 letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant enviromental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated January 20, 1982 and (2) the letter to the licensee dated February 24, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of February 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-5906 Filed 3-3-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

February 24, 1982.

When executive departments and agencies proposed public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the

nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public.

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96–511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public, interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer of office listed at the end of face entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Office—Richard J. Schrimper—202–447–6201)

New

• Forest Service
Application for Transportation and Utility Systems and Facilities on Federal Lands
SF–299
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
Applies to any indiv., bus., entity, & gov't entity, etc.
SIC: All
Small businesses or organizations
Conservation and land management: 50 responses; 150 hours; $76,000 Federal cost; 1 form; $900 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340
Use of SF–299, Application for Transportation and Utility Systems and Facilities on Federal Lands, is mandated by Title XI of Pub. L. 96–487. Section 1104(a) of the law states that unless the approval or of a transporation system is based on the consolidated form the approval or disapproval will have no force or effect, thus the critical need.
• Food and Nutrition Service
WIC Program—Regulations Application Burden
FNS–265
Other–see SF83
Individuals or households/State or local governments/businesses or other institutions
Low income hsehlds, state & local health agencies, food stc.
SIC: 881, 943, 540
Food and nutrition assistance: 4,100,808 responses; 355,030 hours; $269,000 Federal cost; 1 form; $1,642,330 public cost; not applicable under 3504(h)
Nell Minow 202–395–7340

Participants, local and State agencies must apply to obtain program benefits. Application from participants are used to verify eligibility. Applications from local and State agents are to check ability to administer the program effectively.
• Food and Nutrition Service
WIC Program—Regulations Recordkeeping Burden
Other–see SF83
Individuals or households/State or local governments/businesses or other institutions
Low income hsehlds, State & local health agen., food stores
SIC: 881, 943, 540
Food and nutrition assistance: 3,038,325 responses; 88,048 hours; $33,600 Federal cost; 1 form; $880,480 public cost; not applicable under 3504(h)
Nell Minow 202–395–7340

WIC regulations require State and local agencies to retain certain records in order to document actions and to evaluate compliance with program requirements and with OMB circulars.
• Agricultural Stabilization and Conservation Service (AFIDA)
1
On occasion
Businesses or other institutions
Foreign persons having invest. in U.S. ag. land
SIC: Multiple
Small businesses or organizations
Farm income stabilization: 3,400 responses; 1,700 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Charles A. Ellett 202–395–7340

This form is used for foreign investors whereby they make timely reports of all agricultural land held, acquired, or transferred as required under penalty of law (Pub. L. 95–460).
• Agricultural Stabilization and Conservation Service
Handler contract with producers for purchase of additional peanuts for crushing or export
CCC–1005
Annually
Farms/businesses or other institutions
The peanut prod. & handlers entering into contracts, etc.
SIC: 013
Small businesses or organizations
Farm income stabilization: 30,000 responses; 3,000 hours; $94,000 federal cost; 1 form; $10,050 public cost; not applicable under 3504(h)
Charles A. Ellett 202–395–7340

Form CCC–1005 is used for contracting additional peanuts for crushing or export. Information from these contracts will be used to verify compliance to Pub. L. 97–98 as to

production and disposition of all additional peanuts.
• Federal Crop Insurance Corporation
Cancellation Anaylsis
Semiannually
Individuals or households/farms
Crop insur. policyholders who cancelled their policy
SIC: 019
Small businesses or organizations
Farm income stabilization: 450 responses; 90 hours; $6,880 Federal cost; 1 form; $900 public cost; not applicable under 3504(h)
Charles A. Ellett 202–395–7340

To determine growers' reasons for cancelling their all-risk crop insurance, in order to develop promotional and advertising material which will most effectively encourage growers to reinstate their insurance, to determine the severity of cancellation, to ascertain program provisions which growers are dissatisfied with, and to provide information useful in the development of methods to reduce future cancellations. Starting date ASAP.

Revisions

• Agricultural Marketing Service
Grapes Grown in a Designated Area of Southeastern California—Marketing Order No. 925
On occasion, weekly
Farms/businesses or other institutions
Cal. Desert Grape Producers and Handlers under Mktg. Ord. 925
SIC: 017 515
Small businesses or organizations
Agricultural research and services: 570 responses; 37 hours; $500 Federal cost; 4 forms; $343 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

California Desert Grape Administrative Committee forms are used to obtain information from desert grape producers and handlers relating to the grapes shipped by them, as well as make application to ship organically grown grapes exempt from certain size requirements, and to use experimental containers.
• Agricultural Marketing Service
California-Arizona Lemons—Marketing Order No. 910
On occasion, weekly
Farms/businesses or other institutions
Cal.-Ariz. Lemon Growers and Handlers under Mktg. Od. 910
SIC: 017 515
Small businesses or organizations
Agricultural research and services: 4,586 Responses; 249 hours; $618 Federal cost; 10 forms; $1,520 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Lemon Administrative Committee forms are used to obtain information from growers and handlers relating to the quantities of lemons shipped and utilized in various outlets during specified time periods, and by growers and handlers to apply for permission to ship lemons to certain non-regulated outlets.
• Agricultural Marketing Service
Florida Limes—Marketing Order No. 911
Annually
Businesses or other institutions
FIA. Lime Producers and Handlers under Marketing Order 911
SIC: 017 515 203
Small businesses or organizations
Agricultural research and services: 98 Responses; 3 hours; $500 Federal cost; 4 forms; $19 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Florida Lime Administrative Committee forms are used to obtain information from producers relating to their lime growing business and from handlers relating to their lime business as packers and shippers and their intent to apply for a prorate ease and allotment under the marketing order.
• Agricultural Marketing Service
Washington Peaches—Marketing Order No. 921
On occasion
Businesses or other institutions
Washington Peach handlers under marketing order 911
SIC: 515
Small businesses or organizations
Agricultural research and services: 288 Responses; 10 hours; $500 Federal cost; 2 forms; $73 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Washington Fresh Peach Marketing Committee forms are used by the committee to ascertain if a handler's peach shipments should be exempted from inspection requirements, and if such shipments meet other requirements specified under the marketing order.

Reinstatements

• Agricultural Stabilization and Conservation Service
Application for ASCS County Employment
ASCS–675
Other–see SF83
Individuals or households
Individual applicant
Farm income stabilization: 14,000 Responses; 14,000 hours; $31,315 Federal cost; 1 form; $46,900 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Applicants that seen ASCS county office employment must fill-out this form. Its scope and impact is identical to that of SF–171 used in Fed. service (Pub. L. 86–563)

DEPARTMENT OF ENERGY

(Agency Clearance Officer—John Gross—202–633–9770)

New

• Energy Information Administration
Petroleum Sales Identification Survey
FIA–764A 764B
Nonrecurring
Businesses or other institutions
Petroleum product wholesalers and retailers
SIC: Multiple
Small businesses or organizations
Energy information, policy, and regulation: 60,000 responses; 120,000 hours; $655,000 Federal cost; 2 forms; not applicable under 3504(e)
Jefferson B. Hill, 202–395–7340

The EIA–764A&B represents a one time survey to collect limited sales volume information in order to update the listing of petroleum product wholesalers and retailers. These data will enable the selection of valid samples to conduct more efficient surveys in the future.

Reinstatements

• Federal Energy Regulatory Commission
Gas Pipeline Certificate Initial Service
FERC–538
Other—see SF83
Businesses or other institutions
Natural gas pipeline companies and local distribution co.
SIC: 492
Energy information, policy, and regulation: 10 responses; 3,200 hours; $50,000 Federal cost; 1 form; Not applicable under 3504(h)
Anita T. Ducca, 202–395–7340

Pursuant to section 7(a) of the NGA, the Commission requires these data to determine if an interstate pipelines existing facilities and service should be extended to meet initial service requirements of a local distribution company.

• Federal Energy Regulatory Commission
FERC–537, Gas Pipeline Certificate—Construction and Operation/Transportation/Exchange and Storage and Abandonment
FERC–537
Other—see SF83
Businesses or other institutions
Natural gas pipelines
SIC: 492
Energy information, policy, and regulation: 583 responses; 148,320 hours; $2,226,800 Federal cost; 1 form; not applicable under 3504(h)
Anita T. Ducca, 202–395–7340

Information collection is required to obtain commission certification of interstate pipelines engaged in the transportation and sale of natural gas, and the construction, acquisition and operation of facilities to be used in these activities, as well as authorization for abandonment of facilities and service.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Department Management of the Equal Access to Justice Act in Agency Proceedings—Subpart B
OS–18–81
Nonrecurring
Individuals or households/businesses or other institutions
Medicare and medicaid providers, drug cos., med. device, etc.
SIC: 801, 806
Small businesses or organizations
Public assistance and other income supplements: 202 responses; 404 hours; $48,087 Federal cost; 1 form; $4,040 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

An applicant must submit the required information to apply for an award of attorneys fees and other expenses under the equal access to Justice Act, in a proceeding where the applicant has prevailed and believes the Government's position was not substantially justified.

• Social Security Administration
Vocational Rehabilitation "301" Program Development
SSA–4290
On occasion
State or local governments
State vocational rehabilitation agencies
SIC: 941
General retirement and disability insurance: 8,000 responses; 2,000 hours; $6,126 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The vocational rehabilitation "301" program development form will collect data from the State vocational rehabilitation agencies to determine an individual's possible entitlement to continued payments. The forms will be reviewed by SSA disability examiners in making these determinations.

Revision

• Social Security Administration
Request for Correction of Earnings Record
SSA–7008
On occasion
Individuals or households
Per. who disagree with the SSA record of their earnings
General retirement and disability insurance: 100,000 responses; 16,666 hours; $51,501 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Information is needed when a person questions the correctness of his/her earnings record. The information is used to check the Social Security Administration's records and develop for evidence.

• Office of Assistant Secretary for Health
1982 National Health Interview Survey (NHIS)
Nonrecurring
Individuals or households
Sample hsehlds repre. civil., non-instit. popu. of the U.S. health: 42,700 responses; 32,160 hours; $6,328,000 Federal cost; 1 form; $321,600 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

Modification of item 11 in the present 1982 NHIS will provide more precise data for classification of households as telephone or nontelephone in terms of likely occurrence in a random digit dialing (RDD) sample proposed for future utilization in NHIS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Agency Clearance Officer—Robert G. Masarsky—202–755–5184)

New

• Housing Programs
Public Housing—Energy Audit
Nonrecurring on occasion
Businesses or other institutions
Public housing agencies
SIC: 953
Public assistance and other income supplements: 1,600 responses; 64,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Attached explanation.

• Policy Development and Research
Elderly Home Maintenance Demonstration Program Participant Survey
Nonrecurring
Individuals or households
Elderly homeowner program participants
Community development: 700 responses; 175 hours; $140,719 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The attached instrument will be administered to client participants of the HUD-sponsored elderly home maintenance demonstration. The survey is needed to determine participant satisfaction and to assess the demonstration's impact on the elderly homeowners.

Reinstatements

• Management and Administration
Uniform Settlement Statement Certification Page for Settlement Statement
HUD–1 and HUD–9596
On occasion
Businesses or other institutions
Persons who conduct real estate settlements
SIC: 601, 653, 654, 655, 677, 661
Small Businesses or organizations
Multiple functions: 2,018,750 responses; 2,018,750 hours; $5,000 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 4 of the Real Estate Settlement Procedures Act directs HUD to prescribe a standard form for the statement of settlement costs in federally-related mortgage transactions. The form is used to inform homebuyers and sellers of their settlement costs.

• Housing Programs
Development Program of Indian Housing Authority and Indian Low-Income Housing Program Development Cost Budget
HUD–53045, 53045A
On occasion
State or local governments
Indian Housing Authority (IHA's) auth. to develop and oper., etc.
SIC: 953
Public assistance and other income supplements: 135 responses; 1,620 hours; $115,750 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

The information contained in the development program and its insert, the development cost budget, are required prior to the approval of the formal legal commitment by HUD to assist in the development and management of an Indian housing project. Also see supporting statement and justification.

DEPARTMENT OF THE INTERIOR

(Agency Clearance Officer—Vivian A. Keado—202–343–6191)

New

• Geological Survey
Report of Expenditures for Diligent Exploration Operations (30 CFR 270.77)
Other–see SF83
Businesses or other institutions
Resources

SIC: 131, 132, 138
Other natural resources: 1,630 responses; 52 hours; $28,333 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

The information to be collected under 30 CFR 270.77 is needed to determine whether a Federal geothermal lessee has committed expenditures on exploration activities as required under 43 CFR 3203.5.

Revisions

• United States Fish and Wildlife Service
Sandhill Crane Harvest Questionnaire
3–530
Annually
Individuals or households
Recreational resources: 7,350 responses; 1,225 hours; $29,675 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Hunting of lesser sandhill cranes is authorized in eight Mid-Western States. For effective management of the affected sandhill crane population, and to preclude over-harvest, annual information is required on the magnitude and distribution of the crane harvest. The subject questionnaire provides the needed information.

Extensions (No Change)

• Bureau of Land Management
43 CFR Part 2200 Exchanges—General
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
Any citiz. of the U.S., Corp. subj. to the laws, etc.
SIC: Multiple
Conservation and land management: 115 responses; 345 hours; $2,000 Federal cost; 1 form; $57,500 public cost; not applicable under 3504(h)
William T. Adams, 202–395–4814

The following information collections are necessary to complete an exchange: (1) a letter proposal containing legal descriptions identifying the lands proposd for exchange ($50-est.), (2) title evidence for the non-Federal lands to assure the proponent is the legal owner and that title is acceptable ($300-est.), (3) a deed to the U.S., submitted at the end of the transaction, transferring the non-Federal land ($150-est.)/

Reinstatements

• Bureau of Land Management
Exchange-of-Use Grazing Agreement
4130–4
On occasion, Other—see SF83
Farms
Ranchers permitted to graze livestock on the public lands
SIC: 021
Conservation and land management: 600 responses; 300 hours; $9,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

This form is needed to provide for management of livestock grazing on public lands and intermingled private lands. It is used to show specific land involved, livestock to be grazed, and terms and conditions of the agreement.

DEPARTMENT OF JUSTICE

(Agency Clearance Officer—Larry E. Miesse—202–633–4312)

Extensions (Burden Change)

• Immigration and Naturalization Service
Application for a Search of the Records of the Immigration and Naturalization Service Under the Freedom of Information Act
G–639
On occassion
Individuals or households
Indiv. desiring a search of I&NS records
Federal law enforcement activities: 12,000 responses; 3,000 hours; $304,120 Federal cost; 1 form; $30,000 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Used by persons desiring a search of INS records under the Freedom of Information Act. Data used to identify and release records.

Extensions (No Change)

• Immigration and Naturalization Service
Nonimmigrant Checkout Letter
G–146
Nonrecurring
Individuals or households
Nonimmigrants
Federal law enforcement activities: 26,000 responses; 4,333 hours; $12,600 Federal cost; 1 form; $43,330 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814.

This form is used in making inquiry of persons in the U.S. or abroad regarding the whereabouts of aliens wanted by INS when initial investigation to locate them has been unsuccessful.

• Immigration and Naturalization Service
Application for Vertification of Information From Immigration and Naturalization Records
G–641
On occasion
Individuals or households
Indiv. seeking information from I&NS records
Federal law enforcement activities: 60,000 responses; 15,000 hours; $327,500 Federal cost; 1 form; $150,000 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814.

This form is provided for use by persons desiring information from INS records regarding verification of age, date of birth, naturalization/citizenship and genealogical data. Data used to identify record and release data requested.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

Extensions (Burden Change)

• Mine Safety and Health Administration
Records of Training
MSHA 5000–1
Other—see SF83
Businesses or other institutions
Mine operators and personnel
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 23,000 responses; 500 hours; $24,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Title 30 CFR, section 57.18–28, 75.153, and 77.103 require that certain training be recorded and compiled. Form 5000–1 allows this mandatory reporting to be done in an expeditious and thorough manner.

• Mine Safety and Health Administration
Physical Qualification for Mine Rescue Work
MSHA–5000–3
Annually
Businesses or other institutions
Underground mine
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 7,000 responses; 350 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Requires that each rescue team member and alternate be certified by a physician to be fit to perform strenuous rescue and recovery work. The certification must be submitted on approved MSHA forms. Authority establshed by the Federal Mine Safety Act of 1977, P.L. 95–164.

• Mine Safety and Health Administration
New and Experienced Miner Training
MSHA 5000–23
Other—see SF83
Businesses or other institutions

Mine operators and personnel
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 1,000,000 responses; 80,000 hours; $168,200 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Title 30 CFR, sections 48.5, 48.6, 48.7, 48.8 and 48.11 detail the various training requirements applicable to coal miners at the Nation's mines. Form 5000–23 provides the mining industry with an expeditious and nationally uniform method for the compilation of this safety training information.

• Mine Safety and Health Administration
Respirator Program Records
MSHA–404R
Nonrecurring
Businesses or other institutions
Metal/nonmetal mining industry
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 2,800 responses; 5,600 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Requires an operator to establish a respirator program consistent with the requirements of ANSI–788.2 1969. The program is to consist of written standard operating procedures governing the selection, use, and care of respirators. The standard is intended to provide guidance that will assist respirator users in safeguarding health and life through proper selection and use of respirators.

Extensions (No change)

• Mine Safety and Health Administration
Notification of Legal Identity
2000–7
On occasion
Businesses or other institutions
Each mine oper. must file init. and if and when a change is made
SIC: 999
Small businesses or organizations
Consumer and occupational health and safety: 10,400 responses; 10,400 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Requires each operator of a coal mine to file with the Secretary the name and address of such mine and any revisions in such name and address. The information collection is used to monitor compliance.

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—John Windsor—202–426–1887)

New

• Federal Highway Administration
Traffic Control Signalization Demonstration Program
Annually
State or local governments
State/local traffic engineering agencies
SIC: 962
Ground transportation: 98 responses; 8,084 hours; $635,100 Federal costs; 1 form; not applicable under 3504 (h)
Donald Arbuckle, 202–395–7340

Traffic performance data is being collected in the field by the State and local traffic engineering agencies that received funding under the traffic control signalization demonstration program in order to evaluate the effectiveness of the program.

DEPARTMENT OF THE TREASURY

(Agency Clearance Officer—Ms. Joy Tucker—202–634–5394)

New

• Internal Revenue Service
Sales tax
6420, 6421
Annually
State or local governments
State governments
SIC: 999
Central fiscal operations: 92 responses; 92 hours; $10,000 Federal cost; 2 forms; not applicable under 3504(h)
Karen P. Sagett, 202–395–6880

The IRS uses the information on forms 6420 and 6421 to prepare the optional State sales tax tables. These tables are needed by taxpayers who do not keep detailed sales tax records to claim the sales tax deduction. IRS needs the tables to answer taxpayer inquiries about the sales tax deduction and to examine tax returns.

CONSUMER PRODUCT SAFETY COMMISSION

(Agency Clearance Officer—Charles Casper—301–634–7770)

New

• Follow-ups on Product-Related Injuries
Form No. 182
Other—see SF83
Individuals or households
Individuals injured while using consumer products
Consumer and occupational health and safety: 1,800 responses; 1,800 hours; $285,000 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

Information collection involves investigating specific reports of product-related injures to determine relevant details of injury scenaric (role of product, victim and environment). Data from these investigations are used to support Commission activities including voluntary standards development, information and education programs, section 15 actions and possible rulemaking.

• Survey to Determine Consumer Exposure to Chain Saw Hazard [1]
Non-Recurring
Individuals or households
Non-inner city households
Consumer and occupational health and safety: 500 responses; 250 hours; $85,756 Federal cost; 2 forms; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

The Commission is preparing to evaluate a voluntary standard for chain saws. Responses to the telephone inquiries and the follow-up mail-out questionnaire will provide information on the prevalence and usage of chain saws, their safety features and their accessories.

ENVIRONMENTAL PROTECTION AGENCY

(Agency Clearance Officer—Christine Socey—202–382–2742)

New

• Survey data for revision of national emission standards for Hazardous Air Pollutants for vinyl chloride (0769)
FSED 80/06 ICB ID 0769
Nonrecurring
Businesses or other institutions
Producers of vinyl chloride and polyvinyl chloride
SIC: 282, 286
Pollution control and abatement: 45 responses; 396 hours; $9,040 Federal cost; 2 forms; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This ICB is for data regarding vinyl chloride emissions systems of emission reduction from vinyl chloride and polyvinyl producers necessary to identify the best available technology for emission control, analyze impacts, revise the current national emission standards for vinyl chloride as required by the Clean Air Act.

• Implementation of the Equal Access to Justice Act in Environmental

[1] This docket was inadvertently omitted from our list of paperwork submissions received for review and published on January 4, 1982. This amendment informs the public of the availability of the docket and requests comments as soon as possible.

Protection Agency Administrative Proceedings
Nonrecurring
Individuals or households/businesses or other institutions
Litigants satisfying statutory size criteria
SIC: Multiple
Pollution control and abatement: 20 responses; 80 hours; $100,000 Federal costs; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Under these rules, certain individuals, small businesses and other small entities may apply for award or attoneys fees and expenses when they prevail over EPA in certain EPA proceedngs. The applicaiton must document fees and expenses claimed and show that the applicant falls within statutory size limitations.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

New

- Temporary Permit to Operate a CB Radio Station

FCC 555–B
Nonrecurring
Individuals or households
Applicants for a CB radio station permit
Other advancement and regulation of commerce: 12,000 responses; 1,008 hours; $12,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Form is completed and retained by the applicant as a temporary permit. Applicants for a Class D Station License will be permitted to operate under these temporary permits for 60 days from the date of their permanent station license application (FCC Form 505) was mailed to the FCC.

Extensions (Burden Change)

- Application for Extension of Construction Permit or to Replace Expired Construction Permit

701
On occasion
Businesses or other institutions
Licensees or broadcast stations
SIC: 481, 482, 489
Small businesses or organizations
Other advancement and regulation of commerce: 775 responses; 1,550 hours; $20,375 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Required of common carrier radio station construction permit holders to request and explain the need for additional time to complete construction of radio station facilities.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

New

- Almost Even "A Teenagers and Parents Radio Series

Evaluation
FD 848
Nonrecurring
Individuals or households
Teenagers & their parents, teachers, care givers
Research and general education aids: 500 responses; 625 hours; $26,238 Federal cost; 1 form; $1,250 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The "Almost Even" radio series for teenagers and parents is a continuation of the Education Department's support of parenting programs. Evaluation of the programs determine if goals have been met.

- Report of the Treasurer—Land-Grant and Supplementary Morrill Funds

1275
Annually
State or local governments
Land grant colleges and universities
SIC: 822
Higher education: 73 responses; 146 hours; $3,000 Federal cost; 1 form; $1,460 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Funds distributed under the Morrill Act are to be used for support of instruction in certain curriculum areas. This report is necessary to identify the curriculum fields for which the funds are used and to determine compliance with the statute.

- Annual Data Report—Part B of FHA and State Agency Programs for Handicapped Children, Title I, ESEA, as Amended

FD 869
Annually
State or local governments
State education agencies
SIC: 941
Elementary, secondary, and vocational education: 58 responses; 2,446 hours; $8,000 Federal cost; 1 form; $24,460 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This data form is used to collect, annually, count data for determining grant allotments under Part B, FHA, as amended and Pub. L. 89–313, Title I of ESEA, as amended by Pub. L. 95–561. Evaluation data required under Pub. L. 94–142, section 618 also is collected on this form.

- Elementary-Secondary Network Survey System

ED 2437
On occasion
State or local governments
State education agencies
SIC: 941
Research and general education aids: 456 responses; 456 hours; $12,000 Federal cost; 1 form; $6,840 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The Elementary-Secondary Network Surveys System is part of NCES' program for technical assistance to the States at the elementary-secondary level. It will be used by NCES to acquire information on policy matters related to NCES' data collection activities, especially as they relate to reduction of data burden.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–0204

New

- Request for Extension of Emergency Temporary Authority

OP–TA–19 OP–TA–19A
On occasion
Businesses or other institutions
Motor carriers seeking temporary authority to operate
SIC: 401
Ground transportation: 350 responses; 175 hours; $20,235 Federal cost; 1 form; $10 public cost; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This form is filed with the Commission by applicants which previously were granted emergency temporary authority under the temporary authority provisions of 49 U.S.C. 10928. The Commission's prescribed implementing guidelines are set forth in 49 CFR 1131. To meet the statutory criteria an applicant must establish there is a continuing need for its service.

- Application for Authority Under 49 U.S.C. 11343, 11344 to acquire Control of a Motor Carrier or Motor Carriers Through Ownership of Stock or Otherwise

OP–F–45
Nonrecurring
Businesses or other institutions
Privately owner motor common carriers
SIC: 421

Ground transportation: 83 responses; 9,960 hours; $133,962 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Motor carriers proposing to acquire control of a motor carrier(s) under 49 U.S.C. 11343 or 11344 submit information about their business structure, financial status, affiliates, transportation operations under the proposal, and terms of the transaction to the ICC. The information provides the minimum factual basis to determine whether the transaction may be authorized.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

- Application and Claim for Unemployment Benefits and Employment Service

UI (ES–1) & UI–3
On occasion other—see SF83
Individuals or households
Claimants for unemployment benefits and empl. svc.
General retirement and disability insurance: 698,250 responses; 58,188 hours; $5,984,000 Federal cost; 2 forms; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The Railroad Unemployment Insuracne Act provided for the payment of unemployment benefits to qualified railroad employees. The claim for such benefits will obtain information on claimed days of unemployment in a two-week registration period. The information will be used to pay unemployment benefits for the claimed days.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82–5445 Filed 3–3–82; 8:45 am]
BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Administrative Changes and the Proposed Addition of Four New Routine Uses to an Existing System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; proposed new routine use for an existing system of records.

SUMMARY: The purpose of this notice is to make several administrative changes to the notice, necessary to identify that new data elements are being added to the system and that the records location for some of the records is changing for the Office's Civil Service Retirement and Insurance Records System (OPM/CENTRAL-1). Additionally, we are adding four new routine uses. These routine uses, once in effect, will permit the disclosure of data from the Office's Civil Service Retirement and Insurance Records to (1) organizations receiving voluntary allotments from civil service annuities for purposes of crediting annuitants with the amounts paid through the allotment, (2) State tax agencies for purposes of implementing a program of voluntary State income tax withholding from civil service annuities, (3) the Social Security Administration for purposes of a matching program, (4) any requester for purposes of protection of the health and safety of a former employee who may have been exposed to, or suffered from, a health hazard while employed in the Federal work force.

COMMENT DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before April 5, 1982.

ADDRESS: Send or deliver comments to: Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Office of Personnel Management, P.O. Box 57, Room 4351, Washington, D.C. 20044. Comments received will be available for public inspection at Rm. 4351, 1900 E Street N.W., Washington, D.C. from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Glass, (202) 632–9677.

SUPPLEMENTARY INFORMATION: Section 1705 of Pub. L. 97–35 requires OPM to establish a program of voluntary State income tax withholding from Civil Service annuities. Implementation of a program of State income tax withholding requires OPM to be able to have ready access, for audit and control purposes, to records maintained by States. Further, in order to afford the greatest protection to the personal privacy of annuitants and in keeping with the letter and spirit of the Privacy Act, the Office has determined that these records are to part of its OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, Privacy Act system of records.

These records ultimately are retired to OPM by the States, under the terms of the agreement each State signs with OPM, when they are no longer needed by the State, so it is reasonable and proper to say that they are part of this system while in the possession of the State as well. Therefore, certain administrative changes, identified by the italicized section in the notice below, are needed to identify that the records are located in State taxing offices, what the records are, the authority for collecting them, and the purposes they are to be used for. These changes do not constitute of substantial change to this system nor do they require a Report on New Systems to Congress and OMB, as only a few new data elements, on a limited number of individuals, are being added to the over 19 million individual records currently maintained in the system.

Pursuant to section 8345(h) of title 5, United States Code, the Office of Personnel Management (OPM) has authorized, in Supart O of Part 831 of Title 5, Code of Federal Regulations, voluntary allotments from civil service annuities. Routine use bb will permit OPM to disclose to the recipients of an allotment the name, address, and the amount an annuitant has allotted to that organization. The disclosure of this information is necessary for the annuitant to receive proper credit for the payment he/she made using the allotment mechanism.

Implementation of a program of State income tax withholding requires OPM to be able to report to State tax authorities on the amounts withheld along with enough information to identify the taxpayer. Routine use cc will authorize the release of information necessary for the following reports:

(1) A monthly report which will include all State tax withholdings, cancellations and adjustments for the month, and also each request OPM was not able to process, with an explanation, in coded format, of the reason for rejection.

(2) A quarterly report which will include State, State address, quarterly withholdings, quarterly cancellations and adjustments, the total amount offset due to payments which were cancelled in the previous quarter, quarterly net withholdings and year-to-date amounts. Where cancelled or adjusted payments were made in a previous quarter, OPM shall append a listing of the cancelled or adjusted tax withholding, and the name and Social Security identification number of the annuitant from whom it was withheld. If either party terminates the agreement and the amount of cancelled or adjusted deductions exceeds the amount withheld for the final quarter, the quarterly report shall show the amount to be refunded and the address to which payment should be made.

(3) An annual summary report which contains the name, Social Security identification number and total amount withheld from noncancelled payments during the previous calendar year for each annuitant who requested tax

withholding payable to that State. In the event the annuitant had State withholding in effect for more than one State in that calendar year, the report will show only the amount withheld for the State receiving the report.

(4) An annual report for each annuitant for whom State income taxes were withheld giving the amount of withholding paid to the State during the calendar year.

Routine use dd will permit cooperation between OPM and the Social Security Administration (SSA) in reducing fraud and abuse in the two systems. It will allow a comparison of social security and civil service annuity rolls to determine which persons are in the file of both systems. The persons in both systems can be checked to:

(1) Terminate payment to persons whose death has been reported to SSA but not to OPM,

(2) Determine whether persons being paid the minimum annuity are receiving payment in excess of their legal entitlement because they are also receiving minimum SSA benefits, and

(3) Determine whether annuitants with post-1956 military service are receiving SSA benefits which would require recomputation of the civil service annuity.

Routine use ee will provide a direct benefit to the persons on whom the records are maintained. It will permit the release of information to anyone when that release is necessary to protect the health and safety of a former employee who might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force. Such a routine use for OPM's central personnel records is already in force for OPM/GOVT–1.

Office of Personnel Management.

Donald J. Devine.

Director.

The Office is making certain administrative changes, shown below in italics, to its OPM/CENTRAL–1, Civil Service Retirement and Insurance Records system which is printed in its entirety. Further, the Office is proposing four new routine uses for this system, also printed in italics in the notice, to become effective on April 19, 1982, without further notice, unless comments received necessitate otherwise.

OPM/CENTRAL—1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. Certain records pertaining to State income tax withholdings from annuitant payments, are located with State Taxing Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. former Federal employees and Members of Congress who performed service subject to the Civil Service Retirement (CSR) system.

b. Current Federal employees who have:

(1) Performed Federal service subject to the CSR system other than that with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under the CSR system; or

(3) Requested the Office to review claims for health benefits made under the Federal Employees Benefits Program; or

(4) Filed a service credit application in connection with former Federal service; or

(5) Filed an application for disability retirement with the Office and are awaiting final decision, or whose disability retirement application has been disapproved by the Office.

c. Former Federal employees who died subject to or who retired under the CSR system, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees Group Life Insurance benefits, or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government Retirement system other than the CSR system, or their surviving spouses and/or children, who have received or are receiving Federal Employees Group Life Insurance benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of those retirement service history records of employees' service in the Federal government other than that for the agency in which they may presently be employed. It also contains information devoloped in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees which the Office of Personnel Management administers. Also included are medical records and supporting evidence on those individuals found medically unsuitable for Federal employment. *Consent forms and other records related to the withholding of State income tax from annuitant payments, whether physically maintained by the State or the Office, are also included in this system.* These records contain the following information:

a. Documentation of Federal service subject to the CSR system.

b. Documentation of service credit and refund claims made under the CSR system

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents suporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by the Office of Personnel Management), and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employees Health Benefits Program be reviewed by the Office.

f. Suitability determination files on applicants for Federal employment found unsuitable for employment on medical grounds.

g. Documentation of continuing coverage for life insurance and health benefits for annuitants and their survivors under a Federal Government retirement system other than the CSR system, or for compensationers and their survivors under the Office of Workers' Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3301, and chapters 83, 87, and 89 of title 5, United States Code; Pub. L. 83–598, 84–356, 86–724, *and 94–455,* and Executive Order 9397.

PURPOSES:

These records provide information and verification on which to base entitlement and computation of Civil Service Retirement and survivors benefits, federal employees Health Benefits and enrollments, and Federal Employees Group Life Insurance benefits, *and to withhold State income taxes from annuitant payments.* These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the Office's or the recipient's benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS's Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the Civil Service Retirement system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To dislose to the Federal Employees Group Life Insurance Office information necessary to verify election, declination, or waiver of regular and or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify the enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provided to assure postive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls, and, if so, the type of annuity (employee or survivor, but not retirement of disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump sum benefits, information in the individual's record which might properly be disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, information as required by the Internal Revenue Code of 1954 as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains, and who is found by a court or an Office of Personnel Management Medical Officer to be incompetent or under other legal disabiliity, information necessary to assure payment of benefits to which the individual is entitled.

i. to disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an annuitant, survivor annuitant, or former employee, for the purpose of enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Fitness for duty examination procedures; or

(2) Agency-filed disability retirement procedures.

To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence other than medical evidence that a prudent physician would hesitate to inform the individual of; such medical evidence will be dislosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefit program, to the extent necessary to identify the individual and to identify the type of information requested.

m. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

p. To disclose to a Federal agency, in response to its request, information in connection with (1) the hiring, retention, separation, or retirement of an employee, (2) the issuance of a security clearance, (3) the reporting of an investigation of an employee, (4) the letting of a contract, (5) the classification of a job, or (6) the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the Office determines that the information is relevant and necessary to the requesting agency's decision on the matter.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

s. By the Office of Personnel Management, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose, in response to a request for discovery or for appearance of a fitness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Office of Personnel Management specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant of applicant for refund of retirement deductions, if the agency requires that information in order to

provide consideration in connection with the collection of a debt due the United States.

w. To disclose information, in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the data subject's last known address.

x. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

y. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

z. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

aa. To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs in order to contact the former employee concerning a possible threat to his or her health or safety.

bb. *To disclose to an allottee, as defined in 5 CFR 831.1501, the name, address and the amount withheld from an annuitant's benefits, pursuant to 5 CFR 831.1501 et seq. as an allotment to that allottee to implement the program of voluntary allotments authorized by 5 U.S.C. 8345(h).*

cc. *To disclose to a State agency responsible for the collection of State income taxes the information required by an Agreement to Implement State Income Tax Withholding from Civil Service Annuities entered pursuant to § 1705 of Pub. L. 97–35 to implement the program of voluntary State income tax withholding required by 5 U.S.C. 8345(k).*

dd. *To disclose to the Social Security Administration the social security numbers of civil service annuitants to determine (1) their vital status as shown in the Social Security Administration Master Records, (2) whether recipients of the minimum annuity are receiving at least the SPIA benefit from the Social Security Administration, and (3) whether civil service retirees with post-1956 military service credit are receiving benefits from the Social Security Administration.*

ee. *To disclose to a requesting agency, organization, or individual the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force to protect the health and safety of the affected employees.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, discs, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, Social Security Number, date of birth and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records relating to a claim for retirement, life insurance, health benefits, *and tax withholding* are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning, magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records in this system should contact the system manager.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 207.203).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records in this system should contact the system manager.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains.

b. Agency pay, leave, and allowance records.

c. GSA National Personnel Records Center.

d. Federal civilian retirement systems other than the Civil Service Retirement System.

e. Military retired pay system records.

f. Office of Workers' Compensation Benefits Programs.

g. Veterans Administration Pension Benefits Program.

h. Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Programs.

j. The office of Federal Employees Group Life Insurance.

k. Office of Personnel Management Government-wide system (OPM/GOVT-1) Covering Official Personnel Folders.

l. The individual's co-workers and supervisors.

m. Physicians who have examined or treated the individual.

[FR Doc. 82-5874 Filed 3-3-82; 8:45 am]
BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Almac Plastics, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before April 19, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001 *et seq.* As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals occurring after April 28, 1980.

Section 4204 of ERISA, 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; an

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan. Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Almac Plastics, Inc. ("New Almac") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, New Almac represents among other things, that:

1. On August 13, 1981, New Almac purchased the operating assets of Camla, Inc. ("Camla"). Prior to that date, Camla and one of its wholly-owned subsidiaries, Almac Plastics of New Jersey ("Almac-N.J."), were for purposes of Title IV of ERISA a single participating employer in a multiemployer plan. On August 12, 1981, all of the subsidiaries of Camla, including Almac-N.J., were merged into Camla, the assets of which were thereafter sold to New Almac for $25.5 million.

2. New Almac has assumed Camla's responsibilities under a collective bargaining agreement with the International Brotherhood of Teamsters

Local #815, which obligated Camla and Almac–N.J. to contribute to the Union Mutual Fund Pension Plan (the "Plan"). Prior to the sale, Camla and Almac–N.J.'s potential withdrawal liability to the Plan had been calculated to be $131,000.

3. The amount of the bond or escrow required under section 4204(a)(1)(B) is $115,957 (the contributions required to be made by Camla and Almac–N.J. for the plan year ending December 31, 1980). The sale contract between New Almac and Camla obligates New Almac to either obtain such a bond, or to obtain an exemption from PBGC from the bond requirement.

4. New Almac is a wholly owned subsidiary of Laird, Inc., which is, in turn, a wholly owned subsidiary of Laird Group, Ltd., a foreign corporation. Prior to the sale, Laird, Inc. had two subsidiaries located within the United States. The net income, book value of net current assets and dates of those figures for each of the subsidiaries is as follows:

	Net current assets (book value)	Net income
N.Y. Twist Drill Corp	12,175,089 (6/80)	[1]3,700,000
Amesbury Inc	2,050,866 (3/81)	[1]410,645
		[2]270,540

[1] Fiscal year 1980.
[2] Fiscal year 1981.

Thus, prior to the sale, the U.S. subsidiaries had total combined net current assets of approximately $14 million. In addition, New Almac (the new subsidiary of Laird, Inc.) purchased the operating assets of Camla, which prior to the sale had net current assets (book value) of approximately $10.9 million and average net income for fiscal years 1978–1980 of $1,992,333.

5. New Almac has sent a complete copy of this request to the Plan and the collective bargaining representative of the seller's employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before April 19, 1982. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 1st day of March, 1982.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-5868 Filed 3-3-82; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

Temporary Change in Mail Classification Schedule: Express Mail Next Day Service Acceptance Times

On November 10, 1981, the United States Postal Service filed a request with the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on a change in the Domestic Mail Classification Schedule so that Express Mail Next Day Service can be accepted at the time or times prescribed by the Postal Service, pursuant to Chapter 36, Title 39, United States Code. An explanation of the Postal Service proposal was published in the **Federal Register** by the Postal Rate Commission on November 23, 1981 (46 FR 57403).

In its filing with the Postal Rate Commission, the Postal Service proposed the revision of § 500.022 of the Domestic Mail Classification schedule to read as follows:

500.022 Regular[1]

Regular service is available at designated retail postal facilities for overnight service to designated destination facilities or locations for items tendered by the time or times prescribed by the Postal Service.

Since the Postal Rate Commission has not transmitted a recommended decision to the Governors of the Postal Service within 90 days after submission of the Postal Service's request, the Board of Governors has determined, by resolution issued pursuant to 39 U.S.C. 3641(e) and dated March 2, 1982, that the change in the Domestic Mail Classification Schedule reproduced and described above should be implemented on a temporary basis. The Postal Service hereby gives notice that the Board of Governors has ordered that this change be temporarily placed in effect at 12:01 a.m. on March 14, 1982.

W. Allen Sanders,

Association General Counsel, Office of General Law and Administration.

[FR Doc. 82-6017 Filed 3-3-82; 8:45 am]

BILLING CODE 7710-12-M

[1] Express Mail Next Day Service was formerly called Regular Service. The Domestic Mail Classification Scheduled retains the former name.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meetings

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committees Act, that the eighteenth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Auditorium of the Medical Society of the District of Columbia, 2007 I Street, N.W., Washington, D.C., from 9:00 a.m. to 5:00 p.m. on Friday, March 12, 1982 and from 9:00 a.m. to 2:00 p.m. on Saturday, March 13, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda for Friday, March 12 will include, among other things, a discussion of Commission projects on the protection of human subjects of research, as part of the Commission's *Second Biennial Report*, and discussion of a draft section of the Commission's report on the ethical and legal implications of genetic screening and counseling. The agenda for Saturday, March 13 will include, among other things, a discussion of the ethical and legal implications of privacy and confidentiality in health care, including the question of patient's and third parties' access to medical records.

During Friday morning, at approximately 11 a.m., and Saturday morning, at approximately 10:45 a.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82-5796 Filed 3-3-82; 8:45 am]

BILLING CODE 6820-AV-M

SMALL BUSINESS ADMINISTRATION

[Application No. 02/02-5437]

Fair Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*) has been filed by Fair Capital Corporation (Fair Capital), 225 West 34th Street, Suite 1106A, New York, New York, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1981).

The officers, directors and stockholders are as follows:

Robert Yet Sen Chen, 138 Hollywood Ave., Englewood Cliffs, N.J. 07632, President & Director—95% Stockholder

Rose Chao, 45–51 168th Street, Flushing, N.Y. 11358, Secretary & Director—1% Stockholder

Nathan Chao, 45–51 168th Street, Flushing, N.Y. 11358, Treasurer & Director—4% Stockholder

The Applicant, a New York corporation, will begin operations with $500,000 paid-in capital and paid-in surplus. Initially, Fair Capital will conduct its activities principally in the State of New York.

The Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns with a particular interest in those concerns which are owned by persons of Asian descent including Chinese Americans.

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 company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 26, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-5901 Filed 3-3-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Public Use Airport, Bates City, Missouri; Informal Airspace Meeting No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: The purpose of this meeting is to hear comments concerning the proposed construction of a public use airport by White Industries, Inc. The proposed location of the airport is one mile west of Bates City, Missouri and two miles northeast of Oak Grove, Missouri.

The proposal has been circularized to aviation and other interests for comment (Airspace Case No. 81-ACE-125-NRA). Before issuing a determination on this case, the FAA wishes to afford all interested parties the opportunity to comment on the proposal at the meeting. Attendance is open to the interested public, but is limited to the space available.

Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the chairman or as directed at the meeting.

DATE AND LOCATION: 7:00 PM, Wednesday, April 7, 1982, Oak Grove Middle School, 501 East 12th Street, Oak Grove, Missouri.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532a, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone 816 374-3408.

Issued in Kansas City, Missouri, on February 22, 1982.

William H. Pollard,

Chief, Air Traffic Division.

[FR Doc. 82-5880 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-5]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before April 2, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 25, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22584	Hawkins & Powers Aviation, Inc	14 CFR § 36.201(c)(3)	Relief from the "Stage III" requirements for a new Type Certificate for the Boeing KC 97G aircraft, and instead be allowed to show that the aircraft are no noisier than their civil counterpart, the Boeing 377 Stratocruiser ("Stage 1" Compliance).

[FR Doc. 82-5560 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on April 7, 1982, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., and continue as long as may be required. It will be held in Conference Room 2230 of the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

At the April meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions).

Questions for the April 7 meeting should be submitted in writing by March 24 to Courtney M. Price, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the March 24 date may be answered at the meeting, if sufficient time is available. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by March 24 and the issues to be discussed will be mailed to interested persons on or before March 31, 1982, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon receipt to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on February 24, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-5547 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-59-M

Highway Safety Program; Amendment of Qualified Products List of Evidential Breath Measurement Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Qualified Products List for devices which have been found to qualify under the Standard for Devices to Measure Breath Alcohol (38 FR 30459).

EFFECTIVE DATE: March 4, 1982.

ADDRESSES: Administrator, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ronald Engle, Office of Driver and Pedestrian Programs, Traffic Safety Programs, NHTSA, Washington, D.C. 20590, 202-472-4913.

SUPPLEMENTARY INFORMATION: The Qualified Products List of Evidential Breath Measurement Devices was initially issued November 21, 1974 (39 FR 41399), and was most recently amended September 11, 1980 (45 FR 60103). Devices on the list may be purchased with Federal funds under the Highway Safety Act, Pub. L. 89-594, 80 Stat. 731, 23 U.S.C. 402, 403.

In accordance with the Breath Measurement Standard, semi-annual testing of devices was conducted during 1981. During these tests one device, not previously on the Qualified Products List, the Intoximeter 3000, met all performance requirements for mobile and non-mobile evidential breath testers. Three devices, not previously on the Qualified Products List, the Alco-Analyzer 2000, the Breathalyzer 2000, and the Breath Analysis Computer System, met all performance requirements for non-mobile evidential breath testers.

The Qualified Products List is therefore amended as follows:

Qualified Products List

The qualified products meeting all performance requirements, including those for Mobile Evidential Breath Testers, are as follows, listed alphabetically by manufacturer:

Device and Manufacturer

1. Alert J3AD Breath Tester (battery powered), Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
2. Alert J3AC, Alcohol Countermeasures Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
3. S-11 Breath Tester, Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
4. Intoxilyzer Model 4011, CMI, Inc., Minturn Colorado.
5. Intoxilyzer 4011A, CMI, Inc. Minturn, Colorado.
6. Intoxilyzer 4011A 27-10100, CMI Inc., Minturn, Colorado.
7. Intoxilyzer 4011A 27-10100 with fixed filter calibration option, CMI, Inc., Minturn, Colorado.
8. Intoxilyzer 4011AS, CMI, Inc., Minturn Colorado.
9. Alco-limiter, Energetics Science, Inc., Elmsford, New York.
10. Auto-Intoximeter AI-1000, Intoximeters, Inc. St. Louis, Missouri.
11. Gas Chromatograph Intoximeter Mark IV, Intoximeters, Inc., St. Louis, Missouri.
12. Gas Chromatograph Mark IV A, Intoximeters, Inc., St. Louis, Missouri.
13. Intoximeter 3000, Intoximeters, Inc., St. Louis, Missouri.

14. Mark II Gas Chromatograph, Intoximeters, Inc., St. Louis, Missouri.

15. Alcolmeter AE–D1, Lion Laboratories, Ltd., Cardiff, Wales, United Kingdom.

16. Intoxilyzer Model 4011, Omicron Systems Corp., Palo Alto, California.

17. Breathalyzer Models 900A, 1000, Smith & Wesson Electronics Co., Springfield, Massachusetts.

18. Roadside Breath Tester, U.S. Department of Transportation, Washington, D.C.

The qualified products meeting all performance requirements, excluding those for Mobile Evidential Breath Testers are as follows, listed alphabetically by manufacturer:

1. Atalmeter, BDT, c/o Federal American Research Corp., Portsmouth, New Hampshire.

2. Breath Analysis Computer System, BAC Systems, Inc., Guelph, Ontario, Canada.

3. Intoxilyzer Model 4011 AS–A, CMI, Inc., Minturn, Colorado.

4. Alco-Tector Model 500, Decatur Electronics, Decatur, Illinois.

5. Auto-Intoximeter AI 1, Intoximeters, Inc., St. Louis, Missouri.

6. Intoximeter Model 3000, Intoximeters, Inc., St. Louis, Missouri.

7. Photo-Electronics Intoximeter, Intoximeters, Inc. St. Louis, Missouri.

8. Auto-Alcometer, Lion Laboratories, Cardiff, Wales, United Kingdom.

9. Alco-Analyzer Models 1000, 2000 Luckey Laboratories, Inc., San Bernardino, California.

10. Brethalyzer 2000, Smith & Wesson Electronics Co., Springfield, Massachusetts.

Issued on February 24, 1982.

Charles F. Livingston,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 82–5795 Filed 3–3–82; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, R.S.P.A., D.O.T.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in December 1981. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2326–X	DOT–E 2326	E. I. du Pont Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.77	To authorize shipment of 25 lbs. or less of pyrocore powders (class A explosive) to be packaged in DOT specification 12H fiberboard box. (Mode 1.)
2582–X	DOT–E 2582	Matheson Gas Products, Secaucus, NJ	49 CFR 173.304(a)(2), 175.3	To authorize shipment of a nonflammable gas in a non-DOT specification cylinder. (Modes 1, 2, 3, 4.)
2582–X	DOT–E 2582	Union Carbide Corporation, Tarrytown, NY.	49 CFR 173.304(a)(2), 175.3	To authorize shipment of a nonflammable gas in a non-DOT specification cylinder. (Modes 1, 2, 3, 4.)
3109–P	DOT–E 3109	Mitsubishi International Corporation, New York, NY.	49 CFR 173.301(e), 173.302(a)(1), 175.3	To become a party to exemption 3109. (Modes 1, 2, 3, 4, 5.)
3109–P	DOT–E 3109	Hydraulic Research Textron, Pacoima, CA.	49 CFR 173.301(e), 173.302(a)(1), 175.3	To become a party to exemption 3109. (Modes 1, 2, 3, 4, 5.)
3415–X	DOT–E 3415	U.S. Department of Defense, Washington, DC.	49 CFR 173.79, 173.92	To authorize shipment of rocket motors, containing certain class A or class B explosives, without overpacking. (Mode 1.)
4453–P	DOT–E 4453	Mine Equipment & Mill Supply Company, Dawson Springs, KY.	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
4453–P	DOT–E 4453	Kentucky ANFO, Inc., Madisonville, KY	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
5038–X	DOT–E 5038	Synthatron Corporation, Parsippany, NJ	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247(a)(1), 175.3.	To authorize the shipment of dimethyldichlorosilane, trichlorosilane, and silicon tetrachloride in non-DOT specification stainless steel cylinders. (Modes 1, 2.)
5322–X	DOT–E 5322	LNG Services, Inc., Pittsburgh, PA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for transportation of certain flammable gases. (Mode 1.)
5454–X	DOT–E 5454	Union Carbide Corporation, Tarrytown, NY.	49 CFR 173.301(d), 173. 304(a)(2)	To authorize shipment of sulfur hexafluoride in DOT specification 3A1800, 3AA1800, 3AAX2400, and 3T1800 cylinders. (Modes 1, 3.)
5454–X	DOT–E 5454	Allied Corporation Morristown, NJ	49 CFR 173.301(d), 173.304(a)(2)	To authorize shipment of sulfur hexafluoride in DOT specification 3A1800, 3AA1800, 3AAX2400, and 3T1800 cylinders. (Modes 1, 3.)
5778–X	DOT–E 5778	Lif-O-Gen American Life Suppor Corp., Cambridge, MD.	49 CFR 173.302(a)(4), 173.304(a)(1)(i)	To authorize use of a DOT specification 39 steel cylinder for shipment of certain flammable gases. (Modes 1, 2.)
5972–X	DOT–E 5972	E. I. du Pont de Nemours & Company, Inc. Wilmington, DE.	49 CFR 173.119(b), 173.125, 173.128, 46 CFR 98.35.	To authorize the use of non-DOT specification stainless steel portable tanks for the shipment of certain flammable and combustible liquids. (Modes, 1, 3.)
6218–P	DOT–E 6218	Welding & Therapy Service, Inc., Louisville, KY.	49 CFR 173.315(a)	To become a party to exemption 6218. (Mode 1.)
6250–X	DOT–E 6250	U.S. Department of Defense, Washington, DC.	49 CFR 173.101, 173.102, 173.69, 173.79, 173.87, 173.92, 173.94, 176.83, 177.848.	To authorize shipment of explosives in non-DOT packages of partially dis-assembled aircraft with explosive components, ejection seats and canopy related devices. (Modes 1, 3.)
6523–X	DOT–E 6523	FMC Corporation, Philadelphia, PA	49 CFR 173.154	To authorize the transport of certain oxidizers, n.o.s., in packagings not authorized in 49 CFR 173.154. (Modes 1, 2, 3.)
6536–X	DOT–E 6536	New Jersey Natural Gas Company, Asbury Park, NJ.	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536–X	DOT–E 6536	L. P. Transportation, Inc., Chester, NY	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536–X	DOT–E 6536	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536–X	DOT–E 6536	Public Service Electric and Gas Company, Newark, NJ.	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536–X	DOT–E 6536	Southern Connecticut Gas Company, Bridgeport, CT.	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6589-X	DOT-E 6589	Robertshaw Controls Company, Anaheim, CA.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification stainless steel cylinders for shipment of nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6614-X	DOT-E 6614	All Pure Chemical Company, Incorporated, Tracy, CA.	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize the shipment of certain corrosive liquids in non-DOT specification polyethylene bottles. (Mode 1.)
6814-X	DOT-E 6614	FMC Corporation, Philadelphia, PA	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize the shipment of certain corrosive liquids in non-DOT specification polyethylene bottles. (Mode 1.)
6759-P	DOT-E 6759	Atlas Powder Company, Dallas, TX	49 CFR 173.87, 177.835(g)(2)	To become a party to exemption 6759. (Mode 1.)
6762-X	DOT-E 6762	Texo Corporation, Cincinnati, OH	49 CFR 173.286(b)(2), 175.3	To authorize the transportation of certain corrosive and flammable liquids in plastic inside packaging and fiberboard outside packaging. (Modes 1, 2, 3, 4.)
6762-P	DOT-E 6762	Anderson Chemical Company, Macon, GA.	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6800-X	DOT-E 6800	Plasti-Drum Corporation Lockport, IL	49 CFR 173.119(a), 173.245(a)(26), 173.245b(a)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.271, 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.357(b) 178.19.	To manufacture, mark and sell non-DOT specification 50- and 55-gallon polyethylene container similar to DOT specification 34 for shipment of certain flammable, corrosive, poison B liquids and hydrogen peroxide classed as an oxidizer. (Modes 1, 2, 3.)
6806-P	DOT-E 6806	St. Regis Paper Company, West Kyack, NY.	49 CFR 173.302(a), 175.3	To become a party to exemption 6806. (Mode 5.)
6826-X	DOT-E 6826	Atlantic Research Corporation, Gainesville, VA.	49 CFR 173.92(b), 175.3	To authorize use of DOT specification 15A wooden boxes for shipment of a class B explosive. (Modes 1, 4.)
6898-X	DOT-E 6898	Mallinckrodt, Incorporated, St. Louis, MO	49 CFR 178.150-4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A polystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 178.150-4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A polystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	MCB Manmufacturing Chemists, Incorporated, Cincinnati, OH.	49 CFR 178.150-4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A polystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	Allied Chemical Corporation, Morristown, NJ.	49 CFR 178.150-4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A ploystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6974-P	DOT-E 6974	Department of Defense, Washington, DC	49 CFR 173.302(a)(1), 175.3, 178.42	To become a party to exemption 6974. (Modes 1, 2, 4.)
6978-X	DOT-E 6978	Liquid Energy Corporation, The Woodlands, TX.	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize the use of an insulated DOT specification MC-331 cargo tank for the transportation of a flammable compressed gas. (Mode 1.)
6984-P	DOT-E 6984	Gulf Oil Chemicals Company, Overland Park, KS.	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To become a party to exemption 6984. (Mode 1.)
7023-X	DOT-E 7023	Texas Instruments, Incorporated, Dallas, TX.	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize the shipment of an oxidizer or corrosive material in non-DOT specification steel portable tanks. (Mode 1.)
7023-X	DOT-E 7023	Ashland Oil, Inc., Dublin, OH	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize shipment of an oxidizer or corrosive material in non-DOT specification steel portable tanks. (Mode 1.)
7023-X	DOT-E 7023	Western Electric Company, Greensboro, NC.	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize the shipment of an oxidizer or corrosive material in non-DOT specification steel portable tanks. (Mode 1.)
7071-X	DOT-E 7071	Philip A. Hunt Chemical Corporation, Palisades Park, NJ.	49 CFR 172.101, 173.245, 175.3	To authorize packagings in a quantity not provided for in the regulation for shipment of a corrosive liquid. (Modes 1, 2, 3.)
7227-X	DOT-E 7227	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.101, 173.315	To authorize the use of a vacuum insulated, non-DOT specification portable tank for the shipment of a certain nonflammable gas. (Mode 3.)
7502-X	DOT-E 7502	Snyder Industries, Incorporated, Lincoln, NB.	49 CFR 178.19, Part 173, Subpart F	To authorize the manufacture, marking, and sale of non-DOT specification polyethylene containers for shipment of certain corrosive liquids and oxidizers. (Modes 1, 2, 3.)
7503-P	DOT-E 7503	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 172.101, 173.119, 173.141, 173.245(a), 173.295(a), 173.346(a), 46 CFR 90.05-35.	To become a party to exemption 7503. (Modes 1, 3.)
7584-P	DOT-E 7584	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	49 CFR 173.266	To become a party to exemption 7584. (Modes 1, 2, 3.)
7605-X	DOT-E 7605	Department of Defense, Washington, DC	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 3, 4.)
7605-X	DOT-E 7605	General Dynamics, Fort Worth, TX	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 3, 4.)
7605-X	DOT-E 7605	General Dynamics, Fort Worth, TX	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 3, 4.)
7607-X	DOT-E 7607	Dow Chemical Company, Freeport, TX	49 CFR 172.101, 175.3	To authorize shipment of hydrogen in non-DOT specification seamless steel cylinders. (Mode 5.)
7695-P	DOT-E 7695	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.245(a), 173.249, 173.295(a), 173.346(a), 173.620, 46 CFR 90.05-35.	To become a party to exemption 7695. (Modes 1, 3.)
7701-P	DOT-E 7701	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119(b), 173.125	To become a party to exemption 7701. (Modes 1, 2, 3.)
7731-X	DOT-E 7731	Minnesota Valley Engineering, New Prague, MN.	49 CFR 172.101, 173.315(a)(1)	To authorize the manufacture, marking, and sale of a non-DOT specification super-insulated portable tank for shipment of pressurized liquid helium. (Modes 1, 3.)
7835-P	DOT-E 7835	AGA Burdox, Inc., Cleveland, OH	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to exemption 7835. (Mode 1).
7887-X	DOT-E 7887	Estes Industries, Inc., Penrose, CO	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Flight Systems, Inc., Burns Flat, OK	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7887-X	DOT-E 7887	Composite Dynamics, Torrance, CA	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Crown Rocket Technology Mountlake Terrace, WA.	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Canarce Space Models, Irwin Group, Toronto ONT, Canada.	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Flight Systems, Inc., Raytown, MO	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Centurl Engineering Co., Inc., Phoenix, AZ.	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7893-P	DOT-E 7893	Compangie des Containers Reservoirs, Paris, France.	49 CFR 173.226	To become a party to exemption 7893. (Modes 1, 2, 3.)
7897-X	DOT-E 7897	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification IMCO type II insulated portable tanks for the shipment of certain flammable, corrosive, poison B, combustible liquids and ORM-A materials. (Modes 1, 2, 3.)
7897-X	DOT-E 7897	CATU Containers, S.A., Geneva, Switzerland.	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification IMCO type II insulated portable tanks for the shipment of certain flammable, corrosive, poison B, combustible liquids and ORM-A materials. (Modes 1, 2, 3.)
7907-X	DOT-E 7907	Hercules, Incorporated, Wilmington, DE	49 CFR 173.127, 173.184, 178.224	To authorize shipment of wet nitrocellulose, a flammable liquid or flammable solid, in non-DOT specification fiberboard drums. (Modes 1, 2.)
7908-X	DOT-E 7908	Hugonnet, S.A., Paris, France	49 CFR 173.119	To authorize the shipment of certain flammable liquids in non-DOT specification IMCO type I portable tanks. (Modes 1, 2, 3.)
8000-P	DOT-E 8000	Compagnie des Containers Reservoirs, Paris, France.	49 CFR Part 173, Subpart D, F & H	To become a party to exemption 8000. (Modes 1, 2, 3.)
8082-X	DOT-E 8082	Arctic Foundations, Inc., Anchorage, AK	49 CFR 172.101, 173.315, 175.3, 175.30	To authorize the shipment of carbon dioxide exceeding the weight limitations for cargo aircraft transportation in non-DOT specification insulated portable tanks. (Mode 4.)
8109-P	DOT-E 8109	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.125, 173.128, 173.135, 173.141, 173.145, 173.147, 173.224, 173.245, 173.276, 173.280, 173.346, 173.347, 173.349, 46 CFR 90.05-35.	To become a party to exemption 8109. (Modes 1, 2, 3.)
8110-P	DOT-E 8110	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.125, 173.128, 173.129, 173.131, 173.132, 173.245, 46 CFR 90.05-35.	To become a party to exemption 8110. (Modes 1, 2, 3.)
8195-X	DOT-E 8195	McDonnell Douglas Corporation, St. Louis, MO.	49 CFR 173.6(b)(3), 175.3, Part 173, Subpart D, F, H..	To authorize use of non-DOT specification metal drums as outside containers in lieu of prescribed DOT specification fiberboard or wood containers for shipment of flammable liquids, corrosive material and class B poisons. (Modes 1, 2, 4, 5.)
8196-P	DOT-E 8196	Freon Products Middle East, Beirut, Lebanon.	49 CFR 173.119, 173.315(a)	To become a party to exemption 8196. (Modes 1, 2, 3.)
8196-X	DOT-E 8196	Eurotainer, Paris, France	49 CFR 173.119, 173.315(a)	To authorize the use of a non-DOT specification portable tank for the transportation of certain compressed gasses. (Modes 1, 2, 3.)
8196-X	DOT-E 8196	G.C.S. Container Service, Chiasso, Switzerland.	49 CFR 173.119.173.315(a)	To authorize the use of a non-DOT specification portable tank for the transportation of certain compressed gases. (Modes 1, 2, 3.)
8232-X	DOT-E 8232	G.C.S. Container Service, Chiasso, Switzerland.	49 CFR 173.123(a), 173.315(a)	To authorize use of a non-DOT specification portable tank for the shipment of certain compressed gases. (Modes 1, 2, 3.)
8232-X	DOT-E 8232	Eurotainer, Paris, France	49 CFR 173.123(a), 173.315(a)	To authorize use of a non-DOT specification portable tank for the shipment of certain compressed gases. (Modes 1, 2, 3.)
8287-X	DOT-E 8287	Rohm & Haas Company, Philadelphia, PA.	49 CFR 173.245(a)(16), 173.245(a)(26), 178.19-4(c), 178.35a-2(b).	To authorize shipment of a corrosive liquid in a DOT specification 6D/25L composite container or a DOT specification 34 drum equipped with a bung vent. (Modes 1, 2, 3.)
8348-X	DOT-E 8348	Frell, Incorporated, Corpus Christi, TX	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.348-5.	To manufactures, mark, and sell non-DOT specification cargo tanks complying with DOT specification MC-312 except for bottom outlet valve for transportation of flammable or corrosive liquids. (Mode 1.)
8349-X	DOT-E 8349	Ray-O-Vac Corporation, Madison, WI	49 CFR 173.206, 175.3	To authorize shipment of limited quantities of lithium cells as a consumer commodity. (Modes 1, 2, 3, 4, 5.)
8354-X	DOT-E 8345	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable liquids and flammable gases. (Modes 1, 2, 3.)
8354-X	DOT-E 8354	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.123, 173.315	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable liquids and flammable gases. (Modes 1, 2, 3.)
8441-P	DOT-E 8441	Bunker Ramo Corporation, Westlake Village, CA.	49 CFR 172.101	To become a party to exemption 8441. (Mode 1.)
8441-P	DOT-E 8441	General Motors Corporation, Detroit, MI	49 CFR 172.101	To become a party to exemption 8441. (Mode 1.)
8511-P	DOT-E 8511	FMC Corporation, Philadelphia, PA	49 CFR 173.266(f)	To become a party to exemption 8511. (Modes 1, 2.)
8525-P	DOT-E 8525	ABC Containerlines, N.V., Antwerp, Belgium.	49 CFR 173.389(o)(1), 173.392(c), 176.700(h)(1), 176.700(h)(2).	To become a party to exemption 8525. (Modes 1, 2, 3.)
8525-X	DOT-E 8525	Associated Container Transportation (USA), New York, NY.	49 CFR 173.389(o)(1), 173.392(c), 176.700(h)(1), 176.700(h)(2).	To authorize shipment of mineral monazite sand, classed as radioactive material, low specific activity, n.o.s. under modified exclusive use provisions. (Modes 1, 2, 3.)
8572-X	DOT-E 8572	AMEX, Inc., Hayden Lake, ID	49 CFR 172.101, 172.406, 172.504, 173.114a.	To authorize shipment of packages marked "nitro carbo nitrate" and labelled "oxidizer" in lieu of "Blasting Agent". (Mode 1.)
8572-X	DOT-E 8572	Western States Energy, Inc., Salt Lake City, UT.	49 CFR 172.101, 172.406, 172.504, 173.114a.	To authorize shipment of packages marked "nitro carbo nitrate" and labelled "oxidizer" in lieu of "Blasting Agent". (Mode 1.)
8587-P	DOT-E 8587	Economics Laboratory, Inc., St. Paul, MN	49 CFR 173.256	To become a party to exemption 8587. (Mode 1.)
8599-P	DOT-E 8599	L'Air Liquide Corporation, Paris, France	49 CFR 173.315, 173.316	To become a party to exemption 8599. (Modes 1, 3.)
8602-X	DOT-E 8602	Minnesota Valley Engineering, New Prague, MN.	49 CFR 172.101, 173.315	To authorize the manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks for shipment of liquefied argon, nitrogen, and oxygen. (Mode 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8654-X	DOT-E 8654	Isomedix, Inc., Whippany, NJ	49 CFR 173.394(b)(1), 173.394(b)(5), 173.394(b)(6).	To authorize shipment of special form radioactive materials in DOT specification 55 containers built after March 1975. (Modes 1, 2.)
8655-P	DOT-E 8655	Sperry Univac Defense Systems, St. Paul, MN.	49 CFR 173.352(a)(1)	To become a party to exemption 8655. (Mode 1.)
8655-P	DOT-E 8655	Digital Equipment Corporation, Northborough, MA.	49 CFR 173.352(a)(1)	To become a party to exemption 8655. (Mode 1.)
8679-X	DOT-E 8679	MicroD International, Corona, CA	49 CFR 172.101, 172.400, 173.286, 175.3, 175.30.	To authorize the shipment of a water reactive material via air when packaged in the same outside packaging with separately packaged small quantities of a flammable liquid, a corrosive liquid, a corrosive solid and non-hazardous materials. (Modes 1, 4, 5.)
8732-P	DOT-E 8732	Chemcentral Inc., Santa Fe, CA	49 CFR 173.245	To become a party to exemption 8732. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption Thereof
8009-N	DOT-E 8736	Pressure Transport, Inc., Austin, TX	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize the transportation of natural gas in DOT specification 3AAX2400 cylinders made of 4130X steel. (Mode 1.)
8542-N	DOT-E 8542	EVA, Eisenbahn-Verkehrsmittel AG, Dusseldorf, West Germany.	49 CFR 173.118a, 173.119, 173.125, 173.128, 173.131, 173.132, 173.144, 173.245(a)(30), 173.346, 173.630.	To authorize shipment of certain hazardous materials in non-DOT specification IMCO Type 1 portable tanks. (Modes 1, 2, 3.)
8612-N	DOT-E 8612	FIBA Leasing Company, Inc., Westboro, MA.	49 CFR 172.101, 173.314(c)	To authorize the use of a DOT specification 107A4300 tank car tanks for shipment of a flammable compressed gas. (Modes 1, 2.)
8636-N	DOT-E 8636	Ethyl Corporation, Baton Rouge, LA	49 CFR 172.101, Table Column 7(a)	To authorize stowage of drums, containing motor fuel antiknock compound, underdeck, instead of on deck. (Mode 3.)
8642-N	DOT-E 8642	Gard, Inc., Niles, IL	49 CFR 173.119(a)(6), 176.340, 178.253	To manufacture, mark and sell non-DOT specification steel portable tanks for shipment of gasoline and combustible liquids. (Modes 1, 2, 3, 4.)
8660-N	DOT-E 8660	Hach Company, Ames, IA	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 173.126, 173.138, 173.237, 173.246.	To authorize the shipment of hazardous materials, which are required to bear the poison label, to be shipped without the label when packaged, in a specialty designed composite type packaging. (Mode 1.)
8689-N	DOT-E 8689	Schlumberger Technology Corporation, Houston, TX.	49 CFR 173.302, 173.304, 175.3	To manufacture, mark and sell a non-DOT specification oil well sampling device for the shipment of various compressed gases, n.o.s. (Modes 1, 2, 3, 4.)
8701-N	DOT-E 8701	Copps Industries Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive, n.o.s., in a one quart unlined tin can, placed in a six-mil polyethylene bag, overpacked in a non-DOT specification removable head molded polyethylene pail of two gallon capacity, also containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8709-N	DOT-E 8709	Delta Drum, Inc., Indianapolis, IN	49 CFR 173 Subpart F, 178.19	To manufacture, mark and sell non-DOT specification 55-gallon reusable, blowmolded, polyethylene drums for shipment of certain corrosives liquids and oxidizers. (Modes 1, 2, 3.)
8712-N	DOT-E 8712	Allied Corporation, Morristown, NJ	49 CFR 178.17-4(b)	To authorize an alternate method of closure (i.e., application of four strips of pressure-sensitive tape in a vertical manner) for specification DOT-1M expanded polystyrene packaging. (Modes 1, 2, 3.)
8726-N	DOT-E 8726	Whitehall Laboratories, Inc., New York, NY.	49 CFR Parts 100-199	To authorize the shipment of safety book matches packed with a non-hazardous material in a rigid five-sided fiber tray and paper overwrapped. (Modes 1, 2.)
8730-N	DOT-E 8730	Allied Chemical, Morristown, NJ	49 CFR 173.154(a)(4)	To authorize shipment of an aqueous solution of potassium nitrite in DOT specification MC-311 or MC-312 cargo tanks. (Mode 1.)
8731-N	DOT-E 8731	Atlas Powder Company, Tamaqua, PA	49 CFR 173.114a	To authorize the shipment of a blasting agent in a non-DOT specification stainless steel tank. (Mode 1.)
8732-N	DOT-E 8732	Delta Solvents & Chemicals Company, Dallas, TX.	49 CFR 173.245	To authorize shipment of monoethanolamine in DOT specification MC-306 cargo tanks made of aluminum or steel. (Mode 1.)
8737-N	DOT-E 8737	Webb Transportation, Santa Maria, CA	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark, and sell non-DOT specification cargo tanks complying generally with DOT specification MC-307/312 except for bottom outlet valve variations for transportation of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8742-N	DOT-E 8742	Cusco Fabricators Ltd., Richmond Hill, Ontario, Canada.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark, and sell non-DOT specification cargo tanks complying generally with DOT specification MC-307/312 except for bottom outlet valve variations for transportation of flammable or corrosive waster liquids or semi-solids. (Mode 1.)
8743-N	DOT-E 8743	Dow Corning Corporation, Elizabethtown, KY.	49 CFR 173.119(b)	To authorize a one-time shipment of a non-DOT specification steel portable tank for shipment of waste petroleum distillate. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8206-X	DOT-E 8206	Rexnord, Incorporated, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 178.131	To authorize shipment of certain corrosive liquids, n.o.s. in two 1-quart tin cans, overpacked in a modified 26-gauge, unlined DOT specification 17A 5-gallon drum. (Modes 1, 2, 3, 4.)
EE 8207-X	DOT-E 8207	Rexnord Inc., Commerce City, CO	49 CFR 173.245(a)(17), 175.3, 178.131	To authorize shipment of certain corrosive liquids, n.o.s., in a 1-quart tin can, placed in a molded polyethylene liner, overpacked in a modified 28-gauge DOT specification 37A 2-gallon drum. (Modes 1, 2, 3, 4.)
EE 8760-N	DOT-E 8760	Barton Solvents, Incorporated, Des Moines, IA.	49 CFR 172.328, 172.334(b)	To authorize the display of the identification number (1993) on Barton Solvents, Inc. cargo tanks specified for certain materials and having six or more compartments when transporting specific flammable or combustible liquids. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8073-P	FIBA Leasing Company, Inc., Westboro, MA	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To become a party to exemption 8073. (Mode 1.)

Denials

8491-N Request by Union Carbide Corporation, New York, NY to authorize shipment of batteries comprised of multiple cells not to contain more than 35 grams of lithium metal per outside container denied December 4, 1981.

8708-X Request by Great Lakes Chemical Corporation, West Lafayette, IN to authorize the use of a foreign-manufactured zinc-plated steel drum (of approximately six-gallon capacity and without DOT markings) for import into the United States of a Class B poisonous liquid (chloropicrin) denied December 7, 1981.

Issued in Washington, DC, on February 19, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-5373 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, R.S.P.A., D.O.T.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the applications for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in November 1981. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4453-P	DOT-E 4453	IRECO Chemicals, Salt Lake City, UT	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
4453-P	DOT-E 4453	Alamo Explosives Company, Inc., Houston, TX.	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
4453-P	DOT-E 4453	Seco, Inc., Greenwood, AR	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
5652-X	DOT-E 5652	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 173.245(a), 173.247(a)(11), 173.315(a)(1).	To authorize the shipment of a flammable liquid, a nonflammable gas and a corrosive material in non-DOT specification portable tanks. (Mode 1.)
6126-P	DOT-E 6126	Rhone-Poulenc Inc., Monmouth Junction, NJ.	49 CFR 173.253(a)	To become a party to exemption 6126. (Modes 1, 3.)
6228-P	DOT-E 6228	Airco Welding Products, Murray Hill, NJ	49 CFR 173.301(d)(4)	To become a party to exemption 6228. (Mode 1.)
6397-X	DOT-E 6397	Foote Mineral Company, Exton, PA	49 CFR 173.346(a)	To authorize the shipment of certain class B poisonous liquids in DOT specification 34 containers. (Modes 1, 2.)
6614-X	DOT-E 6614	Continental Chemical Company, Sacramento, CA.	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize the transportation of certain corrosive liquids in non-DOT specification polythylene bottles, packed inside a high density polyethylene box. (Mode 1.)
6618-X	DOT-E 6618	Monsanto Company, St. Louis, MO	49 CFR 173.365(a), 173.374(a)	To authorize shipment of certain class B poison in an insulated, MC-307 of MC-312 cargo tank. (Mode 1.)
6657-P	DOT-E 6657	Valweld Inc., Appleton, WI	49 CFR 173.34(e)(15)(i), 175.3	To become a party to exemption 6657. (Modes 1, 2, 3, 4, 5.)
6724-X	DOT-E 6824	GPS Industries, City of Industry, CA	49 CFR 173.217(a)	To authorize shipment of certain oxdizing materials in non-DOT specification polyethylene bottles, overpacked in a fiberboard box. (Modes 1, 2, 3.)
762-P.	DOT-E 6762	Green Chemical Company, Inc., Winchester, VA.	49 CFR 173.286(b)(2), 175.3	To become a party to exemption 6762. (Modes 1, 2, 3, 4.)
6765-X	DOT-E 6765	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a nonflammable gas. (Modes 1, 3.)
6802-P	DOT-E 6802	Monroe Welding Supply Co., Sioux City, IA.	49 CFR 173.315(a)	To become a party to exemption 6802. (Mode 1.)
6802-P	DOT-E 6802	Welders Gas & Supply, Sioux Falls, SD	49 CFR 173.315(a)	To become a party to exemption 6802. (Mode 1.)
6895-P	DOT-E 6895	GTE Service Corporation, Washington, DC.	49 CFR 173.140(a)(1), 175.3	To become a party to exemption 6895. (Modes 1, 2, 3, 4.)
6902-X	DOT-E 6902	Synthatron Corporation, Parsippany, NJ	49 CFR 173.314(c), 179.300-15	To authorize shipment of anhydrous hydrogen bromide in a modified DOT specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6902-X	DOT-E 6902	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.314(c), 179.300-15	To authorize shipment of anhydrous hydrogen bromide in a modified DOT specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
7716-X	DOT-E 7716	Kinepak, Inc., Lewisville, TX	49 CFR 173.153(b)(1)	To authorize the shipment of ammonium nitrate in inside polyethylene bottles or foil pouches, each containing less than 3 pounds or less, overpacked in DOT specification 12H-65 fiberboard boxes with a plastic liner bag containing not more than 36 pounds net weight. (Modes 1, 2.)
7765-X	DOT-E 7765	Carleton Controls Corporation, East Aurora, NY.	49 CFR 173.302(a)(4), 175.3	To authorize the use of nonrefillable, non-DOT specification cylinders for shipment of a nonflammable gas. (Modes 1, 2, 4.)
7835-X	DOT-E 7835	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same motor vehicle. (Mode 1.)
7985-X	DOT-E 7985	Process Engineering, Incorporated, Plaistow, NH.	49 CFR 173.315(a)	To manufacture, mark and sale of non-DOT specification portable tanks for shipment of nonflammable gases. (Modes 1, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8188-X	DOT-E 8188	Owens-Illinois (Plastic Products Division), Toledo, OH.	49 CFR 173.128(a), 173.256	To authorize the use of a DOT specification 34 reusable polyethylene container of 30-gallon capacity for the shipment of a liquid paint or a cleaning compound. (Mode 1.)
8255-X	DOT-E 8255	Applied Environments Corporation, Van Nuys, CA.	49 CFR 173.302, 175.3	To authorize the use of a non-DOT specification cylinder for shipment of certain nonflammable gases. (Modes 1, 2, 4.)
8274-X	DOT-E 8274	ANF Industrie, Paris, France	49 CFR 173.119, 173.135, 173.141, 173.145, 173.147, 173.245, 173.247, 173.346a, 173.347, 173.349, 173.361, 173.362.	To authorize the use of non-DOT specification intermodal portable tanks for the transportation of various flammable, corrosive, poison B, and combustible liquids. (Modes 1, 2, 3.)
8274-X	DOT-E 8274	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	49 CFR 173.119, 173.135, 173.141, 173.145, 173.147, 173.245, 173.247, 173.346a, 173.347, 173.349, 173.361, 173.362.	To authorize the use of non-DOT specification intermodal portable tanks for the transportation of various flammable, corrisive, poison B, and combustible liquids. (Modes 1, 2, 3.)
8275-X	DOT-E 8275	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	49 CFR 173.118, 173.119, 173.125, 173.128, 173.131, 173.132, 173.135, 173.144, 173.145, 173.147, 173.245, 173.346.	To authorize shipment of various flammable, corrosive, poison B and combustible liquids, in non-DOT specification Intermodal portable tanks. (Modes 1, 2, 3.)
8275-X	DOT-E 8275	ANF Industrie, Paris, France	49 CFR 173.118, 173.119, 173.125, 173.128, 173.131, 173.132, 173.135, 173.144, 173.145, 173.147, 173.245, 173.346.	To authorize shipment of various hazardous materials in non-DOT specification Intermodal portable tanks. (Modes 1, 2, 3.)
8842-X	DOT-E 8842	Evans Tank Company, Lubbock, TX	49 CFR 172.101, 173.315(a), 173.315(c)(1).	To manufactures, mark and sell non-vacuum insulated DOT specification MC-331 cargo tank for shipment of flammable and non-flammable gases. (Mode 1.)
8687-P	DOT-E 8687	Purex Corporation, Carson, CA	49 CFR 173.245	To become a party to exemption 8687. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7275-N	DOT-E 8734	Basler Flight Service, Inc, Oshkosh, WI	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize the carriage of certain class A, B, and C explosives that are not permitted for shipment by air or in quantities greater than allowable by air. (Mode 4.)
8607-N	DOT-E 8607	Eurotainer S.A., Paris, France	49 CFR 173.245	To authorize the use of a DOT specification 51 portable tank for shipment of corrosive liquids. (Modes 1, 2, 3.)
8609-N	DOT-E 8609	Natico, Inc., Chicago, IL	49 CFR 177.841(e), 178.118	To manufacture, mark and sell non-DOT specification reusable, 16-gauge steel drums with removable heads, of 65-gallon capacity to be used as overpacks for properly packaged class B poisons for shipment in the same transport vehicle with foodstuff, feeds, etc. (Mode 1.)
8631-N	DOT-E 8631	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.154	To manufacture, mark and sell DOT specification 56 portable tanks for shipment of a flammable solid, n.o.s. (Modes 1, 2.)
8633-N	DOT-E 8633	Altus Corporation, San Jose, CA	49 CFR 172.101, 173.206, 173,247	To authorize shipment of large batteries containing lithium metal and thionyl chloride enclosed in a fiberglass/polyester housing reinforced with an aluminum supporting structure overpacked in specially designed boxes. (Mode 1.)
8680-N	DOT-E 8680	Walter Kidde, Belleville, NJ	49 CFR 173.302(a), 173.304(a), 173.304(d)(3), 178.61-8.	To manufacture, mark and sell non-DOT specification cylinders similar to DOT specification 4BW except circumferential welds will be full butt joints for shipment of those commodities presently authorized in DOT specification 4BW. (Modes 1, 2, 3, 4, 5.)
8685-N	DOT-E 8685	Hercules Incorporated, Wilmington, DE	49 CFR 173.182(b)(6)(ii)	To authorize the shipment of ammonium nitrate fertilizer (prills) in collapsible polyethylene-lined, woven polypropylene bags having a capacity of approximately 2,240 pounds each. (Modes 1, 2, 3.)
8698-N	DOT-E 8698	Union Carbide Corporation, Tarrytown, NY.	49 CFR 172.101	To manufacture, mark and sell non-DOT specification portable tanks for shipment of non-pressurized liquid nitrogen. (Mode 3.)
8699-N	DOT-E 8699	Copps Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive liquid, n.o.s., in a 1-gallon unlined tin can, placed in a six mil polyethylene bag overpacked in a DOT Specification 37C30 steel drum 5-gallon capacity, also containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8711-N	DOT-E 8711	Goodrich Company, Cleveland, OH	49 CFR 173.245(a)	To authorize a one time shipment of 64 non-DOT specification 55-gallon fiber drums with a polyethylene liner containing a waste corrosive liquid, n.o.s. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8673-X	DOT-E 8673	Alaska International Airline, Anchorage, AK.	49 CFR 172.101(6)(b), 175.30	To authorize two shipments of inhibited hydrochloric acid solution in a DOT specification 60 rubber lined portable tank. (Mode 4).
EE 8738-N	DOT-E 8738	Flying Tiger Line, Los Angeles, CA	49 CFR 175.320(a)	To authorize the transportation of class A explosive loaded on the same aircraft with class C explosives and other cargo not presently permitted. (Mode 4.)
EE 8745-N	DOT-E 8745	Goex, Inc., Moosic, PA	49 CFR 173.60(a)	To authorize the shipment of black powder in DOT specification 13 metal kegs. (Modes 1, 2.)
EE 8746-N	DOT-E 8746	Challenge Air Transport, Miami, FL	49 CFR 172.101, 175.320	To authorize the transportation of class A explosives loaded on the same aircraft with class C explosives. (Mode 4.)
EE 8752-N	DOT-E 8752	Thiokol Corporation, Elkton, MD	49 CFR 173.92	To authorize the shipment of three rocket motors in a specially designed packaging configuration. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7768-X	Plasti-Drum Corporation, Lockport, IL	49 CFR 173.217, 173.245b, 178.19	To authorize shipment of oxidizers and corrosive materials in non-DOT specification blow-molded, high molecular weight polyethylene drum. (Modes 1, 2, 3.)

Denials

8546-N Request by Global International Airways Corporation, Kansas City, MO to authorize carriage of class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment denied November 23, 1981.

8683-N Request by Dr. Pepper Company, Dallas, TX to authorize the shipment of phosphoric acid solution, classed as a corrosive material packed in four 18 oz. plastic bottles comingled in the same outside DOT Specification 12B fiberboard boxes with flavoring compound, as esentially non-regulated denied November 13, 1981.

8694-N Request by Fruehauf Corporation, Omaha, NE to manufacture, mark and sell one cargo tank similar to DOT specification MC-312 except for the material of construction which is Inconel 600, for shipment of waste corrosive material (liquid) denied November 23, 1981.

8720-N Request by Applied Environments Corporation, Van Nuys, CA to manufacture, mark and sell non-DOT specification non-reusable welded steel cylinders similar to DOT Specification 39 for shipment of certain nonliquefied gases denied November 9, 1981.

8743-N Request by Dow Corning Corporation, Elizabethtown, KY to authorize a one-time shipment of a non-DOT specification steel portable tank for shipment of waste petroleum distillate denied November 9, 1981.

Issued in Washington, DC, on January 25, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-5374 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in January 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3121-X	DOT-E 3121	U.S. Department of Defense, Kelly Air Force Base, TX.	49 CFR 173.336(a), 177.841(b)	To authorize the use of non-DOT specification cargo tanks for shipment of a certain Class A poisonous liquid. (Mode 1.)
4399-X	DOT-E 4399	Union Carbide Corp., Danbury, CT	49 CFR 172.101, 173.315(a)(1)	To authorize the use of non-DOT specification cargo tanks for shipment of a certain flammable gas. (Mode 1.)
5322-X	DOT-E 5322	San Diego Gas & Electric, San Diego, CA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for transportation of certain flammable gases. (Mode 1.)
6113-X	DOT-E 6113	Utility Propane Co., Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for certain flammable gases. (Mode 1.)
6325-P	DOT-E 6325	Mining Services International, Salt Lake City, UT.	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6325-P	DOT-E 6325	Austin Powder Co., Cleveland, OH	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6536-X	DOT-E 6536	Utility Propane Co., Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in cargo tanks. (Mode 1.)
6543-X	DOT-E 6543	Synthatron Corp., Parsippany, NJ	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To authorize this shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, 304 stainless steel cylinders and/or non-DOT Specification 14 gauge, 316 stainless steel containers. (Modes 1, 2, 4.)
6563-X	DOT-E 6563	Mada Medical Products, Inc., Carlstadt, NJ.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases in non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5.)
6614-X	DOT-E 6614	Chem Lab Products, Inc., Ontario, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize the transportation of certain corrosive liquids in non-DOT specification polyethylene bottles. (Mode 1.)
6700-X	DOT-E 6700	Container Corp. of America, Wilmington, DE.	49 CFR 173.245(a)(26), 173.247, 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To manufacture, mark, and sell non-DOT specification polyethylene drums for the transportation of corrosive liquids and an oxidizer. (Modes 1, 2, 3.)
6765-X	DOT-E 6765	Union Carbide Corp., Tarrytown, NJ	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a nonflammable gas. (Modes 1, 3.)
6765-X	DOT-E 6765	Cities Service Co., Tulsa, OK	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a nonflammable gas. (Modes 1, 3.)
6902-X	DOT-E 6902	Halocarbon Products Corp., Hackensack, NJ.	49 CFR 173.314(c), 179.300-15	To authorize shipment of anhydrous hydrogen bromide in a modified DOT specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6913-X	DOT-E 6913	Conoco, Inc., Houston, TX	49 CFR 173.315(a)(1)	To authorize the transportation of vinyl chloride in a non-DOT specification cargo tank. (Mode 1.)
7052-P	DOT-E 7052	Litton Systems Inc., Van Nuys, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Electrochem Industries, Inc., Clarence, NY.	49 CFR 172.101, 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Battery Safety Society, Inc., Fairfax, VA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7803-X	DOT-E 7803	Plastican, Inc., Leominster, MA	49 CFR 173, Subpart F, 173, part D, 178.19.	To manufacture, mark and sell non-DOT specification removable head polyethylene drums, for shipment of liquid hazardous materials. (Modes 1, 2, 3.)
7890-X	DOT-E 7890	Union Carbide Corp., New York, NY	49 CFR 172.101, 173.119(m)	To authorize the shipment of methyl isocyanate in DOT Specification 51 portable tanks. (Modes 1, 2, 3.)
8080-P	DOT-E 8080	Allied Corp., Morristown, NJ	49 CFR 173.164	To become a party to Exemption 8080. (Mode 2.)
8141-X	DOT-E 8141	GTE Products Corp., Needham, MA	49 CFR 172.101, 173.206, 173.247	To authorize the transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride. (Mode 1.)
8307-X	DOT-E 8307	U.S. Department of Energy, Washington, DC.	49 CFR 173.21, 173.247, 173.25(b), 173.305(a), 175.3.	To authorize use of non-DOT specification containers for shipment of a nonpyrotechnic mixture of certain corrosive materials, gas and an explosive charge. (Modes 1, 2, 3, 4.)
8386-X	DOT-E 8386	J. J. Mauget Co., Burbank, CA	49 CFR 172.101, 172.400	To authorize the transportation of a Class B poison in special pressure sealed polyethylene capsules without the POISON label. (Mode 1.)
8511-P	DOT-E 8511	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.266(f)	To become a party to Exemption 8511. (Modes 1, 2.)
8556-X	DOT-E 8556	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks for shipment of liquefied hydrogen. (Modes 1, 3.)
8599-P	DOT-E 8599	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.315, 173.316	To become a party to Exemption 8599. (Modes 1, 3.)
8678-P	DOT-E 8678	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.315(a)	To become a party to Exemption 8678. (Modes 1, 2, 3.)
8678-P	DOT-E 8678	Eurotainer, Paris, France	49 CFR 173.315(a)	To become a party to Exemption 8678. (Modes 1, 2, 3.)
8678-P	DOT-E 8678	Freon Products Middle East, Beirut, Lebanon.	49 CFR 173.315(a)	To become a party to Exemption 8678. (Modes 1, 2, 3.)
8691-X	DOT-E 8691	Aluminum Co. of America, Palestine, TX	49 CFR 173.333	To authorize the shipment of aluminum chloride contaminated with phosgene, in packages presently authorized under Section 173.245b(a) (1), (4), (8), (9), (10). (Modes 1, 2.)
8708-X	DOT-E 8708	Great Lakes Chemical Corp., West Lafayette, IN.	49 CFR 173.357(b)(2)	To authorize the use of non-DOT specification steel drums (overpacked, palletized and containerized), for shipment of a poison B. (Mode 1.)

NEW EXEMPTIONS

Applicant No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8462-N	DOT-E 8462	M.A.N. Maschinenfabrik Augsburg-Nurnberg, Hamburg, West Germany.	49 CFR 173.119, 173.125, 173.128, 173.129, 173.132, 173.144, 173.245.	To authorize the use of non-DOT specification IMCO II portable tanks for shipment of those hazardous materials listed in the IM Tank Table for IM 102 portable tanks. (Modes 1, 2, 3.)
8678-N	DOT-E 8678	Compagnie Francaise De Materiel Ferroviarie, Paris, France.	49 CFR 173.315(a)	To authorize the use of a non-DOT specification IMCO Type 5 portable tank for shipment of flammable and nonflammable gases. (Modes 1, 2, 3.)
8715-N	DOT-E 8715	W. L. Gore & Associates, Inc., Newark, DE.	49 CFR 173.119(m), 175.3	To authorize the shipment of an etchant, classed as a flammable liquid with a subsidiary hazard of corrosive, packed in non-DOT specification sealed metal cans of up to one pint capacity, overpacked in a DOT Specification 12B fiberboard box. (Modes 1, 2, 4.)
8716-N	DOT-E 8716	Foote Mineral Co., Exton, PA	49 CFR 173.28(m)	To authorize multitrip use of DOT Specification 17C steel drums for shipment of lithium metal, ingots, immersed in oil. (Mode 1.)
8717-N	DOT-E 8717	Goodloe E. Moore, Inc., Danville, IL	49 CFR 173.28(m)	To authorize reuse of DOT Specification 17H, 55-gallon steel drums with a polyethylene liner of 0.010 inch minimum thickness, for shipment of certain adhesives, classed as a flammable liquid. (Modes 1.)
8753-N	DOT-E 8758	Union Carbide Corp., Tarrytown, NY	49 CFR 173.315	To manufacture, mark and sell non-DOT specification portable tanks for shipment of certain nonflammable gases. (Mode 1.)
8753-N	DOT-E 8753	Union Carbide Corp., Tarrytown, NY	49 CFR 173.315	To manufacture, mark and sell non-DOT specification cargo tanks for shipment of nonflammable gases. (Modes 1.)
8754-N	DOT-E 8754	Columbia Nitrogen Corp., Augusta, GA	49 CFR 173.245	To authorize shipment of ammonium hydroxide (containing not less than 12 percent nor more than 44 percent ammonia) in DOT Specification 105A200ALW and 109A200ALW tank cars. (Mode 2.)
8756-N	DOT-E 8756	Trailmobile Inc., North Kansas City, MO	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 173.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet value variations for transportation of flammable, corrosive or poisonous waste liquid or semi-solids. (Modes 1.)
8757-N	DOT-E 8757	Y-Z Industries, Inc., Snyder, TX	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To manufacture, mark and sell non-DOT specification stainless steel cylinders for shipment of compressed gases. (Modes 1, 4.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8618-P	DOT-E 8618	South Central Air, Kenai, AK	49 CFR 172.101 column (6)(b), 173.119(a)(3), 173.119(b), 175.30(a).	To become a party to Exemption 8618 (Mode 4.)
EE 8774-N	DOT-E 8774	Eastman Kodak Co., Rochester, NY	49 CFR 172.101(7)(c), 176.83(b) Table II	To authorize exception to the segregation requirement for glacial acetic acid in DOT-12B fiberboard boxes with an inside 64 oz. plastic bottle of glacial acid packed with an 84 oz. plastic bottle of aluminum sulfate solution, and a nonhazardous dry chemical stowed aboard cargo vessel. (Mode 3.)
EE 8775-N	DOT-E8775	Osmose Wood Preserving Co., Buffalo, NY.	49 CFR 173.366(b)(3)	To authorize import shipments of arsenic trioxide in metal drums with a maximum capacity and gross weight which exceeds that presently authorized. (Modes 1, 2.)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8776-N	DOT-E 8776	Arrow Airways, Inc., Miami, FL	49 CFR 172.101(6)(b), 175.30	To authorize the transportation of military ammunition, Class A, B and C explosives, not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)

Denials

7060–P Request by Econo-Flight, Incorporated, Hillsboro, OR to authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied January 28, 1982.

8341–X Request by Pacific Coast Drum Company, South El Monte, CA to authorize the conversion of a non-DOT specification 55-gallon steel drum to an open-head, DOT Specification 17H drum for the transportation of certain hazardous materials denied January 4, 1982.

8342–X Request by Great Lakes Container Corporation, Southfield, MI to authorize the conversion of a non-DOT specification 55-gallon steel drum to an open-head DOT specification 17H drum for transportation of certain hazardous materials denied January 4, 1982.

8456–N Request by Orval Tank Containers, Paris, France to authorize shipment of various nonflammable and flammable compressed gases in a non-DOT specification IMCO type V portable tank denied January 25, 1982.

8724–N Request by Stauffer Chemical Company, Westport, CT to authorize four shipments of non-DOT specification pressure vessels lined with refractory bricks contaminated with a minute quantity of carbon disulfide, classed as a flammable solid, n.o.s., to a disposal sight denied January 18, 1982.

Issued in Washington, DC, on February 25, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-5877 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

[Docket No. 82-A]

Rolling Stock Procurement: Additional Statutory Requirements and Program Guidelines: Correction

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for comments; Correction.

SUMMARY: This document corrects errors in the Notice entitled Rolling Stock Procurement: Additional Statutory Requirements and Program Guidelines, which was published February 18, 1982 [47 FR 7361].

Corrections: The following corrections are made in FR Doc. 82–4423 appearing on page 7361 in the issue of February 18, 1982:

1. On page 7362, column one, second to last paragraph, fifth line, "shall only by awarded after an evaluation of" is corrected to read "shall only be awarded after an evaluation of".

2. On page 7362, column one, last sentence, "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" is corrected to read "Whenever requested by a grantee, UMTA will assist the grantee in developing a procedure to evaluate performance, standardization and life-cycle costs. However, once the procedure is in place, UMTA will not be involved in the actual evaluation process."

3. On page 7362, column three, beginning with the second full paragraph, fifth line through twentieth line, "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" is corrected to read "the following 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 factors that affect the life-cycle cost of the rolling stock; (d) identification of major or significant standardization factors; (e) identification of major or significant performance factors; and (f) identification of other potentially significant factors to be considered in the procurement decision process. With respect to item (c) above, please note Exhibit 1, which is a sample list of operating cost factors".

Issued on March 1, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-5870 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Print Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Print Advisory Panel.

SUMMARY: A closed meeting of the Art Print Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5545, Washington, D.C. 20224, Telephone No. (202) 566–4196, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Print Advisory Panel will be held on April 15, 1982 beginning at 9:30 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals and allocations of value of the assets in art print publishing ventures involved in federal income tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

Roscoe L. Egger,

Commissioner.

[FR Doc. 82-5869 Filed 3-3-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

National Productivity Advisory Committee; Meeting

February 25, 1982.

The Subcommittee on Capital Investment of the National Productivity Advisory Committee will hold a breakfast meeting at 9:00 a.m. on March 29 in the Conference Room on the 48th floor of the W. R. Grace Building, 43 West 42nd Street, New York, New York.

The purpose of the meeting will be to discuss ways of increasing productivity growth through capital investment.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-5902 Filed 3-3-82; 8:45 am]

BILLING CODE 4810-25-M

National Productivity Advisory Committee; Meeting

February 25, 1982.

The Subcommittee on Human Resources of the National Productivity Advisory Committee will meet at 2:00 p.m. on March 15, 1982, in Room 3424, Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, D.C.

The purpose of the meeting will be to discuss ways of increasing productivity growth through better use of human resources.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-5903 Filed 3-3-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY, OFFICE OF THE SECRETARY

[Public Debt Series—No. 6-82]

Supplement to Department Circular; Public Debt Series

February 25, 1982.

The Secretary announced on February 25, 1982, that the interest rate on the notes designated Series E-1987, described in Department Circular—Public Debt Series—No. 6-82 dated February 17, 1982, will be 14 percent. Interest on the notes will be payable at the rate of 14 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 82-5794 Filed 3-3-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47 No. 43
Thursday, March 4, 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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, March 9, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., 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 to the public:

1. Ratification of Notation Vote: Approval of 16th Annual Report.
2. Freedom of Information Act Appeal No. 81-12-FOIA-39-SL, concerning internal memoranda, personnel files and financial information from closed ADEA charge files.
3. Freedom of Information Act Appeal No. 81-12-FOIA-074-MK, concerning access to withheld portions of an investigative file.
4. Freedom of Information Act Appeal No. 81-12-FOIA-58 through 67-NO, concerning several documents from 10 charge files.
5. Proposed Section 612 of the Compliance Manual: Discharge and Discipline.
6. Proposed Adoption of Privacy Act Systems of records, EEOC-1.
7. Report on Commission Operations by the Executive Director.

Closed:

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued March 2, 1982.

[S 331-82 Filed 3-2-82; 2:56 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

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 2:00 p.m. on Monday, March 1, 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:

Application of Eldorado Bank, Tustin, California, for consent to merge, under its charter and title, with Bank of Indio, Indio, California, and to establish the two offices of Bank of Indio as branches of the resultant bank.

Application of State Bank of Slinger, Slinger, Wisconsin, for consent to consolidate, under its charter and title, with Bank of Jackson, Jackson, Wisconsin, and to establish the sole office of Bank of Jackson as a branch of the resultant bank.

Memorandum and Resolution re: Amendment to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquistion of Control," which would delegate authority to the Board of Review to act on requests for relief from reimbursement for certain violations of the Truth in Lending Act.

Memorandum and Resolution re: Proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which would require insured State nonmember banks to maintain their books and records of account on the accrual basis of accounting.

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: March 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-329-82 Filed 3-2-82; 11:38 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

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 2:30 p.m. on Monday, March 1, 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:

Application of South Chicago Savings Bank, Chicago, Illinois, for consent to establish a remote service facility in the lobby of the South Chicago Community Hospital at 2320 East 93rd Street, Chicago, Illinois.

Applications of The Howard Savings Bank, Newark, New Jersey, for consent to establish two branches at the following locations: the northwest corner of Bay Avenue and Hooper Avenue, Dover Township, New Jersey; and at 78 Allendale Avenue, Borough of Allendale, New Jersey.

Recommendation regarding the Corporation's assistance agreements with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Resolution making funds available for the payment of insured deposits in The Bank of Woodson, Woodson, Texas, which was closed by the Banking Commissioner of the State of Texas at 9:00 a.m. (CST) on Monday, March 1, 1982.

Memorandum re: Estimated Remodeling Costs (two memorandums).

Memorandum re: Deferral of losses on asset sales.

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)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-330-82 Filed 3-2-82; 11:38 am]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 9, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, March 10, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C..

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Continuation of executive session of March 9, 1982, if necessary.

* * * * *

DATE AND TIME: THURSDAY, MARCH 11, 1982 AT 10 A.M.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions
Draft AO 1981-56: John J. Duffy, Satellite Business Systems (Continued from February 25, 1982 meeting)
Draft AO 1982-3: Allyn O. Kreps, Chairperson, Cranston Advisory Committee
Proposed revision of 11 CFR 114.3 and 114.4
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-333-82 Filed 3-2-82; 3:34 pm]

BILLING CODE 6715-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8725, Monday, March 1, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, March 4, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board Meeting.

Amendment of Regulations regarding Charter Conversion for Supervisory Purposes.

No. 15, March 2, 1982.

[S 332-82 Filed 3-2-82; 3:21 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., March 10, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10126-4: Modification of the Florida-Curacao, Aruba & Bonaire Rate Agreement to extend its coverage to all member lines' services and to effect various administrative changes.
2. Notice of proposed rulemaking: Discontinuance of Commission General Order 29—Regulations Governing the Level of Military Rates.

Portion closed to the public:

1. Docket No. 71-29: Baton Rouge Marine Contractors, Inc. v. Cargill, Inc.—Proceedings on Remand.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-327-82 Filed 3-2-82; 11:37 am]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8448, Friday, February 26, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, March 3, 1982.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Proposal by a bank holding company to issue notes.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 2, 1982.

James McAfee,

Assistant Secretary of the Board.

[S 334-82 Filed 3-2-82; 3:41 pm]

BILLING CODE 6210-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of March 1, 1982 (revised) and week of March 8, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Monday, March 1:

2:00 p.m.:
Discussion of Clinch River Breeder Reactor (Open/Portions may be closed) (as announced)

Thursday, March 4:

10:00 a.m.:
Briefing and Possible Vote on Staff Recommendations on Diablo Canyon Program Plan and Independence of Audit (public meeting) (as announced)
2:00 p.m.:
Briefing on Draft Final Rule Requiring Documentation of Deviations from the Revised Standard Review Plan (public meeting) (approximately 2 hours) (as announced)
4:00 p.m.:
Affirmation/Discussion Session (public meeting) (items revised) Items to be affirmed and/or discussed:
a. Export and Import of Nuclear Equipment and Materials: Proposed Amendments to NRC's Regulations (postponed from February 25)
b. Proposed Rule Change on Technical Specifications
c. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings (postponed from February 25)
d. Request for Directed Certification of ASLB Order in Diablo Canyon Proceeding

Monday, March 8:

2:00 p.m.:
Briefing by DOE on Proposals for Nuclear Regulatory Reform (closed meeting)

Tuesday, March 9:

10:00 a.m.:
Briefing on Status of Pressurized Thermal Shock Issue (public meeting)
2:30 p.m.:
Briefing by AIF and EPRI on Pressurized Thermal Shock (public meeting)

Wednesday, March 10:

10:00 a.m.:
Discussion of TMI–1 Restart Proceeding (closed meeting)
3:00 p.m.:
Discussion of Waste Confidence Proceeding (closed meeting)

Thursday, March 11:

3:00 p.m.:
Affirmation/Discussion Session (public meeting) Items to be affirmed and/or discussed:
a. 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 (postponed from March 4)
b. Pacific Gas & Electric Co.'s Notice of Prematurity and Advice of Withdrawal in Stanislaus (Antitrust)
c. Review of ALAB–653—In the Matter of Pacific Gas and Electric Co.

ADDITIONAL INFORMATION: By a vote of 4–0, Commissioner Ahearne not present, on February 25, 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 Petition for Reconsideration and Request for Immediate Suspension of New Safeguards Information Regulations Implementing Section 147, held 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 reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–324–82 Filed 3–1–82; 4:45 pm]

BILLING CODE 7590–01–M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 8, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, March 9, 1982, at 9:30 a.m. An open meeting will be held on Wednesday, March 10, 1982, at 9:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 9, 1982, at 9:30 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Access to investigate files by Federal, State, or Self-Regulatory authorities.
Litigation matters.
Institution of injunctive action.
Freedom of Information appeal
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Wednesday, March 10, 1982, at 9:00 a.m., will be:

1. Consideration of whether to adopt rule 15b2–2, under the Securities Exchange Act of 1934, which would authorize and direct self-regulatory organizations to conduct an inspection of every new broker-dealer member within six months of the member's registration with the Commission. For further information, please contact Robert A. Love at (202) 272–2781.

2. Consideration of a draft release announcing the withdrawal from public comment of proposed Rule 238 under the Securities Act and proposed Rules 9b–2, 9b–3 and 9b–4 (A) and (B) under the Exchange Act. For further information, please contact Eugene B. Livaudais at (202) 272–2411.

3. Consideration of Freedom of Information Act appeal of Timonthy Dawson. Mr. Dawson requested access to information from a closed investigation file regarding Independence Drilling Corporation. For further information, please contact Alex White at (202) 272–2444.

4. Consideration of whether to grant the General Counsel, pursuant to 15 U.S.C. 78d–1, certain authority with respect to *amicus curiae* participation in cases involving issues designated by the Commission as appropriate for the exercise of delegated authority. For further information, please contact David A. Sirignano at (202) 272–2493.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

March 1, 1982.

[S–325–82 Filed 3–2–82; 10:09 am]

BILLING CODE 8010–01–M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, February 22, 1982.

CHANGES IN THE MEETING: Deletion/additional items. The following items will not be considered at an open meeting scheduled for Wednesday, March 3, 1982, at 10:00 a.m.

1. Consideration of an application of Marvin S. Bernstein for relief from disqualification imposed in connection with administrative proceeding. For further information, please contact Robert Anderson at (202) 272–2916.

2. Consideration of whether to amend 17 CFR 201.22(e), 230.403(a), 240.12b–12(a) and (b), 250.22(d), 260.7a–12, 270.8b–12(a) and (b), and 275.04(b), to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. For further information, please contact Douglas J. Schedit at (202) 272–2454.

The following additional item will be considered at a closed meeting scheduled for Thursday, March 4, 1982, at 10:00 a.m.

Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2178.

March 1, 1982.

[S 326–82 Filed 3–2–82; 10:09 am]

BILLING CODE 8010–01–M

11

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8 a.m., March 12, 1982.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Part of the meeting will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: 8:00 a.m., Meeting, Board of Regents. Open to the Public:

(1) Approval of Minutes, 11 December 1981; (2) Faculty Appointments; (3) Report—Admissions; (4) Report—Associate Dean for Operations; (5) Report—Chairman, Board of Regents; (6) Report—President, USUHS—(a) Change in Procedures and Delegations, (b) Sabbatical Policy, (c) Liaison Committee on Medical Education (LCME) Report, (d) Special Student, (e) Associate Dean, Academic Affairs, (f) Graduation Plans, (g) Recommendation for Awards.

Closed to the Public:

(6) Report—President, USUHS—(h) Consideration of Personnel Matters.
New Business.
Scheduled meetings: May 22, 1982.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board; 202/295-3025.

GENERAL COUNSEL CERTIFICATION: I certify that the portion of this meeting for discussion of personnel matters be closed to the public under 5 U.S.C. 552b(c)(6) and 32 CFR 242a.4(f), and that the meeting may be closed to public observation.

Dated: March 1, 1982.

M. S. Healy,

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

[S-328-82 Filed 3-2-82; 11:36 am]

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federal register

Thursday
March 4, 1982

Part II

Environmental Protection Agency

Hazardous Waste Management System: General, Standards for Generators of Hazardous Waste, State Hazardous Waste Program Requirement.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 123, 260 and 262

[SWH—FRL 1967-4]

Hazardous Waste Management System: General, Standards for Generators of Hazardous Waste, State Hazardous Waste Program Requirements.

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Today, in a joint rulemaking effort, the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) are publishing a draft Uniform Hazardous Waste Manifest form and proposing its required use by generators for the interstate and intrastate transportation of hazardous waste. A manifest form is a control and transport document that travels with the waste from its point of generation to its point of disposal. EPA's Resource Conservation and Recovery Act (RCRA) regulations presently require generators who transport, or offer for transportation, hazardous waste for offsite treatment, storage or disposal to prepare a manifest which must accompany the waste. Although the regulations specify certain required information that must appear on the manifest, there are no requirements for a standard form to be used.

Since the RCRA regulations became effective, numerous States have developed their own manifest forms which meet Federal requirements but require additional State information. These differing manifest requirements among States have resulted in confusion and compliance difficulties for the transport of hazardous waste. EPA and DOT are proposing to resolve these difficulties through a joint rulemaking effort. EPA, in this rulemaking action, is proposing to amend its regulations to require the use of a specific manifest form. DOT, in a companion action, is proposing to amend its Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA proposed amendments pertaining to the proposed manifest and to clarify that, whether a State has interim or final authorization by EPA, any requirement of a State or polititcal subdivision of a State specifying a different or additional manifest is inconsistent with the Hazardous Materials Regulations. DOT's proposal appears in a separate section of today's **Federal Register.**

DATES: EPA will accept comments on the proposed rule on or before May 3, 1982.

ADDRESS: Comments should be sent to the Docket Clerk (Docket 3002—Uniform Manifest), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

The official docket for this proposed rule is located in Room 2636 U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., and is available for viewing from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Rolf P. Hill or Mary McCaffery, (202)-755-9150, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460 or the RCRA Hotline at (800)-424-9346 (in Washington, D.C. call 544-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

This proposed rule is issued under the authority of sections 2002, 3001 through 3007, and 3010 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6912, 6921 through 6927, 6930.

II. Background Information

A. History of the Manifest. On February 26, 1980, EPA established a manifest system to assure that hazardous waste designated for delivery to an offsite treatment, storage or disposal facility actually reached its destination. The central element of that system is the "manifest", a control and transport document that accompanies the waste from its point of generation to its point of destination.

Although EPA considered requiring a uniform manifest form when it developed its regulations, the Agency decided to require that specific information accompany the waste. (45 FR 12726-9, February 26, 1980) At that time, the regulated community was already required by the Department of Transportation to use a shipping paper for the transportation of hazardous materials. DOT's regulations allow industry to use a shipping paper format of their choosing for the required information.

The information requirements for the DOT shipping paper and the manifest were similar; thus, EPA concluded that a shipping paper could be used to satisfy RCRA manifest requirements if additional information required by EPA was included. By not requiring a specific form, EPA's intent was to provide the regulated community with the option of adapting their existing DOT shipping papers to function as manifests or designing their own forms to fulfill specific needs.

B. Manifest Implementation Problems. Since the introduction of the Federal manifest system, there has been a proliferation of manifests as various States decided to develop and print their own forms. At least 21 States require generators to use specific manifest forms, often with varying additional information requirements. The current system has caused two major problems.

First, the lack of uniformity in the manifests required by States has created a burden for both generators and transporters. Currently, a transporter carrying hazardous waste may be required to carry the manifest of each State in which he travels in order to comply with its manifest requirements. Failure to carry a particular State's manifest may delay or prevent shipments from reaching their destination or subject the transporter to a State enforcement action. Under these conditions, a generator may be required to go through the costly and inefficient procedure of filling out several manifest forms with duplicative information in order to ensure that the waste shipment reaches the designated facility.

Second, the lack of uniform requirements prevents generators with plants in more than one state from standardizing their manifesting procedures. This prevents multistate corporations from achieving efficiency in their information collection activities.

C. State and Industry Involvement. In order to examine the feasibility of developing a uniform manifest document to solve these problems, EPA and DOT asked two organizations representing the States and the regulated community to submit comments to EPA. The State group, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the industry group, the Hazardous Materials Advisory Council (HMAC), each developed recommendations concerning the content and use of a uniform manifest and submitted them to EPA and DOT in March of 1981. EPA and DOT reviewed the recommendations, prepared a draft manifest form and met with the ASTSWMO and HMAC committees in July of 1981. During ASTSWMO's September, 1981 national meeting, its members reviewed the Uniform Hazardous Waste Manifest form and subsequently submitted further comments to EPA. A discussion of ASTSWMO's latest recommendations is included in Part IV.

D. EPA and DOT Joint Rulemaking. Since the current problems associated with the manifest involve both DOT and EPA, the Agencies have worked together to devise a regulatory solution. Therefore, several amendments are being proposed in this area.

EPA is proposing to amend 40 CFR Part 262 to require generators to use the Uniform Hazardous Waste Manifest form in order to meet manifest requirements. Amendments to 40 CFR Part 123 would make use of the form a requirement for State interim and final authorization. DOT is proposing to amend its regulations to require that transporters of hazardous waste comply with EPA's proposed amendments and to clarify that any State law or regulation requiring a different or additional manifest is inconsistent with DOT's Hazardous Materials Regulations.

The effect of these amendments is twofold. First, the use of a nationally uniform manifest would be required for all offsite transport of hazardous waste. Secondly, no State could require a transporter to carry additional information on or with the manifest. Thus a transporter could not be held legally liable for failure to carry a State's particular manifest form.

Neither the EPA nor DOT proposed amendments would prohibit a State from requiring additional information concerning each shipment of hazardous waste from the generator or treatment, storage or disposal facility. For example, a State may require that certain disposal related data be present at the facility before the facility accepts the waste. The proposed amendments do not preclude the transporter from voluntarily carrying such information but do prohibit any State from requiring him to do so.

This regulatory approach is authorized by the Hazadous Materials Transportation Act (HMTA), 49 USC 1801 *et. seq.*, and RCRA. HMTA expressly preempts any State or local requirement that is inconsistent with HMTA or the regulations issued thereunder. As stated in its preamble, DOT believes that national uniformity is necessary in this area to avoid a patchwork of differing State requirements inconsistent with the HMTA regulations. In addition, section 3006(b) of RCRA authorizes EPA to disapprove any State application for final authorization to administer and enforce the Federal hazardous waste program if a State program is inconsistent with the Federal or other State programs. As explained in the next section, EPA proposes to exercise the section 3006(b) authority in this area to require national consistency.

E. State Authorization under RCRA. EPA is proposing to charge the Part 123 State program requirements to require any State applying for Phase I or Phase II of interim authorization or final authorization to require the use of the Uniform Hazardous Waste Manifest form. The revised manifest requirement in § 123.34 will be applicable to all States applying for final authorization. The revised manifest requirements in § 123.128 will be applicable to any State which applies for any component of Phase II of interim authorization which is announced after the effective date of today's amendments (see 40 CFR 123.122(d)(2)). These changes will assure that a uniform format is used for manifest information, that State programs will be in compliance with DOT regulations and that, in the case of final authorization, the consistency requirements in 3006(b) of RCRA are met.

The DOT preemption regulations operate independently of RCRA and apply to all States, whether or not they have received interim or final authorization. Thus, DOT's broader preemptive authority will extend to all authorized States and will ensure a comprehensive solution to the manifest problem.

F. Implementation Dates. EPA and DOT are proposing common effective dates for the proposed amendments. Since DOT regulations apply independently of RCRA regulation, coordination is necessary for consistent implementation of the uniform national manifest.

After considering the alternative of phasing in the use of the uniform manifest form, EPA and DOT have chosen to require a uniform effective date. This approach was selected in order to avoid confusion concerning the compliance date. Use of the form will be required for all transportation of hazardous waste 180 days after the publication of the final rule. This effective date was chosen in order to provide quick relief from the current situation and also to provide States and industry with time to implement the use of the new form.

EPA has received comments requesting that the effective date allow the States time to update their data management systems with a minimum of disruption to their current operating procedures. The Agency solicits comments from both States and industry on whether the proposed effective date allows sufficient time to implement the form.

As stated in a previous section, DOT requirements would apply to all hazardous wastes transportation in States with and without interim authorization. Accordingly, all State manifests will be subject to Federal preemption at the time DOT's amendments become effective.

III. The Uniform Hazardous Waste Manifest

EPA, with DOT's agreement, proposes the Uniform Hazardous Waste manifest with the following features:

Form Design. EPA incorporated ideas from several existing State and industry manifest forms in order to design a uniform manifest that would satisfy the majority of users. The form itself is the standard paper size of 8½" by 11" to allow for easy filing. The form was also designed to facilitate the processing of data from it into automated data processing systems. Therefore, all the information which would be entered by a data machine operator was placed on the right hand side of the form. The left hand margin indicates what information is filled in by the generator, transporter, and the designated facility. The form also contains three inches of horizontal space for listing the proper DOT shipping name.

The manifest document is designed to contain an optional continuation sheet (EPA form 8700–22A) on which the generator may list both additional hazardous wastes and transporters. This eliminates the need for industries, notably laboratories with many different waste streams, to fill out multiple separate manifests for one shipment.

Instructions for filling out the Uniform Hazardous Waste Manifest are included in today's **Federal Register**. While the instructions are required to be followed, EPA is not mandating that they be included with the form. Additional special instructions or emergency information may be printed outside the margin or on the back of the form at the user's discretion.

Information Requirments. In developing the Uniform Hazardous Waste Manifest, EPA has transferred its existing information requirements onto a standard form. EPA has not increased its requirements except for one minor item: the inclusion of the treatment, storage and disposal facility's telephone number. The Agency believes that the inclusion of the phone number will aid the transporter in contacting the facility in the event of an emergency or delay.

Two existing information requirements, the manifest document number and the EPA assigned generator identification number have been

combined to form a unique manifest document number. This manifest document number will allow each generator to manifest up to 100,000 shipments before repeating a number. Because every generator has a separate EPA ID number, each document number will be unique and therefore easily identifiable within the hazardous waste management system. Further, the newly defined manifest document number reemphasizes the Agency's belief that the generator should assign the number for each shipment of waste.

The proposed form contains two optional spaces. The first is the hazardous waste number space in which the EPA or State hazardous waste identification number can be filled in. This is not an information requirement. Rather, it is a convenient feature of the form to aid the States and industry in their recordkeeping tasks. The second optional space is entitled "Special Handling Instructions." The generator may use this space to record extra instructions, comments, or an alternate designated facility's address in the event an emergency prevents delivery to the primary designated facility.

A third optional space for the vehicle identification number is being considered. During the drafting of the uniform manifest, EPA and DOT debated whether or not to include the vehicle identification number as a Federal information requirement. It was decided not to include that requirement in this proposal for practical reasons. During the transport of one hazardous waste load, several vehicles may be used if shipments are consolidated or the equipment fails. The generator, who is responsible for filling out the manifest, may be unaware of these possible changes and therefore could not be reasonably expected to provide such information on the manifest. For this reason the vehicle identification number is not being proposed as a Federal information requirement. DOT and EPA would appreciate comments on whether or not to include an optional space for the vehicle ID number on the form.

The Agency has also included a manifest discrepancy indication space on the form. EPA regulations require owners or operators of facilities to note on each copy of the manifest any significant discrepancies between the quantity or type of hazardous waste designated on the manifest and the quantity or type of hazardous waste a facility actually receive (40 CFR 264.72, 265.72). When recording significant discrepancies on the Uniform Hazardous Waste Manifest, the TSDF owner or operator will be required to use the discrepancy indication space.

Form printing and number of copies. The Federal government will not print or distribute uniform manifest forms. Generators may print their own forms or obtain them from commercial form design companies and, in this way, retain the flexibility of selecting manifest package that fit their needs.

For example, a generator may decide to vary the number of copies in a manifest package depending upon where he ships his waste. EPA requires that the manifest consist of two copies for the generator, one for each transporter and one for the designated facility. In addition to the EPA requirement, some States mandate that a manifest copy be sent to them at the initiation and completion of each shipment. In order to easily comply with the State requirement, the generator can obtain a manifest package that includes the number of copies to fulfill the Federal requirement plus additional copies for the State. Or the generator may decide to photocopy legible copies to satisfy tracking requirements.

IV. Request for Additional Modifications by States

As explained in section II C, the draft uniform manifest was reviewed by ASTSWMO's Hazardous Waste Task Group during its September 1981 national meeting. The Task Group supported the form's information requirements and format but recommended that it be modified to suit the broader needs of the various State manifest systems.

ASTSWMO requested that EPA include these latest recommendations of its Task Group in this preamble. EPA is aware of the concerns of the States and is taking this opportunity to obtain comments on the various State recommendations in the hope of designing a manifest form that fits the needs of all its users.

The recommendations advocate that EPA allow the inclusion of additional State information on the form, modify its design to allow for a larger special handling instruction box, and eliminate the continuation sheet. In addition, the issue of State printing and distribution of the uniform manifest form was raised.

Additional State Information. The States have the authority to request information from treatment, storage or disposal facilities and generators. Some States, through ASTSWMO, have indicated that they desire information concerning each hazardous waste shipment beyond that required on the manifest. The amendments proposed by EPA and DOT would prohibit States from requiring additional information to be carried with the waste. However, it is within a State's authority to require that such information be present at the designated facility as a condition of acceptance of the waste. Some States have indicated that they will require such a condition in order to obtain this information.

Therefore, rather than require the generator to fill out both a manifest and a State form, the States are proposing that the uniform manifest be redesigned to contain optional spaces for the inclusion of State information. ASTSWMO's recommendations include the following:

- Add spaces for State identification numbers under the designated EPA identification number spaces for generators, transporter and treatment, storage and disposal facilities.
- Add a space within the Descrepancy Indication box for the recording of codes which indicate the treatment, storage or disposal processes utilized in handling the hazardous waste.
- Modify the design of the form to allow both the weight *and* volume of the waste to be easily recorded. Current Federal regulations only require the weight or volume to be listed.

The Agency recognizes the need on the part of the States to obtain certain information for the efficient management of their hazardous waste programs. The adoption of ASTSWMO's suggestion could benefit industry by providing the opportunity of meeting all Federal and State requirements on one form. However, EPA believes that the addition of State information spaces would complicate the form making it more difficult for the generator to comply with Federal manifest requirements. Generators would once again be subject to dealing with varying information requirements since individual States would require different information be filled in as a condition of acceptance of the waste at the facility.

The purpose of the Uniform Hazardous Waste Manifest form is to ease the regulatory burden on generators and transporters by providing a uniform format for information necessary for the transportation of hazardous waste. In designing the form, the Agency has striven for uniformity but is well aware of the advantages of a more flexible form which contains optional spaces. In order to design a form that best suits the needs of its users, the Agency invites comments on the preferability of a strictly uniform manifest form (i.e., no optional spaces included) or form that

could contain additional State information.

Special Handling Instructions box. In order to provide room for State information, ASTSWMO suggested reducing the number of waste listing spaces on the manifest from six to four. This additional space could then be used to maximize the area of the Special Handling Instructions box. The Agency solicits comments on whether four spaces are sufficient to list the majority of hazardous waste shipments on one manifest and if the need exists to maximize the area on the Special Handling Instructions box.

Elimination of the Continuation Sheet. The States also indicated that the addition of a continuation sheet to the manifest will significantly complicate their data management systems. As noted above, the primary reason for the inclusion of a continuation sheet was to eliminate the need for generators, notably laboratories with many different waste streams, to fill out multiple manifests for one shipment. In its latest series of recommendations, ASTSWMO has advocated that the Department of Transportation create classification codes for various groups of laboratory waste streams, thereby eliminating the need for a continuation sheet. Creation of such codes would require rulemaking action on the part of DOT. EPA believes that the continuation sheet is a necessary component of the uniform manifest form in the absence of such rulemaking. Comments concerning classification codes for laboratory waste should be addressed to DOT.

State Printing and Distribution of Manifest Forms. A final ASTSWMO recommendation advocates the expansion of the top margin of the uniform manifest form to provide room for States to print their names and State assigned document number. Further, some States have indicated a preference to print and distribute the manifest forms because it allows them to print their own emergency instructions. In addition, ASTSWMO assets that State document numbers are necessary for the effective use of any automated State manifest tracking system.

EPA and DOT are concerned that the implementation of this recommendation could result in situations in which the generator may be required to fill out multiple manifests for one shipment. A generator shipping his waste interstate could be required by his State to use its printed manifest form and also be required to use the destination State's form as a condition of acceptance of the waste by the TSD facility. This type of interference with the transport of hazardous waste is what the uniform manifest form was designated to prevent. Comments on the desirability of State printing and distribution of forms are requested.

V. Classification

EPA has determined that today's proposed rule will not result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in domestic or export markets. Today's action is expected to reduce the current burden on the regulated community. Therefore, today's proposed rule is not subject to the major rule provision of the Executive Order 12291 and a regulatory impact analysis is not required.

The Uniform Hazardous Waste Manifest is subject to the OMB clearance requirements of the Paperwork Reduction Act of 1980. The Agency has already received clearance for the information requirements of the manifest system. If, on the basis of comment, the Agency revises the form to include additional information requirements that would increase the information burden of the regulatory community, the form will be resubmitted to OMB for clearance.

Furthermore, this proposed rule, if adopted, would not have a significant impact on a substantial number of small entities, thereby triggering the requirements of the Regulatory Flexibility Act. The required use of a Uniform Hazardous Waste Manifest will reduce the burden faced by regulated hazardous waste generators and transporters, including small businesses as defined by that Act. Since the cost to industry due to the manifest form is realized largely in terms of labor costs and labor is a large percentage of small business's cost, the uniform manifest should provide small businesses with significant relief. Accordingly, I certify pursuant to 5 U.S.C. § 601 *et seq.* that the proposal, if promulgated, will not have a significant economic impact on small entities.

This proposal regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room 2636, U.S. EPA, M St. SW, Washington, D.C. 20460.

VI. Request for Comment

EPA invites comments on all aspects of the proposed rule and all the issues discussed in the preamble. All comments should be addressed to the Docket Clerk (see Addresses above) and should contain specific documentation in their support.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM; GENERAL

1. The authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, and 7004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6974).

§ 260.10 [Amended]

2. Section CFR 260.10 is amended by revising the following definitions to read as follows:

§ 260.10 Definitions.

* * * * *

"Manifest"—means the shipping document EPA form 8700–22, and, if necessary, EPA form 8700–22A, originated and signed by the generator in accordance with the instructions included in Part 262, Subpart B, Appendix II of this Chapter.

"Manifest document number"—means the EPA identification number assigned to the generator plus a 5 digit sequentially increasing number assigned to the manifest by the generator for recording and reporting purposes.

* * * * *

PART 262—STANDARDS FOR GENERATORS OF HAZARDOUS WASTE

3. The authority citation for Part 262 reads as follows:

Authority: Secs. 2002(a), 3001, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6912(a), 6921, 6922, 6923, 6924, 6925).

4. Section 262.20 is amended by revising paragraph (a) to read as follows:

§ 262.20 General requirements.

(a) A generator who transports or offers for transportation, hazardous waste for offsite treatment, storage or disposal must prepare a manifest on

EPA form 8700–22 and, if necessary, EPA form 8700–22A according to the instructions included in the Part 262, Subpart B, Appendix II of this Chapter.

* * * * *

§ 262.21 [Reserved]

5. 40 CFR 262 is amended by removing and reserving § 262.21.

6. Section 262.50 is amended by revising the introductory text of paragraph (b)(3) and the introductory text of paragraph (d) to read as follows:

§ 262.50 International shipments.

* * * * *

(b) * * *

(3) Meet the requirements under 262.20(a) for the manifest except that:

* * * * *

(d) When importing hazardous waste a person must meet all the requirements specified in 262.20(a) for the manifest except that:

7. Part 262 is amended by adding a new Appendix to read as follows:

Appendix—Uniform Hazardous Waste Manifest (EPA Forms 8700–22 and 8700–22A)

BILLING CODE 6560-30-M

UNIFORM HAZARDOUS WASTE MANIFEST

(Please print or type with ELITE type (12 characters per inch).

GSA NO. XXX
FORM APPROVED OMB NO. XXX

TO BE FILLED IN BY THE GENERATOR

GENERATOR NAME AND MAILING ADDRESS

MANIFEST DOCUMENT NUMBER
EPA I.D. NUMBER

AREA CODE/PHONE NUMBER

TRANSPORTER #1 — EPA I.D. NUMBER

TRANSPORTER #2 — EPA I.D. NUMBER

TREATMENT, STORAGE, OR DISPOSAL (TSD) FACILITY — EPA I.D. NUMBER

AREA CODE/PHONE NUMBER

PROPER U.S. D.O.T. SHIPPING NAME AND HAZARD CLASS	UN/NA NUMBER	TOTAL QUANTITY	UNIT WT/VOL	CONTAINER NO	CONTAINER TYPE	WASTE NO. (OPTIONAL)
DRAFT						

SPECIAL HANDLING INSTRUCTIONS . . .

This is to certify that the above-named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the EPA.

PRINTED OR TYPED FULL NAME AND SIGNATURE — MO DAY YR

☐ CHECK IF CONTINUATION SHEET IS USED. NUMBER OF CONTINUATION SHEETS _____

TO BE FILLED IN BY TRANSPORTER

TRANSPORTER 1 ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS — DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

TRANSPORTER 2 ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS — DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

TO BE FILLED IN BY TSDF

DISCREPANCY INDICATION SPACE

Facility owner or operator: Certification of receipt of hazardous material covered by this manifest except as noted in the discrepancy indication space above — DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

EPA FORM 8700-22 (8-81)

BILLING CODE 6560-30-C

Instructions for Generators (EPA Form: 8700–22)

Generator Name and Mailing Address

Enter your company's name and mailing address. Enter a telephone number where a knowledgeable person may be reached who can give information in response to an emergency.

Manifest Document Number

EPA ID Number

Enter your EPA ID number in the 12 spaces to the left of the vertical line. In the space to the right of this line, enter a five-digit sequentially increasing number of your choice.

Transporter #1

Enter the name and EPA ID Number of the company you will use to be the first transporter.

Transporter #2

If there is a second transporter enter the name and EPA ID Number of the company. Space for additional transporters is provided on the Continuation Sheet (EPA form 8700–22A)

Treatment, Storage or Disposal Facility

Enter the name, address, telephone number and EPA ID Number of the treatment, storage or disposal facility to which you are sending the waste.

Proper U.S. DOT Shipping Name and Hazard Class

Enter the proper DOT shipping name for the material. The U.S. DOT (Department of Transportation) regulations will help in completing this part. You can find these regulations in Title 49 of the *Code of Federal Regulations* (49 *CFR* Part 172).

UN/NA Number

Enter the *UN* (United Nations) or *NA* (North American) number for each waste according to Title 49 CFR Part 172.101.

Total Quantity and Unit

Enter the amount of each waste you are shipping, and the appropriate abbreviation from Table I below for either the weight *or* the volume of each waste you are shipping.

Table I

G=gallon
P=pound
T=ton
Y=cubic yard
L=liter
K=kilogram
N=metric ton
M=cubic meter

Container Number and Type

Enter the number of containers for each entry, and the appropriate abbreviation for the type of each container you are using from Table II below.

Table II

DM=Metal drums, barrels, kegs.
DW=Wooden drums, barrels, kegs.
DF=Fiberboard or plastic drums, barrels, kegs.
PT=Portable tanks.
CT=Cargo tanks (tank cars).
TC=Tank car.
CY=Cylinders.
CM=Metal boxes, cartons, cases.
CW=Wooden boxes, cartons, cases.
CF=Fiber or plastic boxes, cartons, cases.
BA=Bags made of burlap, cloth, paper, or plastic.

Waste No. (Optional)

For your own record keeping purposes, you may enter the Federal or State Hazardous Waste Number for each waste you are shipping. Additional space for Proper U.S. DOT Shipping Descriptions are available on the Continuation Sheet (EPA Form 8700–22A).

Special Handling Instructions

Enter any special handling instructions here. You may use this space to enter the name, address and telephone number of any alternate treatment, storage or disposal facility.

Certification Statement

Sign and type or print your full name. Enter the date you ship the waste (in the boxes to the right). If continuation sheets are required, indicate this by placing an "X" in the box. Then indicate the number of additional continuation sheets in the space provided.

Instructions for Transporters: (EPA Form 8700–22)

Transporter 1 Certification Statement

Sign and print or type your full name acknowledging that you received the materials described by the generator on the manifest. Enter the date of receipt in the boxes to the right.

Transporter 2 Certification Statement

Sign and print or type your full name acknowledging that you received the materials described on the manifest. Enter the date of receipt in the boxes to the right.

[**Note.**—Additional transporters are required to sign on the Continuation Sheet. (EPA Form 8700–22A). See Instructions for Continuation Sheet".]

Instructions for Owners or Operators of Treatment, Storage of Disposal Facilities: (EPA Form 8700–22)

Discrepancy Indication Space

Refer to 40 CFR 264.72 and 265.72 for help in completing this part. In this space you must note any significant discrepancy between the waste described on the manifest and the waste you actually received. If you cannot resolve significant discrepancy within 15 days of receiving the waste you *must* submit a letter to your EPA Regional Administrator describing the discrepancy and your attempts to reconcile it. A copy of the manifest at issue must be enclosed with the letter.

Certification Statement

Sign and type or print your full name next to your signature. Enter the date you accept the waste in the boxes to the right.

BILLING CODE 6560-30-M

UNIFORM HAZARDOUS WASTE MANIFEST

GSA NO. XXX
FORM APPROVED OMB NO. XXX

(Please print or type with ELITE type (12 characters per inch).

TO BE FILLED IN BY THE GENERATOR

CONTINUATION SHEET

THIS IS CONTINUATION SHEET____ OF____.

MANIFEST DOCUMENT NUMBER

EPA I.D. NUMBER

TRANSPORTER #

EPA I.D. NUMBER

TRANSPORTER #

EPA I.D. NUMBER

PROPER U.S. D.O.T. SHIPPING NAME AND HAZARD CLASS	UN/NA NUMBER	TOTAL QUANTITY	UNIT WT/VOL	CONTAINER NO	CONTAINER TYPE	WASTE NO. (OPTIONAL)

DRAFT

TO BE FILLED IN BY TRANSPORTER

TRANSPORTER ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS

DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

TRANSPORTER ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS

DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

EPA FORM 8700-22A (8-81)
BILLING CODE 6560-30-C

Instructions for Continuation Sheet (EPA Form 8700–22A)

Instructions for Generator (EPA Form 8700–22A)

This is Continuation Sheet of .

Fill-in the spaces with the appropriate numbers.

Manifest Document Number

EPA ID Number

Enter the same number here that appears on the first page of the manifest (EPA Form 8700–22).

Transporter———

If, you require more than two transporters to complete the shipment of the hazardous waste described on this manifest, enter the name and EPA I.D. Number of each in the order in which they will transport the waste. Be sure to indicate in the space following the word "Transporter" their order of carriage of the waste. (e.g. 3rd 4th etc.)

Proper U.S. DOT Shipping Name and Hazard Class

If you require additional space to list the hazardous wastes described by this manifest, enter the appropriate information here. [See Instructions for Generators (EPA Form 8700–22).]

Instructions for Transporters (EPA Form 8700–22A)

Sign and print or type your full name in the appropriate space. For example, if your are the third transporter, put a "3" in the space following the word "transporter". With your signature you acknowledge that you received the materials described by the generator on the manifest. Enter the date of receipt in the boxes to the right.

PART 123—STATE HAZARDOUS WASTE PROGRAM REQUIREMENTS

8. The authority citation for Part 123 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.; and Clean Water Act, 33 U.S.C. 1251 et seq.

9. Section 123.4 is amended by revising the text preceeding the note in paragraph (d) to read as follows:

§ 123.4 Program description.

* * * * *

(d) Copies of the permit form(s), application form(s) and reporting form(s) the State intends to employ in its program. Forms used by the States need not be identical to the forms used by EPA but should require the same basic information, except in two cases. State NPDES programs are required to use standard Discharge Monitoring Reports (DMR) and State RCRA programs must require the use of EPA manifest forms 8700–22 and 8700–22A. The State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms. State section 404 application forms must include the information required by § 123.94 and State section 404 permit forms must include the information and conditions required by § 123.97.

* * * * *

10. Section 123.34 is amended by revising paragraph (f)(1) and removing paragraph (h) to read as follows:

§ 123.34 Requirements for generators of hazardous waste.

* * * * *

(f) * * *

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the Federal program. The manifest system must include the required use of EPA manifest forms 8700–22 and 8700–22A. No other manifest form, shipping document, or additional information may be required by the State to travel with the shipment.

* * * * *

11. Section 123.124 is amended by revising paragraph (d) to read as follows:

§ 123.124 Program description.

* * * * *

(d) Copies of the forms that the State intends to use in its program. Except for the required use of EPA manifest forms 8700–22 and 8700–22A, forms used by the State need not be identical to the forms used by EPA but should require the same basic information. If the State chooses to use uniform national forms it should so note.

* * * * *

12. Section 123.128 is amended by revising paragraphs (b)(7)(i) and (c)(5) to read as follows:

§ 123.128 Program requirements for interim authorization for Phase 1.

* * * * *

(b) * * *

(7) * * *

(i) A generator who transports or offers for transportation, hazardous waste for offsite treatment or storage or disposal must prepare a manifest on EPA form 8700–22, and if necessary EPA form 8700–22A, in accordance with the instructions included in Part 262, Subpart B Appendix II of this chapter

* * * * *

(c) * * *

(5) The State program must require that transporters carry the manifest (prepared on EPA form 8700–22 and if necessary EPA form 8700–22A) with all shipments, except in the case of shipments by rail or water specified in 40 CFR § 263.20(e) and (f).

* * * * *

[FR Doc. 82–5698 Filed 3–3–82; 8:45 am]

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federal register

Thursday
March 4, 1982

Part III

Department of Transportation

Research and Special Programs Administration

Hazardous Waste Manifest; Shipping Papers

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 172

[Docket HM-145D; Notice No. 82-2]

Hazardous Waste Manifest; Shipping Papers

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation (DOT) and the Environmental Protection Agency (EPA) are proposing in this issue of the **Federal Register** requirements for a Uniform Hazardous Waste Manifest to resolve difficulties being encountered by shippers and carriers involved in the transportation of hazardous waste of different State manifest requirements. EPA is proposing a standard format for the manifest and the Materials Transportation Bureau (MTB) is proposing to amend the Hazardous Materials Regulations to recognize their standardized hazardous waste manifest for all hazardous waste transportation in commerce within the United States.

MTB proposes to amend § 171.1 of the Hazardous Materials Regulations to delete the reference to EPA interim authorizations and to amend § 171.3 by deleting the Note to paragraph (c)(3). MTB also proposes two amendments pertaining to shipping papers; one is a revision to § 172.201 to recognize that a shipping paper, including a hazardous waste manifest, may consist of more than one page; the other is a revision to § 172.205 to include the EPA form number for the hazardous waste manifest.

DATE: Comments must be received no later than April 28, 1982.

ADDRESS: Address comments to: The Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street SW., Washington, D.C. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee E. Metcalfe, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: On February 26, 1980, the Environmental Protection Agency (EPA) established a manifest system to assure that hazardous waste designated for delivery to an offsite treatment, storage or disposal facility actually reached its destination. The central element of that system is the "manifest", a control and transport document that accompanies the waste from its point of generation to its point of destination. On May 22, 1980 MTB issued final regulations, under Docket HM-145A (45 FR 34560), relative to the use and disposition of manifests.

Although EPA considered requiring a uniform manifest form when it developed its regulations, the Agency chose instead to require that specific information accompany the waste and did not require the use of a specified format for a manifest. EPA recognized that DOT's regulations already required shipping papers for the transportation of hazardous materials without a requirement for use of a specific form; therefore, EPA concluded that a shipping paper could be used satisfactorily as a manifest if additional information required by EPA was included. By not requiring a specific form, EPA's intent was to provide the regulated community with the option of adapting their existing DOT shipping papers to function as manifests as was requested by several commenters in response to the proposed rule.

Since the introduction of the Federal manifest system, there has been a proliferation of manifests as various States decided to develop and print their own forms. At least 21 States presently require generators to use specific manifest forms, often with varying additional information requirements. This has caused two major problems. First, the lack of uniformity in the manifests required by States has created a burden for both generators and transporters. Currently, a transporter carrying hazardous waste may be required to carry the manifest of each State in which he travels in order to comply with each State's manifest requirements. Failure to carry a particular State's manifest may delay or prevent shipments from reaching their destination, or subject the transporter to legal action. Under these conditions, a generator may be required to go through the costly and inefficient procedure of filling out several manifest forms with duplicative information in order to ensure that the waste shipment reaches the designated facility. Second, a generator with plants in more than one State cannot standardize its manifesting procedures company-wide because of a lack of uniform requirements. This prevents multistate corporations from achieving efficiency in their information collection activities in a uniform manner.

In an effort to solve these problems, EPA and MTB asked two organizations representing the States and the regulated community to submit suggestions for a uniform manifest. The State group, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the industry group, the Hazardous Materials Advisory Council (HMAC), each developed a set of recommendations concerning the content and use of a uniform manifest which were submitted to EPA and MTB in March of 1981. EPA and MTB reviewed the recommendations prepared a draft manifest form and met with the ASTSWMO and HMAC committees in July of 1981. Since the current problems associated with the manifest involve both DOT and EPA, the Agencies have worked together to devise a regulatory solution. Therefore, several amendments are being proposed in this area. EPA is proposing to amend 40 CFR Parts 262 and 123 to introduce the Uniform Hazardous Waste Manifest form and to make the use of the form a requirement for State interim and final authorization. MTB is proposing to amend the Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA proposed amendments pertaining to the use of the proposed manifest, and to clarify that any State (or political subdivision of a State) law or regulation requiring a different, or additional manifest, is inconsistent with the Hazadous Materials Regulations.

The effect of such amendments would be twofold. First, the use of a nationally uniform manifest would be required for all off-site transport of hazardous waste. Second, no State could require a carrier to provide additional information on or with the manifest. Thus, a carrier could not be held legally liable for failure to carry a State's particular manifest form.

Neither the EPA nor DOT proposed amendments would prohibit a State from requiring additional information from the generator or the treatment, storage or disposal facility concerning a hazardous waste shipment. For example, a State may require that certain disposal related data be present at the facility before the facility accepts the waste. The proposed amendments do not preclude the transporter from voluntarily carrying such information but do prohibit any State from requiring him to do so.

Certain areas of transportation demand a strong predominant Federal role. In the Senate Committee language reporting on what became Section 112 of the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. 1801 et seq., the need for uniform national standards in the field of hazardous materials was strongly indicated. Section 112 of the HMTA expressly preempts any State or local requirement that is inconsistent with the HMTA or the regulations issued thereunder. MTB believes that national uniformity is necessary in this area and that an evolving patchwork of differing State requirements for manifests is clearly inconsistent with the Congressional purposes underlying the HMTA. Rather than addressing the differing requirements of the States through proceedings initiated pursuant to 49 CFR, Part 107, MTB believes it should modify its regulations to require use of the Uniform Hazardous Waste Manifest. To ensure there is no misunderstanding of the present statement of inconsistency, this proposal would delete the note following § 171.3(c)(3).

After considering alternatives for phasing in the Uniform Hazardous Waste Manifest, MTB and EPA have agreed to a proposed effective date. This approach was selected in order to avoid confusion concerning the compliance date; therefore, it is proposed that the uniform form would be required for all transportation of hazardous waste 180 days after the publication of the final rule. This time period was chosen to provide States and industry sufficient time to implement the new hazardous waste manifest.

MTB is proposing in this Notice to: (1) remove the qualifying language in § 171.1(a)(3)(i) pertaining to transportation of hazardous waste by motor vehicle in intrastate commerce, thereby making the Department's Hazardous Materials Regulations applicable to all hazardous wastes transported off-site by motor vehicle; (2) cancel the Note following § 171.3(c)(3); (3) amend § 172.201 to recognize the use of continuation pages for shipping papers, with a showing of the number of pages constituting a shipping paper; and (4) to amend § 172.205(a) to require that proposed EPA Form 8700–22 (and 22A when appropriate) be used for display of mandatory hazardous waste information for all such transportation in commerce.

In consideration of the foregoing, it is proposed to amend Parts 171 and 172 of Title 49 Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION REGULATIONS, AND DEFINITIONS

1. Section 171.1 would be amended by the revision of paragraph (a)(3)(i) to read as follows:

§ 171.1 Purpose and scope.

* * * * *

(a) * * *

(3) * * *

(i) Hazardous waste.

* * * * *

§ 171.3 [Amended]

2. Section 171.3 would be amended by removing the Note following paragraph (c)(3); and by removing the reference in Note 1 to paragraph (e) of "40 CFR 262.21 and 263.11" and inserting in its place "40 CFR 262.20(a) and 263.11".

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. Section 172.201 would be amended by adding paragraph (c) to read as follows:

§ 172.201 General entries.

* * * * *

(c) *Continuation page.* A shipping paper may consist of more than one page, if each page is numbered and the first page bears a notation specifying the total number of pages included in the shipping paper. For example, "Page 1 of 4 pages."

4. Section 172.205 would be amended by the revision of paragraph (a) to read as follows:

§ 172.205 Hazardous waste manifest.

(a) No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless an EPA Form 8700–22 and 22A (when necessary) hazardous waste manifest (manifest) is prepared in accordance with 40 CFR 262.20 and is signed, carried, and given as required of that person by this section.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(3) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under terms of Executive Order 12291 and DOT implementing 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 is available for review in the docket. I certify that this proposed regulation, if published as a final rule, will not have a significant economic on a substantial number of small entities because small entities involved in the transportation of hazardous waste are already subject to DOT requirements for waste shipments implemented in November 1980. The hazardous waste manifest system was implemented by EPA in August 1980. This proposed rulemaking, if adopted, would merely require a standard format and content of that manifest.

Issued in Washington, D.C. on February 22, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–5699 Filed 3–3–82; 8:45 am]

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federal register

Thursday
March 4, 1982

Part IV

Environmental Protection Agency

National Revised Primary Drinking Water Regulations, Volatile Synthetic Organic Chemicals in Drinking Water; Advanced Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH-FRL-2018-7]

National Revised Primary Drinking Water Regulations, Volatile Synthetic Organic Chemicals in Drinking Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: EPA is considering proposal of regulations as well as non-federal regulatory approaches to limit human exposure to high levels of certain volatile synthetic organic chemicals (VOCs) that have been detected in drinking water. EPA is issuing this Advance Notice of Proposed Rulemaking (ANPRM) as an invitation to the public to comment on the following broad issues:

- What is the significance of contamination of drinking water by VOCs?
- Should national standards be set for VOCs?
- If standards are appropriate, how should levels be established?

EPA requests public analyses, comments and information on all aspects of this most important issue involving the appropriate balance of public health protection against practical implementation of the drinking water program under the requirements of the Safe Drinking Water Act (SDWA).

DATES: Please submit written public comments to the address listed below on or before June 2, 1982.

A public meeting will be held on April 28, 1982, beginning at 9 a.m. Persons planning to make statements at this meeting are encouraged to submit a written copy of their remarks at the time of the meeting.

ADDRESSES: Send written comments to Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. A copy of all comments will be available for review during normal business hours at the EPA, Criteria and Standards Division, Room 1109 ET, 401 M Street, SW., Washington, D.C. 20460.

A public meeting will be held at EPA, Room 3906, 401 M Street, SW., Washington, D.C. It is requested that anyone planning to attend (especially those who plan to make statements) register in advance by calling or writing Ms. Arnetta Davis at 202/472-5030, EPA, WH-550, 401 M St., SW., Washington, D.C. 20460.

Technical workshops will be held at several locations for a full discussion of issues and a complete exchange of technical information and data. Dates, locations and other information on the technical workshops can be obtained from the American Water Works Association Research Foundation, 6666 Quincy Avenue, Denver, Colorado 80235, which is the grantee conducting the workshops for EPA.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, Ph. D., Director, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone 202/472-5016.

SUPPLEMENTARY INFORMATION:

I. Regulatory Framework
II. Background on VOCs in Drinking Water
III. Alternatives under Consideration
IV. References
V. Request for Comments

I. Regulatory Framework

Today's ANPRM initiates a dialogue with interested parties on how best to deal with the contamination of drinking water by VOCs under the provisions of the SDWA. EPA is considering a wide variety of alternatives, ranging from non-federal regulatory approaches, such as the provisions of information and guidance to the establishment of formal, enforceable standards. The Agency's actions must be based on its statutory duties and authorities, and described below is the legal framework within which the alternatives will be considered.

Section 1412 of the SDWA provides for two sets of primary regulations—interim and revised. EPA promulgated interim regulations setting maximum contaminant levels (MCLs) for microbiological contaminants, turbidity, trihalomethanes, radionuclides and selected organic and inorganic chemicals (*see* 40 CFR Part 141, Subpart B). The interim regulations also include requirements for periodic monitoring, analytical methods, reporting, public notification and recordkeeping, (*see* 40 CFR Part 141, Subparts C and D).

EPA promulgated the interim regulations as the first phase of a three-phase statutory process for identifying and regulating harmful contaminants in the nation's drinking water. Section 1412(a)(1) required EPA to promulgate interim regulations that "shall protect health to the extent feasible," using generally available technology and taking cost and other factors into consideration. Phase two provides that EPA shall enter into a contract with the National Academy of Sciencies (NAS) to conduct a study to assess the potential health effects of contaminants in drinking water which might be harmful to health and to provide EPA with proposed Recommended MCLs (RMCLs) (see section 1412(e)(1)). Completion of the NAS report was to trigger Phase three, EPA's statutory obligation to issue recommended MCLs and revised primary regulations.

Section 1412(b)(1)(B) requires EPA to establish recommended MCLs at a level where "no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safey". Recommended MCLs are health goals, not enforceable standards. On the date EPA establishes RMCLs, section 1412(b)(2) requires EPA to propose a revised primary drinking water regulation for each contaminant for which there is a RMCL (section 1412(b) (2) and (3)). The revised MCL should be "as close to" the recommended MCL "as is feasible" (section 1412(b)(3)), and this would reflect allowances for the cost and feasibility of treatment.

While the NAS issued its report, "Drinking Water and Health," in June 1977, 42 FR 35766 (July 11, 1977), the report contained no specific recommended MCLs. In the absence of specific NAS proposals, EPA delayed promulgation of any recommended MCLs at that time. This ANPRM is intended to initiate discussions that will enable the Agency to determine whether RMCLs and revised regulations should be established for VOCs and if so at what levels.

In addition, to the regulatory requirements of section 1412 of the SDWA, the Act also provides EPA with additional authorities for ensuring the safety of the nation's drinking water. Section 1442(a)(2)(B) authorizes EPA to provide technical assistance to States and publicly owned water systems to assist in responding to and alleviating any emergency situation which the Administrator determines presents a substantial danger to the public health. Section 1445(a) authorizes EPA to require by regulation any public water supplier to keep records, make reports, conduct monitoring and provide such other information to assist EPA in establishing regulations, determining compliance with SDWA, evaluating health risks of unregulated contaminants, or advising the public of such risks. Finally, section 1431 authorizes EPA to take such actions as the Administrator deems necessary to protect the public health from a contaminant that may present an imminent and substantial endangerment.

Executive Order 12291

Following Executive Order 12291 [46 FR 13193, Feb. 19, 1981), EPA will prepare a regulatory impact analysis prior to proposal of any regulations if it is determined that the regulations are considered to be "major rules". A "major rule" is defined as any regulation 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 not yet determined whether any regulations that would follow this ANPRM would be "major rules;" information upon which to make this determination is not yet available and is one of the objectives of this ANPRM.

The regulatory impact analysis would contain a description of the potential net benefits and costs and a determination of the potential net benefits of any rule. Further, a description would be included of alternative approaches.

Regulatory Flexibility Analysis

Following the requirements of 5 U.S.C. 603, known as the Regulatory Flexibility Act, an analysis of the impacts on small entities of any regulations must be carried out if there is likely to be a significant economic impact on a substantial number of small entities. Therefore, whether or not the possible regulation for volatile organic contaminants is found to be a "major" regulation, it would have an accompanying analysis of possible economic impacts upon small entities, either to assess the effects of any significant impacts, or to document that no such impacts exist.

Other Pertinent Agency Actions

Several other actions by EPA are pertinent to incidences of contamination by VOCs. There are three new federal programs with state participants designed to protect ground water from contamination resulting from waste disposal on or into the ground. These programs include: Regulation of hazardous waste transporters and hazardous waste treatment, storage and disposal sites under the Resource, Conservation and Recovery Act (40 CFR Parts 122–124, 260–266); regulations for control of underground injection of wastes (40 CFR Part 146, June 20, 1980, August 27, 1981, October 1, 1981) under the Safe Drinking Water Act, section 1421; and the "Superfund" Program under the Comprehensive Environmental Response, Compensation, and Liability Act which provides for remedial measures to clean-up incidences of contamination. In addition, other pertinent programs include: Under the Clean Water Act, section 304, water quality criteria (45 FR 79318, November 28, 1980) for 64 toxic pollutants or pollutant categories which provide guidance for ambient water quality; the EPA Office of Drinking Water program under the SDWA, section 1442, which provides advice on the potential health effects of exposure to non-regulated contaminants; and the efforts under the Agency's Toxic Substances Priority Committee to integrate and coordinate Agency efforts on regulating toxic compounds.

II. Background on VOCs in Drinking Water

Occurrence of Volatile Organic Chemicals in Drinking Water

The application of sophisticated analytical measurement techniques has detected the presence of a broad range of synthetic organic chemicals in many drinking water supplies. Because of their frequency of occurrence, occasional presence in high concentrations, and potential health risks, the class of compounds termed volatile synthetic organic chemicals are of particular concern. Available data show that these compounds occur in both surface waters and ground waters; this finding contradicts previous perceptions of ground water quality.

Historically, ground water has been viewed as a relatively pristine resource, and it is generally used as a drinking water source without major treatment other than disinfection. However, recent data from EPA and State monitoring surveys, as shown in Table 1, indicate that a significant number of drinking water supplies derived from ground waters, as well as surface waters, contain some volatile organic chemicals. While surface waters subject to industrial contamination can contain a broad spectrum of synthetic organic chemicals, typically their concentrations would be in the low microgram per liter levels (e.g., less than 5 μg/l). Although only a small percentage of ground water supplies have been found to be contaminated by one, two or several discrete compounds, their concentrations can be much higher (e..g., 100 to 1000 μg/l). While Table 1 shows a level as high as 35,000 μg/l of trichloroethylene, this is not to imply that most contamination incidents reflect concentrations of that magnitude. More commonly, contamination is found at less than 10 μg/l with smaller percentages in the 10–100 μg/l and in the 100–1000 μg/l range, respectively. The State data in particular reflect noticeably higher levels of contamination than the EPA surveys. This would be expected since State sampling is generally in response to a specific problem such as a spill, or investigations around hazardous waste sites, or citizen complaints of taste and odor problems.

TABLE 1.—OCCURRENCE OF VOLATILE ORGANIC CHEMICALS IN DRINKING WATER

Survey	No. sampled	No. positive	Range of positives
Trichloroethylene:			
State data [1]	2,894	810	Tr–35,000 μg/1.
NOMS [2]	113	28	0.2–49.0 μg/1.
NSP [2]*	142	36	Tr–53 μg/1.
CWSS [2]	452	15	0.5–210 μg/1.
Tetrachloroethylene:			
State data [1]	1,652	231	Tr–3,000 μg/1.
NOMS [2]	113	48	0.2–3.1 μg/1.
NSP [2]*	142	24	Tr–3.2 μg/1.
CWSS [2]	452	22	0.5–30 μg/1.
Carbon Tetrachloride:			
State data [1]	1,659	166	Tr–170 μg/1.
NOMS [2]	113	14	0.2–29 μg/1.
NSP [2]*	142	37	Tr–30 μg/1.
CWSS [2]	452	9	0.5–2.8 μg/1.
1,1,1-Trichloroethane:			
State data [1]	1,611	370	Tr–401,300 μg/1.
NOMS [2]	113	19	0.2–1.3 μg/1.
NSP [2]*	142	32	Tr–21 μg/1.
CWSS [2]	452	19	0.5–650 μg/1.
1,2-Dichloroethane:			
State data [1]	1,212	85	Tr–400 μg/1.
NOMS [2]	113	2	0.1–1.8 μg/1.
NSP [2]*	142	2	Tr–4.8 μg/1.
CWSS [2]	451	4	0.5–1.8 μg/1.
Vinyl Chloride:			
State data [1]	1,033	73	Tr–380 μg/1.
NOMS [2]	113	2	0.1–0.18 μg/1.
NSP [2]*	142	7	Tr–76 μg/1.
CWSS	Did not look for this compound		

*Analysis based on GC single column tentative identification.
Tr=Trace.
[1] All ground water sources—aggregated from various state reports on local contamination problems. Includes drinking water and other wells. As noted in text, the State data is normally in response to contamination incidents and is not considered to be statistically representative of national occurrence.
[2] Surface and ground water sources. NOMS=National Organics Monitoring Survey. NSP=National Screening Program. CWSS=Community Water Supply Supply Survey.

Currently over 100 million people are served drinking water from 45,000 public water systems and over 11 million private wells draw upon ground water resources. Results of EPA's Community Water Supply Survey showed that volatile organic chemicals were detected in approximately 45 percent of public water systems using ground water serving over 10,000 people and in approximately 12 percent serving less

than 10,000 people. Most of these systems had one or more VOCs at very low levels but a few systems had high levels of contamination. Contamination is most common in urban or industrial areas, and is generally believed to be the result of improper disposal of hazardous wastes, industrial activities and/or sub-surface disposal system discharges. The presence of one of these compounds, at even a low level, is a concern since these compounds are man-made chemicals not naturally present in the environment, and their presence indicates the potential for further contamination of that source water. Unlike surface waters, ground waters move very slowly and do not have a rapid natural cleansing mechanism. The chemicals being considered in this ANPRM are listed in Table 2. These compounds generally are chemically stable, not rapidly biodegradable (with exceptions) and not strongly adsorbed by soil particles. Thus, once ground waters are contaminated, they will generally remain so for years or decades.

Table 2.—Synthetic Organic Chemicals Most Commonly Detected in Ground Waters

*Trichloroethylene
*Tetrachloroethylene
*Carbon tetrachloride
*1,1,1-Trichloroethane
*1,2-Dichloroethane
*Vinyl chloride
*Methylene chloride
Benzene
Chlorobenzene
Dichlorobenzene(s)
Trichlorobenzene(s)
1,1-dichloroethylene
cris-1,2-dichloroethylene
tans-1,2-dichloroethylene

EPA has initiated a 1,000 sample national monitoring survey (i.e., the Ground Water Supply Survey) in cooperation with the States and public water systems to further assess the national extent of contamination of drinking water supplies with these man-made volatile organic compounds. The survey includes only systems using ground water sources and will permit projection of the national frequency of ground water contamination by these volatile organic chemicals. In addition, this survey will help to identify circumstances that can be associated with the presence of those chemicals in water. Results of the survey should be available in early 1982.

Additional data on the occurrence of VOCs can be found in the document entitled "Occurrence of VOCs in Drinking Water," December 1981, U.S. EPA.

Finally, EPA would like public comment and information on the following:

- What is the significance of contamination by VOCs? Does the available occurrence data justify national regulations for these contaminants?
- What is the significance of exposure to these contaminants from drinking water relative to other routes of exposure?
- If regulations are determined to be an appropriate approach, for which of the contaminants should regulations be developed?
- What additional data are available on the occurrence of volatile organic chemicals in drinking water, either surface or ground water sources?

Monitoring for VOCs

Analytical techniques for measuring VOCs are available but the techniques are relatively sophisticated involving gas chromatography and/or gas chromatography/mass spectrometry. For most of these chemicals, the method employed is very similar to that used for trihalomethane measurements. The specific techniques are found in "The Determination of Halogenated Chemical Indicators of Industrial Contamination in Water by the Purge and Trap Method: Method 502.1," U.S. EPA, EMSL, and "The Analysis of Aromatic Chemicals in Water by the Purge and Trap Method: Method 503.1," U.S. EPA, EMSL. Laboratory costs have been estimated to range from $100 to $200 per sample.

Total halogenated organic chemicals (TOX) can be measured using a different analytical method which employs a specific instrument for TOX analyses. TOX includes most of the VOCs (those that are halogenated) in a single analytical test and could be employed as an initial screening test: If TOX was measurable above background levels, tests for the individual VOCs could be conducted as follow-up. The TOX analytical method is described in "EPA Method EMSL #450.1," 1980. Estimates of laboratory cost are about $75 to $100 per sample. It is expected that these costs for both types of analyses would be reduced as more laboratories gain experience with them and demand for sample analysis increases.

EPA requests comments and additional information on monitoring and analytical techniques including the following:

- Are the analytical methods suitably accurate for measurements of these contaminants? How can the methods be improved?
- Are other suitable less sophisticated and/or less expensive methods available?
- Are a sufficient number of qualified laboratories available?
- What level of precision and accuracy performance can be expected from these laboratories?
- What are the commercial laboratory costs of analyses for volatile organics? For total halogenated organics (TOX)?

Human Health Considerations

The EPA has assessed the potential adverse health risks due to the exposure of selected organic chemicals via drinking water. Both animal and human data, when available, were evaluated. Since toxicology data are not available for exposures at the usual environmental levels, acute and chronic toxicological effects for high exposure were noted for various organ systems, such as the central nervous system, kidney, liver and heart. Other bioeffects such as mutagenicity, teratogenicity and potential carcinogenicity were evaluated. Each chemical was evaluated systematically whereby several parameters were addressed, namely: pharmacokinetics, mechanisms of toxicity, animal bioeffects, and human health effects including both non-carcinogenicity and carcinogenicity. The basic requirement in these evaluations was the experimental tests were properly conducted and that the resulting data are scientifically valid; information on mechanisms of generating the toxic effect in the animals can be an important factor in extrapolating the results to potential human risks.

In the evaluation of the potential risks of exposure to these substances, the Office of Drinking Water followed the generic principles specified in *Drinking Water and Health* (1977) by the Safe Drinking Water Committee, National Academy of Sciences (NAS), in assessing health risks of carcinogenic and non-carcinogenic chemicals. The principles include:

- Effects in animals are applicable to man, properly qualified.
- Methods do not now exist to establish a threshold for long-term effects of toxic agents.
- Exposure of experimental animals to toxic agents in high doses is a necessary and valid method of discovering possible carcinogenic hazards in man.

*Data currently available for six volatile organic chemicals are included in this ANPRM. Data collection and evaluation efforts are continuing for these compounds as well as for the eight additional contaminants listed. If proposed regulations are developed following this ANPRM, the proposal would include up to the 14 contaminants listed above if found to be appropriate for regulations (i.e., widespread occurrence, toxicological significance, economically feasible technologies).

• Material should be assessed in terms of human risk, rather than as "safe" or "unsafe".

Cancer risk models specified by the NAS and the EPA's Cancer Assessment Group (CAG) were used to calculate concentrations which, if consumed over a lifetime at two liters per day, might result in excess lifetime cancer risks of 10^{-4} (1:10,000), 10^{-5} (1:100,000) and 10^{-6} (1:1,000,000) (Table 3). The range of projected upper limit risks for cancer can be used as a guide to understanding the potential for excess cancer risks that will result from consumption of drinking water that contains VOCs at various concentrations. Care should be taken not to overemphasize their accuracy or precision, however, and in some cases non-carcinogenic health risks may be equally significant. Potential additive or synergistic effects resulting from simultaneous exposures to more than one chemical are not addressed but it would be prudent to assume that these may exist since often the same organ systems are involved when some of these chemicals are metabolized.

TABLE 3.—PROJECTED UPPER LIMIT LIFETIME CANCER RISKS FOR INDICATED DRINKING WATER CONCENTRATIONS BY TWO CONCENTRATIONS BY TWO CANCER RISK CALCULATIONS

Compound	Projected upper limit excess lifetime cancer risk	Concentrations in drinking water (μg/1)	
		CAG	NAS
Trichloroethylene	10^{-4}	280	450
	10^{-5}	28	45
	10^{-6}	2.8	4.5
Tetrachloroethylene	10^{-4}	90	350
	10^{-5}	9	35
	10^{-6}	0.9	3.5
Carbon Tetrachloride	10^{-4}	40	450
	10^{-5}	4	45
	10^{-6}	0.4	4.5
1,2-Dichloroethane	10^{-4}	95	70
	10^{-5}	9.5	7.0
	10^{-6}	0.95	0.7
Vinyl Chloride	10^{-4}	200	100
	10^{-5}	20	10
	10^{-6}	2	1

Assumes: Lifetime exposure (70 years) by 70 kg adult. Consumption of 2 liters of water per day. Non-threshold toxicity mechanism is operative at low doses in humans. Assimilation in humans at low doses is the same as animals at experimental doses. Inter-species (animal/human) dose scaling is proportional to body surface area.

NOTE.—CAG—EPA Carcinogen Assessment Group. NAS—National Academy of Sciences Safe Drinking Water Committee.

There are differences between the risk estimates derived by NAS and CAG for the five volatile organic chemicals suspected of being carcinogenic. Two factors contribute to these differences. The first factor is that somewhat different assumptions are made for use of experimental data in the mathematical models. Also the toxicological data selected for the derivation was different. For example, the differences in the NAS and CAG estimate for carbon tetrachloride are because of the following: The NAS chose to use the NCI gavage data in male rats even though the tumor response was less than statistically significant, because of the perceived mathematical difficulty in using the NCI male mice study, which showed 100 percent incidence of liver tumors. The CAG decided to base the risk estimate on the positive response in mice and made a mathematical approximation to 100 percent incidence in order to estimate the risk. Differences in the risk estimates for the other chemicals are a result of similar interpretations by NAS and CAG and use of the available data.

The actual risks for exposure to a fixed concentration are probably somewhere between zero (if indeed the nonthreshold model is not valid) up to the computed value since a linear, no threshold model was used in the estimates. This model is generally regarded as giving an upper bound of risk.

As noted above, quantitative risk extrapolation procedures can provide only a rough estimate of carcinogenic hazard because of the many unknown factors which enter into these estimates. Models using different assumptions may produce estimates ranging over several orders of magnitude. Since there is presently no way to demonstrate the accuracy of any model at low doses, this process is a subject of debate in the scientific community. However, in spite of these difficulties, quantitative risk estimation does provide the decisionmaker one means of setting priorities among pollutants and some gauge of the potential seriousness of environmental hazards.

An assessment of the risk of a suspected carcinogen consists of two parts: A judgment of the weight of evidence that the compound is a carcinogen, and, if it is concluded to be carcinogenic, an estimate of the size of the risk considering exposure to the population. The types of evidence of carcinogenicity might include human epidemiological studies, tests in laboratory animals, and short-term tests in bacteria or cell cultures which are thought to be suggestive of carcinogenicity. There may be evidence on the mechanisms involved which suggests the degree of confidence with which the data can be extrapolated from animals to humans and from high to low doses. Any of these studies may, of course, have individual strengths and weaknesses which increase or decrease confidence in relying on it for decisionmaking. These strengths and weaknesses can only be evaluated by scientists who are expert in the disciplines involved.

Risk extrapolation is generally recognized as the only tool available at this time for estimating the magnitude of potential health risks associated with non-threshold toxicants and has been endorsed by numerous federal agencies and scientific organizations, including EPA's Carcinogen Assessment Group, and the National Academy of Sciences Safe Drinking Water Committee.

The observed toxicological effects of these VOCs, in virtually all cases, occurred in tests at exposure levels 100 to 1,000 or more times higher than would be expected in drinking water, except in the very worst contamination cases. Risks in human populations at usual environmental exposure levels are generally unmeasurable by epidemiology studies. Animal testing with high dosages is considered to be a valid means of projecting potential health risks. Since, at environmental concentrations, the projected cancer risks are relatively small (e.g., less than one in 10,000) compared to the spontaneous rate of occurrence of tumors in experimental animals (on the order of several percentage points), a very large sample size (i.e., on the order of millions of animals) would be needed to reliably distinguish between treated and control groups if environmental levels were tested. Of course, it is not practical to actually carry out such an experiment. Therefore, in order to produce quantitative estimates, the assumption is made that health effects at low dose levels can be extrapolated from results observed in animals at high dose levels.

Summaries of the toxicology of each of the six volatile organic contaminants are given below. These are discussed in detail in the draft criteria documents that are available from EPA on request. These documents will be updated and their conclusions reexamined as additional studies are reported on the toxicology of these substances.

Trichloroethylene (TCE) is readily absorbed into the blood stream when ingested. Its metabolites appear to have some moderate bioaccumulative properties. An epoxide intermediate, 2,2,3-trichlorooxirane, is thought to be responsible for its mutagenic and carcinogenic potential. Acute and chronic exposure at very high doses has resulted in liver toxicity and possible kidney damage. The National Cancer Institute (NCI) concluded that TCE is a liver carcinogen in mice but not in rats.

Tetrachloroethylene (PCE) metabolites also bioaccumulate to some degree during continued exposure. High

acute exposures result in depression of the central nervous system (CNS) and transient dysfunction of the liver and kidney. Unstabilized PCE apparently is not mutagenic in bacterial systems. The NCI concluded that PCE is a liver carcinogen in mice but not rats.

Carbon tetrachloride concentrates in the body fat, liver and bone marrow. Principal toxic effects include CNS depression and cellular necrosis of the liver and kidneys. Carbon tetrachloride is probably not teratogenic but may be mutagenic. It has produced hepatomas in mice. NCI concluded that it is a liver carcinogen in mice and rats; it has also shown to cause statistically significant increases in cancer in hamsters.

1,1,1-Trichloroethane (methyl chloroform) Exposure at very high concentrations could lead to an increased risk of cardiotoxicity. Since insufficient data are available to determine its carcinogenic potential, it would be premature to specify a cancer risk estimate. The Office of Drinking Water has calculated a long-term SNARL (Suggested No Adverse Response Level) of 1 mg/1 to protect the 10 kg child. Using the same data, the NAS has calculated a chronic SNARL value of 3.8 mg/1 to protect the 70 kg adult.

Animal exposure to 1,2-dichloroethane at high doses by inhalation causes immediate central nervous system effects leading to unconsciousness, coma, circulatory collapse and death. A lower single dose or chronic exposure can result in abnormalities of the liver, kidneys, lungs, heart, adrenals and gastrointestinal tract. The NCI found a positive correlation between oral exposure and cancer incidence in animal tests and concluded that 1,2-dichloroethane is a carcinogen in rats.

Vinyl chloride is readily absorbed via the gastrointestinal tract, accumulates in the liver and is known to be a human and animal carcinogen. Animal studies showed that vinyl chloride produces tumors of different types at various sites, while human epidemiologic studies have linked vinyl chloride with angiosarcoma to the liver and other forms of neoplasm.

EPA requests comments and additional information on all aspects of the potential health effects of the VOCs including:

- Are the conclusions reached in the Draft Health Criteria Documents scientifically and technically valid?
- Do the available health effects data justify controls on human exposure to these chemicals in drinking water?
- How should the health basis of any MCLs take into account the carcinogenic risk as determined by various models and the non-carcinogenic effects? How should pharmacokinetics, health effects in animals, health effects in humans and mechanism of toxicity be evaluated against each other?
- Should different models or approaches be used to estimate risk for carcinogens which are not genotoxic? What should be the criteria for determining whether an agent is genotoxic?
- For chemicals such as 1,1,1-trichloroethane which have not been shown to be carcinogenic in laboratory animals, what type of non-carcinogenic risk data should be used as the health basis of any MCLs? For example: should the health basis of VOCs be evaluated for the 70 kg adult or the 10 kg child? How should the contribution of drinking water to total exposure be treated?
- How should differences in the strength of evidence leading to consideration of carcinogenic risk be factored into the regulatory decision? (E.g., positive findings in two or more test species override positive finding in testing of a single species?)
- Which of the available risk models is most appropriate to use as a means of attempting to quantify the significance of human exposures to these substances? What are the different technical factors used in each of the models and their significance?
- What additional data are available on the carcinogenic and non-carcinogenic risks of each of the contaminants?
- Since some of these chemicals exert their toxicity on the same organ system, would the risk from exposure from two or more of the chemicals be considered additive in proportion to the chemicals' relative and absolute levels of occurrence? Should an added margin of safety be included in the health basis of each MCL to account for potential synergistic effects? How? What is the scientific basis for such an approach?

Treatment Alternatives and Costs for Control of Volatile Organic Chemicals

Once a contaminated water supply has been identified, a range of options is open to the effected system as described in "Treatment for the Control of Trichloroethylene and Other Related Industrial Solvents in Drinking Water," U.S. EPA, Office of Research and Development, February 1981. Since in many cases it may be impossible to develop a new, uncontaminated source of supply, EPA has investigated the performance and costs of certain treatment methods to apply where source control is infeasible. Methods for removal of these volatile organic chemicals include aeration and granular activated carbon (GAC). The available data do not show powdered activated carbon treatment or conventional drinking water treatment (i.e., coagulation, sedimentation, and filtration) to be sufficiently effective. Methods such as reverse osmosis and macroreticular resins may eventually prove to have value for removing VOCs. However, at this time, substantial operational experience and/or experimental data are available only for aeration and GAC.

Preliminary designs and cost estimates have been developed for a hypothetical ground water contamination situation involving trichloroethylene (TCE). Tables 4 and 5 provide relevant estimated cost information for treatment of TCE at the 90% and 99% removal levels, respectively. However, these figures should be interpreted cautiously, as the designs were developed based *primarily* on *theoretical* design procedures using available data from chemical engineering handbooks and mass transfer literature with some actual performance data. They are thus only a first approximation of the actual designs required and expected costs. The design criteria certainly requires verification by pilot scale testing on site. For example, mass transfer coefficients appear to be a site-specific parameter depending upon the overall characteristics of the aeration facilities. In addition, several field reports indicate that smaller than theoretical designs may be practical for aeration systems (Water Factory 21; Montgomery County, PA; Oscoda, Mich.). Supporting information for the costs in Tables 4 and 5 can be found in, "Preliminary Treatment Designs and Costs for Control of Volatile Organic Compounds."

Accordingly, the estimated costs for aeration presented may be overly conservative (i.e., too high). For example, compare the costs involved in treating TCE by "standard" packed tower aeration versus aeration employing simple fiber-glass towers filled with plastic packing. This alternative was evaluated because it might represent a more realistic "real-world" design approach; identical removal levels of TCE can be achieved at approximately half the cost.

Amortization rates are estimated to take different values for small versus large systems, public versus private ownership, and short versus long equipment lifetimes. As a point of reference, however, the overall amortization rate, averaging over size and ownership, is 12 percent.

TABLE 4.—SUMMARY OF PRELIMINARY COSTS FOR CONTROLLING TCE IN DRINKING WATER

[1981 dollars]

90% Removal: Before Treatment 500 μg/l; After Treatment 50 μg/l

	Population served		
	100–499	1,000–2,499	10,000–24,999
Aeration—Packed Tower:			
Capital expenditures [1 2]	27–40.5	103.5–134	367.5–524
Revenue requirements/year [1 2]	5–7	17–21.5	75.5–96
Cost per 1,000 gallons [2]	*0.53–0.74	0.21–0.27	0.08–0.10
Increase in monthly residential costs [3]	4.65–6.49	2.04–2.58	0.72–0.92
Aeration—Diffused Air:			
Capital expenditures [1]	55.0	197.5	962.0
Revenue requirements/year [1]	10.5	42.0	252.0
Cost per 1,000 gallons [2]	1.11	0.53	0.26
Increase in monthly residential costs [3]	9.76	5.04	2.41
Adsorption—GAC:			
Capital expenditures [1]	82.0	344.0	741.0
Revenue requirements/year [1]	14.5	63.5	212.5
Cost per 1,000 gallons	1.53	0.79	0.22
Increase in monthly residential costs [3]	13.48	7.62	2.03

NOTES:
[1] Costs are presented in thousands of dollars.
[2] The low end of the range represents costs for fiberglass reinforced plastic towers with plastic media, and no housing requirements, while the high end of the range represents costs for carbon steel towers with ceramic media, with housing of the towers included.
[3] Residential costs for average family of three were projected by Temple, Barker, and Sloane, Inc. These calculations assume that costs are directed among residents, commerical and industrial users based on a survey of historically billing allocations.

TABLE 5.—SUMMARY OF PRELIMINARY COSTS FOR CONTROLLING TCE IN DRINKING WATER

[1981 dollars]

99% Removal: Before Treatment 500 μg/1; After Treatment 5 μg/1

	Population served		
	100–499	1,000–2,499	10,000–24,999
Aeration-Packed Tower:			
Capital expenditures [1 2]	28.0–42.5	155–153	416–649
Revenue requirements/year [1 2]	.5.5–8	19.5–26	88.5–117.5
Cost per 1,000 gallons [2]	0.58–0.84	0.25–0.33	0.09–0.12
Increase in monthly residential costs [3]	5.11–7.43	2.34–12	0.85–1.13
Aeration-Diffused Air:			
Capital expenditures [1]	67	276.5	1,362
Revenue requirements/year [1]	14.5	68.5	399
Cost per 1,000 gallons	1.53	0.86	0.41
Increase in monthly residential cost [3]	13.48	8.23	3.81

TABLE 5.—SUMMARY OF PRELIMINARY COSTS FOR CONTROLLING TCE IN DRINKING WATER—Continued

[1981 dollars]

99% Removal: Before Treatment 500 μg/1; After Treatment 5 μg/1

	Population served		
	100–499	1,000–2,499	10,000–24,999
Adsorption-GAC:			
Capital expenditures [1]	82	344	741
Revenue requirements/year	15	65.5	242.5
Cost per 1,000 gallons	1.58	0.82	0.25
Increase in monthly residential cost [3]	13.95	7.87	2.32

NOTES:
[1] Cost are presented in thousands of dollars.
[2] The low end of the range represents costs for fiberglass reinforced plastic towers with plastic media, and no housing requirements, while the high end of the range represents costs for carbon steel towers with ceramic media, with housing of the towers included.
[3] Residential costs for an average family of three were projected by Temple, Barker, and Sloane, Inc. These calculations assume that costs are divided among residents, commercial and industrial users based on a survey of historical billing allocations.

Increases in monthly residential costs are estimated using an economic model which takes into account system size, ownership and mix of customers. The model is based on a 1976 survey of operating and financial characteristics, and results in estimates only. The actual increase in monthly water bills will vary from the estimate depending on local conditions.

As was true concerning the cost estimates for use of aeration, the cost estimates for GAC must be cautiously applied. The designs in question obviously are heavily dependent upon the design assumptions used. Varying one or more of the design parameters would be expected to change the aplicable cost estimate. For example, these designs were based upon empty bed contact time (EBCT) of 10 minutes; researchers have reported typical EBCTs of between 5 and 30 minutes. As previously discussed, operating data that were available to EPA are not extensive, particularly in the area of carbon life. For example, EPA data from New England suggest that the capacity of GAC for both cis-1,2-dichloroethylene and 1,1,1-trichloroethane is relatively low.

On the other hand, in the past few years, several communities have responded to discovery of contaminated wells by installing GAC units to treat their drinking water. Design, operating and cost information concerning these facilities would be a major aid to EPA in its computation of potential economic impacts due to installation of GAC treatment. EPA encourages those communities to include such information in their official comments on this ANPRM.

Finally, macroreticular resins have potential for use as a treatment method for VOCs; however, questions still exist concerning their use; data describing actual exhaustive capacity of the resins are not available. Neither are data available to define the regeneration frequencies to be expected with the resins. Thus, costs have not yet been estimated for application of resin technology.

It appears that the most cost-efficient method of treating a VOC-contaminated water may often be achieved through some combination of aeration and GAC. Data to support this contention are limited but encouraging.

One consideration in application of these technologies is generation of any secondary impacts, such as air pollution caused by application of aeration technologies. Limited available data do not seem to indicate that a significant air pollution problem would be generated. For example, a one million gallons per day facility treating raw water with a concentration of 125 μg/1 of TCE by packed column aeration with an air to water ratio of 10:1 at 90 percent removal efficiency would yield an air effluent concentration in the stack of 11.25 μg/1 of 11.25 mg/m^3 or approximately one pound per day (the NIOSH recommended standard for work place exposure in 100 ppm of TCE). Additional information and data are being collected to further assess the potential secondary impacts.

In summary, aeration and GAC appear to be effective methods of removing VOCs from water—especially ground water. On-going and future EPA studies will attempt to provide more definitive information on the actual performance and costs of these processes for various contaminants. Additional information on costs of aeration and GAC can be found in "Preliminary Designs and Costs for Control of Volatile Organic Chemicals," Malcolm Pirnie, Inc. April 10, 1981.

Comments and additional data are requested on available treatment technologies and specific responses to the following would be helpful:

- What are the most cost-effective treatment alternatives (or combination of treatment alternatives) for removing these chemicals from drinking water to appropriate levels? GAC? Aeration? Resins? Others? are the design parameters used as the basis of the cost estimates reasonable? What other factors should be considered or how might the designs be improved? What are the capital and operating costs of such systems?
- Will small systems be able to install and effectively operate the available treatment

technologies? What factors, if any, will inordinately affect smaller systems (e.g., the need for trained personnel, cost and availability of personnel provided by contract organizations)?

• Will any of the treatment technologies discussed generate any adverse secondary effects, such as unacceptable air pollution or leaching of contaminants from the GAC? Are any pollutant concentrations diluted significantly enough by air dispersion to eliminate the need for air pollution control measures?

• What additional data are available relative to the performance or cost of treatment systems: aeration systems (either diffused or packed columns)? GAC? Synthetic resins?

• Will the performance of aeration, GAC, or resin technologies be affected by treating water having multiple contaminants or what other background parameters would influence the performance of a given treatment system? For example, how will high concentrations of natural products affect the performance of activated carbon or to what degree will colder temperatures affect the efficiency of aerators? Which design criteria should be revised and/or adopted? Which compounds will be more or less effectively reduced?

III. Alternatives Under Consideration

Several options are currently under consideration to deal with the contamination of drinking water by VOCs. These options are briefly discussed below; comments and suggestions regarding these approaches or any others that should be considered would be appreciated.

Non-Federal Regulatory Approach: Provision of Health and Treatment Guidance by EPA

This alternative would be a non-Federal regulatory action and would involve providing advisory opinions to States to assist them in responding to and alleviating emergency situations which the Administrator determines present substantial danger to public health. This guidance could include information on the potential health effects of exposure to VOCs and on available treatment technologies and associated costs that could be used to reduce VOCs in contaminated drinking water supplies. These advisories would only be guidance and could be used as appropriate by States. States could use this information to assist the public water systems as needed or States could set their own regulations based upon the provided information. This alternative essentially incorporates the EPA Office of Drinking Water's on-going program which provides advice to States on potential health effects of exposure to non-regulated chemicals and advice on available treatment. EPA requests comments on this approach.

National Monitoring Regulations With State Response Based Upon Guidance on Health Effects and Treatment

This alternative would require public water systems to monitor for VOCs, and if found at levels that the State determined to pose danger to the public health, the State would take appropriate action using among other sources health and treatment guidance provided by EPA as in the above alternative. Flexible monitoring requirements could be established with specific requirements for frequency of sampling and number of samples depending upon such factors as size of system or proximity to potential sources of contamination (e.g., industries or hazardous waste sites). One possible approach is shown in Table 6.

Table 6.—A Potential Monitoring Requirement

• Require all public water systems to initially analyze one round of samples for these contaminants within 1 to 3 years (due to limited analytical facilities).

• For systems not finding contamination (above analytical detection limits), require contained monitoring at a frequency of one sample per plant or source per three (or five or longer) years or at a frequency determined by the State reflecting local conditions.

• For systems finding contamination but significantly less than levels of health concern, continue monitoring at one sample per plant or source per year.

• For systems finding contamination near or above the levels of health concern, continue monitoring at one sample per plant or source per quarter or more frequently if determined by the State to be needed to assure protection of public health.

Sampling requirements could be per plant per source. Identification of the source may be difficult in ground waters since some systems use many wells apparently drawing from the same aquifer, with certain wells contaminated but other nearby wells uncontaminated. Specific requirements for the precision of sample analyses would be included in the regulations such that only laboratories that could achieve the specified limits could conduct the analyses. Reporting of monitoring data would be to States and possibly consumers.

One alternate approach for monitoring would involve the screening for contamination by organohalogen compounds through monitoring requirements for total organic halogens (TOX). This would provide a single analytical technique to detect the presence of many synthetic organic halogenated compounds in drinking water sources. Monitoring for this parameter could be appied as a screening mechanism to establish the presence or absence and the level of synthetic organohalogenated chemicals as a group. Implementing monitoring requirements for the VOCs would follow only in those cases where potentially significant levels of TOX were detected.

Comments and suggestions are requested on this alternative, especially upon the following current thoughts on monitoring or any other approaches to monitoring:

• What monitoring requirements should be imposed for determining exposure to VOCs? Should all public water systems conduct one round of monitoring to assess the presence or absence of these contaminants? How should distinctions be made between systems served by surface as opposed to ground water? How much time should be allowed to public water systems to complete the first set of monitoring?

• Is a reliable, inexpensive analytical technique available to measure total organic halogen (TOX)? Should monitoring requirements be established using TOX as an initial screening mechanism before more detailed monitoring for each of the VOCs is conducted?

• What should be the specific monitoring requirements:

—Number of samples?

—What frequency?

—What locations for sampling?

—Sample each well or distribution system?

• How should reduced monitoring requirements be determined? What factors should be used by States to determine the basis and frequency for monitoring?

—Size of system?

—Proximity to hazardous wastes sites or industries?

National Standards: Monitoring and Maximum Contaminant Levels

This alternative would set Revised Primary Regulation under the SDWA for monitoring and establish RMCLs (health goals) and MCLs (standards) for the VOCs.

As shown in Table 7, alternatives being considered for RMCLs (health goals) include, setting the recommended level at zero for carcinogens of concern to humans or at some finite relative risk level. RMCLs for non-carcinogens could be set at a specific level based upon chronic toxicity data and employing appropriate uncertainty (safety) factors. EPA requests comments on the following:

• What are the levels for these contaminants at which "no known or anticipated adverse effects" will result?

• Should the RMCL for carcinogens of concern to humans be zero or some finite relative risk level? On what basis would that risk level be determined?

Table 8 presents the options being evaluated by EPA concerning the appropriate level for each MCL. These

approximate levels fall roughly within an upper limit lifetime exposure risk range of 1 in 10,000 (i.e., one excess cancer death per 10,000 population) to 1 in 1,000,000 as estimated by conservative relative risk computation models using data from animal tests. They also fall in the area of probable technical and economic feasibility for removal of these chemicals from water. However, these questions are receiving further evaluation.

Table 7.—Potential Recommended MCLs (RMCLs)

• RMCLs are health goals and not enforceable standards.

• RMCLs would be set at levels sufficient to prevent the occurrence of any known or anticipated adverse health effects with an adequate margin of safety. (Section 1412(b)(1)(B))

• Alternatives under consideration:

—Set the RMCLs for carcinogens at zero.

—Set the RMCLs for carcinogens at some low finite nominal upper limit risk level. The selected level would represent a virtually non-existent risk.

—For non-carcinogens, base the RMCLs upon chronic toxicity data with safety factors.

* * * The Administrator must consider the possible impact of synergistic effects, long-term and multimedia exposures, and the existence of more susceptible groups in the population. Finally, the recommended maximum level must be set to prevent the occurrence of any known or anticipated adverse effects. It must include an adequate margin of safety, unless there is no safe threshold for a contaminant. In such a case, the recommended maximum contaminant level should be set at the zero level. (House Report No. 93–1185 at 20.)

TABLE 8.—Potential MCLs* (μg/l)

Trichloroethylene	5 to 500.
Tetrachoroethylene	5 to 500.
Carbon tetrachloride	5 to 500.
1,1,1-Trichloroethane	1,000.
1,2-Dichloroethane	1 to 100.
Vinyl chloride	1 to 100.

*NOTE:
In addition, the feasibility of establishing an MCL for total volatile organic chemicals (TVOC) is being examined to address the concern over the potential risks from multiple contaminants. This would include those VOCs for which MCLs had been set (not including the MCL for total trihalomethanes in the National Interim Primary Drinking Water Regulations) but excluding 1,1,1-trichloroethane.

Another approach would be to set an MCL for total volatile halogenated chemicals (TOX) which would reflect the halogenated VOCs as measured by a single analytical test. While TOX is specific only for halogenated compounds as a group, the above six and seven of the additional eight in Table 2 as well as other organohalogen compounds would be included in the TOX test.

Potential MCLs also include those compounds listed in Table 2; data were not yet available to include in this table.

Determining an appropriate MCL for each chemical involves consideration of complex and competing factors. One aspect of the Agency's decisionmaking process in accordance with Executive Order 12291 is to analyze the benefits to be gained from the reduction of risk accompanying removal of contaminants from drinking water. These benefits are to be balanced against the feasibility and/or cost of removing such chemicals to the levels necessary to meet the standard.

A brief description of the methodology for comparing costs and benefits may be helpful. It should be kept in mind that all of these calculations are estimates subject to many uncertainties.

The analysis begins with estimates of national exposure to a given contaminant, both before regulation and after the imposition of a number of alternative levels. Since some compliance methods may lead to levels below the standard, estimates are developed of the number of systems, by size category, that would be likely to choose various treatment or non-treatment methods of compliance. These form the basis of both the total cost estimates and the total reduction in exposure, as a function of the level of the standard and other relevant variables.

Estimates of the benefits resulting from such a reduction in exposure are even less precise. For carcinogens, the reduction in aggregate exposure can be converted to projected numbers of cancer cases avoided, using the risk extrapolation models discussed earlier in this notice, with all their limitations. For non-carcinogens, estimates of benefits are much harder to develop: traditionally, standards for such chemicals are derived by applying a safety factor to a "no observed effect level," and no basis is available for quantifying the impact of a different safety factor.

Nevertheless, despite their uncertainties, these types of analyses are useful in explicitly displaying the impact of alternative regulatory and non-regulatory schemes.

Comments on this approach are requested and specific questions for which responses would be helpful are listed below.

• How should risk computations be used in establishing acceptable exposure levels in drinking water?

• Should relative source contribution, (i.e., from air, water, food) be a major factor in determination of the acceptable risk from water or should the incremental risk from water and/or quality demands stand alone?

• Should risk models be used to define a target or range of risks with the actual MCL determined by economic and feasibility factors? How should the factors of human exposure, potential human health risk, treatment technology feasibility/performance and costs of treatment be balanced in determining the level of MCL?

• Is setting an MCL for total VOCs or TOX an appropriate method for reducing risks from exposure to multiple carcinogens? If not, what better approach should be taken and on what basis? How should the MCL for total VOCs or TOX be determined: on a weight basis or a milliequivalent basis?

• Is the proposed methodology for looking at cost and risk reduction in arriving at a proposed standard level appropriate? Should other approaches be considered?

IV. References

The following supporting documentation for this ANPRM is available on request from the address listed at the beginning of this notice:

Bellar, T. A., Lichtenberg, J. J. "The Determination of Halogenated Chemical Indicators of Industrial Contamination in Water by the Purge and Trap Method: Method 502.1," U.S. EPA, EMSL, EPA #600/4–81–059

Bellar, T. A., Lichtenberg, J. J. "The Analysis of Aromatic Chemicals in Water by the Purge and Trap Method: Method 503.1," U.S. EPA, EMSL, EPA 600/4–81–057

Love, O. Thomas, Jr. and Richard G. Eilers, "Treatment for the Control of Trichloroethylene and Related Industrial Solvents in Drinking Water," U.S. EPA, Office of Research and Development, February 1981

Malcolm Pirnie, Inc., "Preliminary Treatment Designs and Cost for Control of Volatile Organic Compounds," April 10, 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Trichloroethylene, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Tetrachloroethylene, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Carbon Tetrachloride, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for 1,1,1-Trichloroethane, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for 1,2-Dichloroethane, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Vinyl Chloride, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Occurrence of Volatile Organic Chemicals in Drinking Water, December 1981

EPA, EMSL, "Total Organic Halide, Method 450.1-Interim," EPA 600/4–81–056

Other published materials which are generally available and may be of some interest include the following:

National Academy of Sciences, "Drinking Water and Health," Volume I (1977), II (1980), III (1980), IV (1981)

Council on Environmental Quality, "Contamination of Ground Water by Toxic Organic Chemicals," January 1981
EPA, Office of Drinking Water, "Proposed Ground Water Protection Strategy," November 1980
Kim, Nancy and Daniel W. Stone, "Organic Chemicals in Drinking Water," New York State Department of Health, Bureau of Public Water Supply, 1980
Johnson, D., H. Kalthenthaler, P. Breault; and M. Keefe, "Chemical Contamination," The Commonwealth of Massachusetts, Special Legislative Commission on Water Supply, September 1979
Miller, David W., "Waste Disposal Effects on Ground Water," Premier Press, Berkeley, California, 1980
Fleisher, M. B. and MacKay, S. L., "Assessment of the Impact of Organic Solvent Cesspool Cleaners and Drain Openers on Nassau County Drinking Water Supplies," Nassau County Department of Health, Mineola, NY, December 1977
Dunlap, W., "Preliminary Laboratory Study of Transport and Fate of Selected Organics in a Soil Profile". U.S. Environmental Protection Agency, Groundwater Research Center, Ada, OK (1980)
Weber, W. W., "Effectiveness of Activated Carbon for Removal of Toxic and/or Carcinogenic Compounds from Drinking Water". Final Report EPA R8044367-30-01, Office of Research and Development, MERL, Drinking Water Research Division, Cincinnati, OH, March 1980
Singley, J. E., A. L. Ervin, M. A. Mangone, J. M. Allen, and H. H. Land, "Trace Organics Removal by Air Stripping," prepared for: American Water Works Association Research Foundation, Denver, CO, May 1980
Gumerman, R. C., R. L. Culp, S. P. Hansan, "Estimating Water Treatment Costs," EPA-600/2-79-162, Research Reporting Series, USEPA, Cincinnati, OH, August 1979
Marsh, Langdon, "Report on Hearings on Organic Chemicals in Drinking Water," New York State Department of Health, January 1981
Dressman, Ronald, "The Analyses of Organohalides (OX) in Water as a Group Parameter," Proceedings 7th Annual AWWA Water Quality Technology Conference, 28-5, page 69, December 1979

V. Request for Comments

EPA requests public analyses, comments and information on all aspects of this most important issue involving the appropriate balance of public health protection against practical implementation of the drinking water program under the requirements of the SDWA. The general questions for which comment is being specifically solicited are listed below. Comment on any or all of them will be of great assistance to EPA in formulating a protective and practical approach to reducing human exposure to VOCs in drinking water where it occurs.

- What is the significance of contamination of drinking water by VOCs?
- What approach should EPA take to deal with VOCs in drinking water?
- What monitoring requirements should be established?
- Are analytical techniques available which can reliably and practically be used in monitoring for VOCs?
- What level should be set for RMCLs such that "no known or anticipated adverse effect" will result?
- What criteria should be used in determining the health basis for any MCLs in taking into account pharmacokinetics, health effects in animals, health effects in humans, and mechanisms for toxicity?
- How should the factors of human exposure, potential human health risk, treatment technology feasibility/performance and costs of treatment be balanced in determining the level of any MCLs?
- What treatment techniques are available to reliably remove VOCs at reasonable cost to appropriate levels? What is a reasonable acceptable cost? Particularly in relation to small communities which are most likely to be affected by such a structure?
- What strategy should be adopted for national implementation of any monitoring and MCL requirements?

Formal public hearings will not be held at this time but a public meeting will be held in Washington, D.C., on April 28, 1982, for the interested public to comment and provide information and data on the regulatory approach and available documentation. Technical workshops for technical staffs of State agencies, public water systems, and public interest groups will also be held to provide an opportunity for EPA to present the regulatory approaches being considered as well as present the technical aspects dealing with occurrence, analytical methods, health effects, and treatment technologies. These workshops will be held at several locations throughout the country at times to be determined.

EPA recognizes that many significant questions surround the presence of volatile organic chemicals in drinking water. The Agency has attempted in this ANPRM to portray its current level of knowledge on the subject in a measured and objective manner. In this way, any data gaps or errors in logic which may exist can be identified and corrected. For that reason, careful review of and thoughtful comment on the information in this ANPRM is encouraged.

Dated: February 18, 1982.

Anne Gorsuch,

Administrator.

[FR Doc. 82-5703 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-29-M

federal register

Thursday
March 4, 1982

Part V

Department of Transportation

Federal Aviation Administration

SFAR 41; Airworthiness Standards: Reciprocating and Turbopropeller Powered Small Multiengine Airplanes

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 23, 36, 91, 121, 135, and 139

[Docket No. 21716, Notice No. 82-3]

Airworthiness Standards: Reciprocating and Turbopropeller-Powered Small Multiengine Airplanes SFAR 41 Interim Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to reinstate Special Federal Aviation Regulation (SFAR) 41 which expired October 17, 1981, and amend that SFAR to: (1) eliminate the 12,500-pound maximum zero fuel weight (MZFW) restriction; (2) limit the number of passengers to 19 for those small propeller-driven multiengine airplanes that operate at a certificated takeoff gross weight in excess of 12,500 pounds; and (3) relax the landing distance determination requirment, making it consistent with Parts 23 and 25. These proposals are the result of a number of petitions for exemption and rulemaking intended to provide economic benefits to the commuter airlines by increasing passenger payloads and improving operating efficiency without reducing the level of safety. In addition, the FAA is inviting comments on the advisability of codifying the substance of SFAR-41B and proposed SFAR-41C into Part 23 and extending its applicability to new multiengine airplanes having a maximum passenger seating configuration of 19 seats or less and having a maximum takeoff gross weight greater than 12,500 lbs.

DATE: Comments must be received on or before April 20, 1982.

ADDRESS: Comments on the proposal may be mailed in duplicte to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21716, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, and marked "Docket No. 21716." Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joseph Snitkoff, Airframe Branch (AWS-120), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Indpendence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8382.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory document or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking final action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishng the FAA to acknowledge receipt of thier comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21716." The postcard will be dated an time stamped and returned to the commenter.

Availability of NPRM

Any peson may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice nubmer of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In 1966, the FAA established an air taxi airworthiness program with the objective of providing a transition for air taxi airplanes from small airplane requirements of Part 23 to the transport category airplane requirements of Part 25 of the Federal Aviation Regulaitons. This program resulted in the issuance of SFAR 23 (34 FR 189; January 7, 1969).

A long-standing 12,500-pound limitation which distinguishes between large and small airplanes, both under U.S. and International Civil Aviation Organizaiton (ICAO) standards, requires all new type certificated airplanes with a maximum takeoff gross weight of more than 12,500 pounds to meet transport category airworthiness standards of Part 25, regardless of the type of operation or number of passenger seats. At the time this limitation was established in the regulations, there were few small airplanes with maximum gross weights near 12,500 pounds.

In 1977, the FAA/Industry Commuter Aircraft Weight Review Committee submitted a petition to amend the regulations to permit certain small airplanes to be type certificated at maximum gross weights greater than the 12,500-pound limitation without complying with Part 25. Responding to this and other needs for improved standards resulting from the Airline Deregulation Act, the FAA initiated a three-phase program for certification and operation of commuter airplanes. The first phase was the issuance of a revised Part 135, Air Taxi Operators and Commerical Operators (43 FR 46742; October 10, 1978), which aligned the rules for those operations more closely with Part 121. The second phase was initiated by issuance of Notice 78-14, (SFAR 41) (43 FR 46734; October 10, 1978), which proposed to provide for increased takeoff gross weight and passenger seating capacity of certain existing small, propeller-driven multiengine airplanes. The third phase was the establishment of the Light Transport Airplane Airworthiness Review to develop a separate set of airworthiness standards, proposed Part 24, for multiengine airplanes with a maximum gross weight up to 35,000 pounds and a seating capacity up to 30 passengers. The Part 24 project was terminated because the economic analysis did not support its adoption.

Many close working discussions with industry were held concerning the formulation of SFAR 41. At the time Notice 78-14 was issued, the maximum zero fuel weight of 12,500 pounds was proposed to increase the utilization of then current Part 23 airplanes that had been certificated with a maximum takeoff weight of 12,500 pounds. No objections to this restriction were received during the comment period of Notice 78-14.

The new SFAR 41 was proposed as an interim standard to permit limited growth and utilization of existing small propeller-driven multiengine airplanes

that had demonstrated, through service experience, a satisfactory level of safety. These airplanes would be made available to the commuter airline industry consistent with the Airline Deregulation Act of 1978 without compromising the high safety standards in air transportation.

SFAR 41 was designed to fill the gap between Part 23 and Part 25 certification standards until commuter airplanes could be developed and certificated under the proposed Part 24 rule which was later withdrawn. The interim nature of the SFAR was reflected in the time limits imposed. It required that an application for an aircraft supplemental or amended type certificate under SFAR 41 be filed within 2 years after the effective date of the SFAR, and limited production of airplanes certificated with maximum takeoff gross weights in excess of 12,500 pounds to 10 years. The 10-year period was specified to permit development of new standards for that type of airplane and to allow sufficient time for airplane manufacturers to amortize the cost of modifications required to comply with the rule, and thus make production of these airplanes economically viable. No limitation was established for the operational life of airplanes certificated under SFAR 41.

SFAR 41 was published in the Federal Register on September 17, 1979 (44 FR 53723), and became effective October 17, 1979. It prescribed additional airworthiness standards applicable to existing reciprocating and turbopropeller-powered small multiengine airplanes. SFAR 41 permitted type and airworthiness recertification of these airplanes at weights in excess of 12,500 pounds maximum certificated takeoff weight or with an increase in the number of passenger seats. SFAR 41 also imposed a design restriction which limited the maximum zero fuel weight to 12,500 pounds. This regulation was amended April 14, 1980, SFAR 41A (45 FR 25046), for clarification and to make editorial corrections, and further amended on December 8, 1980, SFAR 41B (45 FR 80972), to specify additional requirements in order to comply with ICAO Annex 8 airworthiness standards. The expiration date of SFAR 41B was October 17, 1981.

Petitions for Exemption and Rulemaking

Landing Distance. One airplane manufacturer requested an exemption from, and another manufacturer submitted a petition to amend, paragraph (*a*) under section 5(c) of SFAR 41 relative to landing distance determination. This paragraph, by incorporating the standard that was effective in Part 23 on March 30, 1967, specifies a landing approach technique which results in a greater landing distance than would result from either the current Part 23 or 25. Paragraph 5(c)(*a*) allows an alternate technique, but this also results in a greater landing distance than the resulting from current Part 23 or 25. The landing distances established during SFAR 41 certification are specified in the Airplane Flight Manual which the operators are required to follow. The effect of the landing distance determination embodied in SFAR 41 has been to restrict these airplanes from serving destinations with shorter runways which would otherwise be available if the landing approach techniques specified in current Parts 23 and 25 were permitted. The manufacturer's request for exemption from SFAR 41, paragraph 5(c)(*a*), was published in the Federal Register on March 16, 1981 (46 FR 17002). No comments were received. The FAA concurred in the petitioner's request and the exemption was granted (Exemption No. 3256, issued June 17, 1981). The second manufacturer's petition to amend paragraph 5(c)(*a*) to relax the landing distance determination requirement is being considered in this notice by proposing a change to paragraph (*a*) under section 5(c).

Zero Fuel Weight. Two airplanes manufacturers petitioned the FAA for exemption from the 12,500-pound maximum zero fuel weight (MZFW) restriction of SFAR 41B and a notice of petition was published for comment in the Federal Register on May 21, 1981 (46 FR 27825). During this approximate time frame, a petition for rulemaking was submitted by one of these airplane manufacturers to amend SFAR 41 to delete the 12,500 pound MZFW restriction in order to allow operation at an increased revenue payload. This petition was published for comment in the Federal Register on July 23, 1981 (46 FR 37905). Subsequently, a petition for rulemaking was received and published by the FAA from another airplane manufacturer who suggested limiting the passenger seating capacity to 19 seats for those airplanes exempted from the 12,500-pound MZFW. Due to the similarity of these exemptions and rulemaking petitions, they were combined into one docket, No. 21716, and published in the Federal Register on August 27, 1981 (46 FR 43176), with the comment period extended to October 26, 1981, to allow for further comments.

One petitioner requested a meeting with the FAA to present oral arguments in support of a petition to be exempted from the zero fuel weight restriction of SFAR 41. Other petitioners, representatives of industry, airlines, and manufacturers' associations, invited by the petitioner requesting the meeting, were in attendance. The meeting was held on October 1, 1981, at FAA headquarters and a transcript of that meeting is included in Docket No. 21716. The views expressed at the meeting were considered in the development of this notice.

Comments on Published Petitions

Nine (9) commenters responded to the notices concerning zero fuel weight and passengers. Manufacturers and operators favoring exemption or rule change contend that the MZFW restriction is an economic burden on commuter airlines and other small operators because they are unable to fully utilize the design potential of these airplanes. To place some restraint on the use of Part 23 airplanes in commuter service while airplanes meeting revised Part 25 rules are being designed and certificated, one manufacturer suggests a limit of 19 passengers. Since a flight attendant is now required under Part 135 for airplanes carrying 20 passengers or more, an airline would have to develop a recruiting and training program for these flight attendants, in addition to providing space within the airplane. Furthermore, 19 passengers is a natural cut-off inasmuch as § 135.177 requires additional emergency equipment such as improved interior and exterior exit markings, emergency lighting, and simplified exit handle design, for airplanes having a passenger seating capacity in excess of 19.

Two commenters support the petitioner's request for exemption from the 12,500-pound MZFW limit of SFAR 41B, while a third not only supports it, but requests the same exemption for its operation.

Three commenters recommend approval of the petition for a rule change to SFAR 41B to delete the 12,500-pound MZFW limit.

One commenter supports, in principle, the combined exemption and rulemaking petitions to eliminate the 12,500-pound MZFW limit and the restriction of the number of passenger seats to 19.

Two commenters express opposition to a grant of exemption or rule change. One commenter objects to a redefiniton of the applicability of SFAR 41 in terms of weight or passenger capacity on the ground that it would suggest an undesirable permanence to the provisions of SFAR 41. However, as discussed in this notice, the extension of the application date for 1 year and the

production date for 2 years does not imply permanence for this rule.

Another commenter opposes an increase in the MZFW beyond the 12,500-pound limit of SFAR 41 since the intent of this restriction was to provide for larger fuel reserves. The current SFAR permitted an increase in maximum certificated takeoff gross weight above 12,500 pounds which could be applied to increased payloads or fuel reserves, or both. The FAA has found no reason to prohibit extension of these options provided the high level of safety is maintained.

The FAA recognizes that the MZFW restriction imposes an economic burden on the commuter airline industry, and that its deletion from SFAR 41 will not compromise safety in and of itself. Also, to limit the size and number of airplanes that can operate under SFAR 41 rules in lieu of the more stringent Part 25 rules, the FAA proposes a 19-passenger limit for these airplanes. This restriction would not be a burden to the airlines since many commuter airlines are now providing for a maximum of 19 passengers. This notice is based on the consideration that the benefits and limitations counterbalance the objections raised by the two opposing commenters. In connection with the proposed passenger limitation, the selection of the 19-passenger configuration is a logical and economic choice because of the burden that would be imposed by flight attendant requirements, increased aisle widths, and additional crashworthiness provisions required for additional passengers.

Reinstatement of the SFAR

SFAR 41 as amended through SFAR 41B terminated October 17, 1981. The effect of that termination has been to preclude the acceptance of new SFAR 41 amended or supplemental type certificate applications and to preclude amendments to accommodate different certification criteria. Nevertheless, these standards continue to remain effective for airplanes previously certificated with SFAR 41 as part of the amended or supplemental type certificate basis.

For current SFAR 41 airplanes, the termination does not prevent exemption action for modifiers who wish to increase the zero fuel weight or shorten the landing distance criteria specified in SFAR 41. However, exemption actions would have to be taken on a case-by-case basis. Because of considerable industry interest in revised criteria, it would not be feasible to process individual exemption requests. As the more practical alternative, and to make any revised criteria available on an equal basis to all interested persons, it is proposed to reinstate the effectivity of SFAR 41 and, as reinstated, incorporate the revised zero fuel weight, 19-passenger limit, and landing distance criteria as amendments.

Discussion of Proposals

Proposal 1 would delete the 12,500-pound MZFW restriction to enable manufacturers to tailor the MZFW to the desired capabilities of the airplane. Also, it would provide for economic benefits to the commuter airlines because with this restriction removed, existing commuter airplane types, when recertified under the amended SFAR, would be able to operate at increased passenger payloads, thus reducing operating costs without reducing safety.

Although not a part of the airworthiness certification of SFAR 41 airplanes, to ensure that adequacy of training is maintained, the FAA would, through the establishment of Flight Standardization Boards for these aircraft, and the assigned principal inspector's review of an operator's training program, make those changes necessary to ensure that the proficiency and competency of each crewmember, flight instructor, and check airman is maintained with the zero fuel weight restriction removed. The Flight Standardization Board would make training recommendations on specific differences between similar models and identify special operational characteristics of the aircraft requiring additional training and checking as they pertain to air carrier operations.

Operators would be required to update training programs to ensure the crews' knowledge and understanding of operating limitations, including the effects of eliminating the zero fuel weight restriction and possible increased gross weight on weight and balance and performance. Where appropriate, operators would be required to demonstrate competency through oral and flight checks administered by the FAA or its representative.

This proposal would also limit the number of passengers to 19 as suggested by one manufacturer as a limitation in conjunction with the elimination of the MZFW restriction. The 19-passenger limit appears to provide for the most efficient utilization of existing SFAR 41 airplanes operating in commuter service. It would not be appropriate to allow the number of passengers to escalate beyond this point unless the airplane meets the more stringent Part 25 standards. This limit does not appear to place an economic burden on industry, since it avoids the additional crashworthiness and flight attendant requirements of Part 135 associated with 20 or more passengers. The FAA requests that comments responding to this notice cover specific, detailed, economic cost data on the imposition of this limit rather than mere statements of impact without detailed breakdown of costs.

Proposal 2 extends the pre-existing production cutoff date 2 years. This is consistent with the original intent of SFAR 41 to permit production of these airplanes for a 10-year period of time to allow airplane manufacturers to amortize the cost of modifications required to comply with this rule and make production of these airplanes more economically viable. Applications may be submitted for amended or supplemental type certificates with the MZFW restriction removed, and a 10-year production period should be afforded these applicants.

The changes in proposals 3, 4, 6, and 7 would be necessary for consistency if proposals 1 and 2 above are implemented.

Current SFAR 41 requires that the landing distance be determined in accordance with § 23.75(a) in effect on March 30, 1967, or by a steady approach down to the 50-foot height at a gradient of descent not greater than 5.2 percent (3°) at a calibrated airspeed (CAS) not less than 1.3 V_{s1}. Thus, the landing approach may either be a 1.5 V_{s1} glide (§ 23.75(a); March 30, 1967), or a 1.3 V_{s1} descent with power for a 3° gradient. Both of these techniques produce landing distances greater than the 1.3 V_{s1} glide that is allowed in current §§ 23.75 and 25.125. Proposal 5 would amend SFAR 41 paragraph (*a*) under Section 5(c), *Landing*, to allow the 1.3 V_{s1} gliding approach in determining landing distance.

In support of a request for rulemaking as to determination of landing distance, the petitioner states that: (1) The requested landing distance determination technique is the current technique required in Parts 23 and 25; (2) It will provide a level of safety equal to Part 25; (3) It will make air transportation available to small cities that might otherwise be denied service because of short runways. As an example, in the case of the airplane for which the exemption was granted, the destination field length will be reduced from 5,171 feet to 4,100 feet at a landing weight of 13,000 pounds for an airport at sea level. For an airport at 2,000 feet above mean sea level (MSL), the destination landing distance will be reduced from 5,433 feet to 4,321 feet at the same landing weight. Many of the

airports served by this class of airplanes have runways of 5,000 feet or less. Finally, (4) it will serve the intent of SFAR 41 to more fully utilize the design capability of certain small airplanes.

The FAA concurs with the petitioner's recommendations and, in view of the advantages to be gained while maintaining a level of safety consistent with current rules, proposes to adopt the 1.3 V_{s1} gliding approach of the current § 23.75(a) in paragraph (*a*) under 5.(c); *Landing* of SFAR 41.

It is emphasized that under the provisions of this proposal, existing SFAR 41 airplanes would require recertification with new amended or supplemental type certificates in order to take advantage of operating limitations reflecting zero fuel weights in excess of 12,500 pounds. These recertified airplanes would be subject to the 19-passenger limitation. The landing distance may be reestablished using the 1.3 V_{s1} gliding approach in accordance with current Part 23.

Proposal 8 would establish a new SFAR 41 expiration date, 1 year after the effective date of the amendment, which should allow airplane manufacturers ample opportunity to apply for amended or supplemental type certification under the revised rule.

Part 23 and Part 25 Considerations

The FAA is considering related further actions to ensure the availability of safe airplanes of the 19-passenger class for use in commuter service without imposing an unreasonable economic burden on the design. Therefore, the FAA is also inviting comments on the advisability of codifying the substance of SFAR–41B and proposed SFAR–41C into Part 23 to extend its applicability to new multi-engine airplanes having a maximum passenger seating configuration of 19 seats or less and having a maximum takeoff weight greater than 12,500 pounds. This in effect would revise the existing applicability limitation of section 23.1. The FAA decision to proceed with this amendment would be based on the safety performance of existing aircraft designed to SFAR–41C standards taken together with a positive benefits vs. cost analysis.

It should be noted that the FAA is continuing to study the advisability of amending Part 25 to include smaller transport category airplanes typical of those presently being developed for commuter service. The FAA recognizes that it may not be practicable to cover new airplanes of the class presently addressed by SFAR–41B and proposed SFAR–41C within the scope of aircraft type certificated under Part 25.

Economic Impact and Benefits

The elimination of the MZFW restriction would have no adverse safety impact and may, in fact, improve safety because operators would be able to add additional or improved avionics, and increase fuel reserves. The increased takeoff gross weight would allow the aircraft operator the options to add more passengers, up to 19, increase baggage allowances, and increase cargo or flight distances. The load increase could be significant. In one aircraft, the manufacturer estimates the payload could be increased up to 43 percent or 1,500 pounds of additional payload. Because the marginal cost of carrying the additional payload would be relatively low compared to the additional revenue for such carriage, the added utility of this payload increase could be significant. The airplane manufacturers will have some moderate costs in recertifying the airplane to the proposed new weight and landing distance criteria. An airplane manufacturer who does not wish to establish revised weight or landing distance limitations would not incur these costs.

The proposal to allow the use of shorter runways does not appear to have an adverse impact upon safety. The economic benefits of this proposal include the increased availability of air transportation to small cities that might otherwise be denied service because of short runways. Specific reductions in destination field length were noted in the discussion of Proposal 5. While it would be a difficult task to measure the benefits in dollar terms, the benefits would be substantial and because there would be no adverse impact on safety, the proposed regulatory change would be in the interest of the aviation community.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to reinstate and amend SFAR 41 of the Federal Aviation Regulations (14 CFR SFAR 41) as follows:

SFAR No. 41 [Amendment No. C]

Paragraph 1. *Applicability.* (Amended)

1. By deleting the phrase "a maximum zero fuel weight not in excess of 12,500 pounds" from paragraph 1.(b) and inserting in its place the phrase "a specified zero fuel weight to be established by the applicant", and by inserting after the word "configuration" the parenthetical phrase "(but not more than 19 seats)".

Paragraph 3. *Production limitation.* (Amended)

2. By deleting the year "1989" and inserting in its place the year "1991".

Paragraph 4. *Restriction.* (Amended)

3. By deleting the phrase "and may not exceed 12,500 pounds" from paragraph 4.(a).

Paragraph 5. *Exceptions.* (Amended)

4. By inserting after the phrase "of 10 seats or more" in paragraphs 5.(b)(2) and 5.(b)(3), the parenthetical phrase "(but not to exceed 19 seats)".

5. By inserting a period after the word "chapter" in the first sentence of paragraph 5.(c)(*a*) under *Landing*, and deleting the remainder of the sentence.

6. By inserting the number "23" from paragraph 5.(e)(*g*)(2) under, *Doors and Exits*, and inserting in its place the number "19".

7. By deleting paragraph 5.(e)(*g*)(3) under, *Doors and Exits.*

Paragraph 15. *Expiration.* (Amended)

8. By deleting the date "October 17, 1981" and inserting in its place the date (1 year after the effective date of this amendment).

* * * * *

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.45))

Note.—This proposal will allow manufacturers and operators of certain existing airplanes the option of complying with relaxed requirements that will increase payloads and improve air carrier services to the public. For this reason and as discussed in the preamble: the FAA has determined that it (1) involves a regulation which is not a major rule under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that the proposed amendment will not have a significant economic impact on a substantial numbr of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Washington, D.C., on February 9, 1982.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82-5847 Filed 3-2-82; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
March 4, 1982

Part VI

Department of Transportation

Coast Guard

Outer Continental Shelf Activities; Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[CGD 78-160]

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Coast Guard requirements for facilities, vessels, and other units, domestic and foreign, engaged in mineral exploration, production, or development activities on the Outer Continental Shelf. The changes implement provisions of the Outer Continental Shelf Lands Act Amendments of 1978 and conform the scope of the existing regulations to the broader scope of the amended Act and to Coast Guard regulations for mobile offshore drilling units and life preservers. The amendments affect requirements for design, equipment, operations, manning, inspections and investigations. The regulations are intended to ensure that foreign mobile offshore drilling units operating on the Outer Continental Shelf meet standards comparable to standards met by U.S. units, to implement statutory provisions for manning by U.S. citizens, and to improve the safety of activities on the Outer Continental Shelf.

EFFECTIVE DATE: April 5, 1982, except § 146.130 (Station Bill) which contains information collection requirements not yet approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dennis J. Cashman, Office of Merchant Marine Safety, Room 2505, U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, D.C. 20593 (202-472-5160).

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking (NPRM) concerning these amendments on May 1, 1980 at 45 FR 29072. Twenty-seven written comments were received in response to the NPRM and are discussed in this document. Comments were received from private individuals, commercial enterprises, industry associations, federal agencies, and a foreign government. None of the comments requested a public hearing. Because the Coast Guard did not believe a public hearing would provide additional beneficial information, no public hearing was scheduled.

Drafting Information

The principal persons involved in drafting this rule are Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project Staff, Office of Merchant Marine Safety and Mr. Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

Discussion of Major Comments

General Comments

1. Several comments emphasized the need to avoid conflicting or duplicative Coast Guard and U.S. Geological Survey requirements for units engaged in Outer Continental Shelf (OCS) activities. The Coast Guard is conscious of the need to avoid conflicting requirements and on December 18, 1980 the Commandant of the Coast Guard and the Director of the U.S. Geological Survey signed a Memorandum of Understanding concerning agency responsibilities for OCS activities. The agreement was reprinted in the January 8, 1981 **Federal Register** (46 FR 2199). Part IX of the Memorandum provides that both agencies will review reporting requirements, data collection requirements, and current standards, regulations and orders and propose revisions where necessary to eliminate duplicative requirements. The relationship between the requirements of Subchapter N and requirements administered by the U.S. Geological Survey is stated in § 140.4 of the regulations.

2. Another comment welcomed the added safety precautions in these rules, but emphasized the need for further assessment of the adequacy of existing drill vessels to operate in deeper waters on tracts susceptible to slumping, subsidence, shallow gas, and other geo-hazards. In this regard, the comment referred to the joint Geological Survey/Coast Guard study under section 21(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(a)) on technology, equipment, and techniques available for exploration, development, and production of the minerals of the OCS. Results of the study are expected to be available in the summer of 1982.

3. Another comment noted that the proposed rule contained new reporting and recordkeeping requirements and questioned whether enforcement of these requirements could be stayed pending receipt of approval by the Office of Management and Budget (OMB). New provisions requiring OMB approval have been approved as indicated under the section entitled "Paperwork Reduction Act" in this preamble.

4. Another comment, noting that Part 145 on firefighting equipment was not revised, suggested that the Coast Guard consider requiring a fixed water firemain system on manned platforms and additional firefighting equipment for helicopter facilities on platforms. The Coast Guard is reviewing requirements for firefighting equipment on OCS facilities and any changes to the existing rules which appear necessary will be addressed in a subsequent rulemaking project (Coast Guard Docket 80-160).

5. Another comment expressed concern that the offshore portion of the petroleum industry might in required to change its industrial practices to conform to Coast Guard marine standards, even though the petroleum industry uses common equipment and techniques offshore, onshore, and in state waters. Coast Guard requirements for mobile offshore drilling units take industry standards into account. This rule does not contain new standards for offshore production systems.

6. The same comment also urged the Coast Guard to avoid the certification of individual employees as qualified for a particular job. Such certification, the comment asserts, would not improve safety performance and could have a negative impact. This rule does not require certification of employee qualifications.

7. One comment suggested that "unit" and "unit engaged in OCS activities" meant the same and that the former should be used throughout. By definition under § 140.10, "unit" refers to a vehicle or structure, not to its use. This definition is used in other Coast Guard regulations which may or may not relate to OCS activities. The use of the phrase "engaged in OCS activities" limits the units being regulated only to those engaged in OCS activities.

Specific Comments: Part 140

1. Section 140.3—One comment suggested that this section be expanded to identify the role of the U.S. Geological Survey concerning facility design and construction. The relationship between the requirements of this subchapter and Geological Survey requirements is explained in § 140.4, which has been renumbered from proposed § 143.3. The roles of the Coast Guard and Geological Survey are more fully explained in the December 18, 1980 Memorandum of Understanding (46 FR 2199; January 8, 1981).

2. Section 140.5—One comment suggested limiting the power of the Officer in Charge, Marine Inspection, to grant exemptions. As this could restrict the flexibility needed to accommodate

the many different construction and erection methods used offshore, the suggestion was not adopted.

3. Section 140.7—(a) Several comments were received on the incorporation by reference section. The information provided by this section is required by 1 CFR Part 51 for the benefit of those affected by the rulemaking; however, the format used to convey this information has changed since the date the proposed regulations were published for comment. This section has been changed to conform to the new format. Under the new procedure, the addresses where the material is maintained on file for inspection and copying by the public are now listed in paragraph (a) and the information listing the source of the material incorporated, the date of the edition incorporated, and the address where the material is available for purchase is now set out in the Finding Aids section at the end of Volume (Title) 33, Parts 1 to 199, of the Code of Federal Regulations.

(b) Several comments questioned whether the material incorporated was to apply to domestic as well as foreign flag MODUs. The two sections in the regulations which refer to the material incorporated (§§ 143.207 and 146.205, both entitled "Requirements for foreign MODUs") clearly apply only to foreign MODUs. Therefore, no change to the regulations in response to these comments was considered necessary.

(c) Four comments pointed out the confusion that can result from the provision in § 140.7(a) as to the publication of future revisions to the Code by IMCO. The new wording of this section clarifies this point. Under 1 CFR Part 51, no change to the IMCO Code after the effective date of this rulemaking can "automatically" be incorporated by reference, as the incorporation is limited to the material as it exists on the effective date of the rulemaking. Should the Coast Guard consider incroporating a subsequent change to the IMCO Code, it must publish an amendatory document in the Federal Register for public comment.

(d) Several comments suggested that proposed § 140.7(c) on approval of the incorporation by the Director of the Federal Register was administrative and, therefore, unnecessary. The information on approval must be noted in the regulatory document to comply with the requirements of 1 CFR Part 51.

4. Section 140.10—(a) One comment suggested that the definitions be conformed to those used in the Memorandum of Understanding for the OCS between the Coast Guard and the U.S. Geological Survey. The definitions used in § 140.10 are consistent with those in the memorandum; however, because the regulations and the memorandum serve different purposes, identical wording could not always be used.

(b) Three comments recommended that the proposed definition of "attending vessel" be revised to clarify that the moored vessel is present for the purpose of providing services to the facility. The definition has been revised to do this.

(c) Two comments suggested that the proposed definition of "floating installation" be modified to include vessels, on the grounds that shipshape hulls are "utilized for and have the same potential for facility installations as semisubmersibles." Because permanently moored shipshape hulls may fall within this category, the definition has been modified to include them. Also, the term "floating installation" has been changed to "floating OCS Facility" because "installation" is not a defined term.

(d) Two comments suggested the proposed definition of "manned facility" was indefinite. The definition has been modified to provide a clearer standard. If personnel are routinely aboard a facility for more than 12 hours in successive 24 hour periods the facility will be considered "manned."

(e) Another comment stated that the definitions of "manned facility" and "manned platform" were inappropriate for their actual application and the safety requirements of Subpart B of Part 146 would not apply to many platforms that were, in fact, manned. The changes noted above to the definitions of "manned platform" and "manned facility" eliminate this problem.

(f) Another comment noted that the definition of "Officer in Charge, Marine Inspection" refers to marine inspection zones described in Part 3 of this Chapter, but Part 3 does not indicate the seaward boundaries of the various zones. The comment suggested that this was important because various reports must be directed to the officer in the zone where the unit is located. The Coast Guard, however, has not found this to be a problem. The appropriate marine inspection offices for various offshore areas are publicized locally by the Coast Guard and reports submitted to an incorrect office are rerouted by the Coast Guard to the correct office.

(g) One comment interpreted "operator" in the case of a unit other than a vessel to be the lease record owner or designated operator. The definition has been revised to make this clearer.

(h) Another comment suggested a similar interpretation and asked that a review be undertaken to ensure that the person responsible for seeing that a regulation is obeyed actually has the power to do so. Review of these regulations with particular reference to owner and operator responsibility for compliance with various sections has been performed and changes made where necessary to avoid confusion.

(i) One comment suggested that the definition of "OCS facility" be revised to refer to a leasehold issued or maintained under the OCS Lands Act, including "all land covered by such lease and any associated structure or group of structures, including a mobile offshore drilling rig, when in the drilling mode, attached thereto by the leaseholder, or by anyone acting for or on behalf of the leaseholder, for use in connection with any activity directly relating to exploration, development, or production." The comment suggested that if this change was made the term "unit" could be dispensed with. The suggestion was not adopted. The definition of "OCS facility" is based on Section 4(d) of the Act. The term "unit" includes certain vessels and vehicles which would not fall within the definition of an OCS facility.

(j) One comment suggested the definition of "owner" be rewritten to refer to the revised definition of "facility" proposed above instead of "unit." As the definition of "facility" was not revised for the reason noted, the Coast Guard did not adopt this suggestion. The same comment suggested that the definition of "owner" be modified to exclude a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect a security interest. The suggestion was adopted. The definition has been revised using language similar to that of Title III of the Act.

(k) Three comments suggested the term "pipeline" in the definition of OCS facility be further defined to clarify its meaning. All three suggested including references to pipelines as defined in 49 CFR Parts 192 and 195 and those under the jurisdiction of the U.S. Geological Survey under OCS Order No. 9. Because the Coast Guard does not regulate pipelines under the Act, there is no need to further define the particular types of pipeline which are excluded from these regulations.

(l) One comment suggested that the definition of "person in charge" be revised to address persons in charge of vessels differently from persons in charge of other units because of differences in unit organization. The

suggestion was not adopted. The person in charge is the individual with primary accountability for the safety of a unit and the personnel on it, whatever its type, even though the individual's position, title or general authority may vary in different organizational structures.

(m) One comment suggested that the definition of "production" refer to workover rather than workover drilling. The definition has been so revised.

(n) One comment suggested that the proposed definition of "rebuilt" would allow an older unit to remain in service indefinitely if it was reconstructed to original plans without "alteration." To avoid misinterpretation, the term "reconstruction" has been added to the definition.

(o) One comment suggested that an unmanned facility serviced by an attending vessel should be considered a manned facility, with the manned facility regulations applying to both the vessel and the facility. The suggestion was not adopted. Certain requirements applicable to manned facilities are unnecessary for either the unmanned facility or the attending vessel.

5. Section 140.15—(a) One comment suggested that, in determination of equivalents, the Officer in Charge, Marine Inspection, should consider a comparable degree of environmental protection as well as safety. Because safety is the primary consideration, the change was not considered necessary.

(b) Four comments suggested that the words lifesaving and firefighting be inserted in paragraph (b) to restrict the types of equipment which might be subject to approval on OCS facilities. Because the types of equipment that might require approval in the future cannot be predicted, the suggestion was not adopted. However, the Coast Guard does not at present intend to expand the types of equipment requiring approval under the subchapter.

(c) Another comment urged the fullest use of performance practices and standards in new or revised requirements for equipment. The Coast Guard will take this into consideration if new equipment requirements are developed.

6. Section 140.25—One comment suggested that the language of paragraphs (a) and (b) be revised to clarify that the 30 day limit on appeals follows reconsideration. The language has been so revised.

7. Section 140.30—(a) One comment suggested that § 140.30 was extraneous and that the actions referred to in the section were patently obvious. Section 23 of the Act (43 U.S.C. 1349) imposes procedural constraints which must be met to bring certain judicial actions involving the Act, review of the regulations in this subchapter, and final agency decisions involving these regulations. The Coast Guard believes it is in the public interest to draw attention to these requirements.

(b) The comment also suggested that, if this section remained, it be moved to Part 143. As these requirements apply to the entire subchapter, location in Part 140 is appropriate and the suggestion was not adopted.

8. Section 140.35—(a) Two comments suggested deletion of references to violations relating to conservation of natural resources in paragraph (b) as a matter of U.S. Geological Survey rather than Coast Guard responsibility. The reference has been deleted.

(b) One comment suggested that fines should not be effective until the appeals provided for in § 140.25 have been exhausted. Civil penalties for violations of the regulations in this subchapter can be assessed only by the Secretary of Interior and become due in accordance with the regulations issued by the U.S. Geological Survey under 30 CFR 250.80–1.

9. Section 140.40—(a) Four comments objected to referral of civil penalty cases to the Secretary of Interior and suggested that the Coast Guard was the proper agency to assess penalties for violations of Coast Guard regulations. The Conference Committee Report which accompanied the OCS Lands Act (HR–Rep. 95–1474, 95th Cong. 2nd sess p. 115) makes it clear that only the Secretary of Interior may assess, collect, and compromise civil penalties under the Act.

10. Section 140.101—(a) Several comments objected to unannounced Coast Guard inspections, as authorized by § 140.101(b), and one comment questioned their constitutionality. Though the Coast Guard gives advance notice of most inspections, periodic inspections without notice are required by section 22(c) of the Act (43 U.S.C. 1348(c)). Additionally, OCS facilities are located upon federal leases and the Conference Report (H.R. Rep. No. 95–1474) which accompanied the Act notes at p. 111 that lease and permit holders "should expect that inspectors will visit the site of any operation with or without advance notice." Section 140.101 is based directly upon 43 U.S.C. 1348, which the Coast Guard presumes to be constitutional until held otherwise by a court of competent jurisdiction.

(b) One comment suggested that all onsite inspections be announced to ensure platform safety. Although notice of most Coast Guard inspections is provided in advance, periodic inspections without advance notice are required by the Act. The inspections are conducted without creating safety hazards.

(c) One comment suggested that the records required under paragraph (c) for reviews be better defined and that Coast Guard inspections be limited to specific items. As an example, the comment stated that the Coast Guard should not conduct pit drills to evaluate the competency of drilling crews. Though the Coast Guard does not conduct pit drills, paragraph (c) has been modified to clearly indicate that the records reviewed, and drills and tests observed, are related only to applicable Coast Guard requirements.

(d) Four comments noted that the person in charge and not the inspector should have final authority to determine the specific time for drills because a drill held at a critical time may needlessly endanger the safety of the unit and its personnel or disrupt critical operations. An additional sentence has been added to proposed § 140.101(c) to require that the marine inspector consult with the person in charge before conducting the drill.

(e) Another comment questions why this subpart requires a letter of compliance or other certification for foreign mobile offshore drilling units (§ 140.102) but not for platforms. Section 143.120(c) requires a Certificate of Inspection for all floating OCS facilities and § 143.210 requires a letter of compliance for all MODU's not certified by the Coast Guard. However, certification for fixed OCS facilities is not considered necessary because they are bottom founded and not subject to being moved from one Coast Guard marine inspection zone to another.

11. Section 140.103—(a) Five comments suggested that setting a time period for correction of deficiencies in every case without considering factors such as the availability of materials and personnel and the degree of hazard was undesirable. Flexibility to consider these and other factors was intended and changes have been made to make this clearer.

(b) Another comment objected to the provision that provides for mutilation of defective lifesaving or firefighting equipment which cannot be satisfactorily repaired. The comment stated that this provision fostered animosity and disregarded safety because defective equipment, if not mutilated, could be used to save a life. The comment also stated that mutilation prevented return of equipment to suppliers. It is the obligation of the owner or operator to maintain the

lifesaving and firefighting equipment in good condition. The purpose for mutilating defective equipment that is beyond repair is to preclude the equipment from being relied upon as lifesaving equipment by persons unaware of the defect. This provision has been in effect since 1957 and has not presented serious problems in administration. The suggestion was not adopted.

12. Section 140.105—(a) Three comments suggested deletion of the word "comprehensive" in § 140.103(b) to avoid the implication that the annual inspection had to be comprehensive in every case, even though a facility may have been thoroughly inspected on a recent date. As deletion of this term does not limit the flexibility of the Officer-in-Charge, Marine Inspection, to conduct as thorough an inspection as necessary, the suggestion was adopted.

(b) Another comment suggested that the inspection items in paragraph (c) appeared to exceed agreed to limits of responsibility with the U.S. Geological Survey. The section clearly applies only to Coast Guard approved or required equipment and procedures and not to those of any other federal agency.

(c) One comment suggested that paragraph (d) was superfluous. However, this section makes it clear that an inspection may be required before drilling or production commences.

(d) Another comment suggested that paragraph (d) be reworded to provide for the conduct of the inspection "after construction but prior to drilling and production operation." Although the inspection is normally not conducted during construction, there may be circumstances when it may be desirable to do so to avoid delaying drilling or production operations. The suggestion was not adopted.

13. Section 140.201—(a) Three comments suggested that § 140.201 be modified to exclude incidents investigated by the U.S. Geological Survey. Another comment suggested that dual investigations were unnecessary and likely to result in confusion and delay. Two other comments suggested that dual investigations were prohibited by the language of section 22(d)(1) of the Act. In many instances joint investigations are the most efficient and least costly means of reviewing casualties. The Report by the Ad Hoc Select Committee on the Outer Continental Shelf to accompany H.R. 1614 (H.R. Report 95-590, p. 160) states: "As it is possible, even probable, that a major fire or major oil spill might also involve serious bodily injury or deaths, it is the intention of the committee that the responsible agencies will act in a cooperative and joint fashion." The suggestions were not adopted.

(b) Three comments stated that other agencies should not proceed with investigations under Coast Guard authority. These regulations do not provide for such an arrangement. When another agency, in particular the U.S. Geological Survey, participates in an investigation with the Coast Guard, the agency is acting under its own authority.

(c) One comment suggested a change in the language of paragraph (e) to make it clear that not every incident need be investigated, only those deemed necessary to promote the safety of life or property or protect the marine environment. The language has been modified to make this clearer.

(d) Another comment suggested deleting the language of paragraph (d) referring to one occurrence during a thirty-day period because it was unclear. This language is taken directly from the Act and refers to a single source which discharges 200 or more barrels within 30 days.

(e) Another comment suggested that the Coast Guard was exceeding its authority by referring to protecting the marine environment. The Coast Guard exercises significant environmental protection responsibilities under the Clean Water Act, other domestic laws, and international conventions.

(f) Another comment suggested that the term "major fire" be defined. A definition has been added providing that a major fire is one that results either in death, serious injury, or property damage exceeding $25,000.

14. Section 140.203—(a) Three comments again questioned the provision for joint investigations by the Coast Guard and the U.S. Geological Survey. When more than one agency has an interest in a casualty, joint investigations and hearings reduce costs to participants and provide a more thorough and effective investigation. The provision for joint actions was retained.

(b) Four comments suggested adding a provision requiring that employers or other parties investigated be furnished a copy of the investigation when it is completed. This is the existing Coast Guard practice and the regulations have been modified to make this clearer.

(c) One comment asked how to obtain a copy of a report. The reports are on file at Coast Guard Headquarters and Coast Guard District Offices in accordance with 49 CFR Part 7, Appendix B. A copy of a particular report is made available upon request.

Specific Comments: Part 141

1. Section 141.5—(a) One comment maintained that paragraph (b)(3) was unclear in its purpose and did not meet the intent of reciprocity stated in Congressional discussions of the amendments. The language of paragraph (b)(3) follows closely the language of Section 30(c)(2) of the Act. Foreign units are exempt unless the President determines that a foreign nation has implemented a national manning requirement. This is a direct reciprocity provision.

(b) The same comment suggested that paragraphs (c) and (d) be combined and shortened to improve clarity. Because the objectives of the paragraphs are different, though related, their separation should enhance clarity and the suggestion was not adopted.

(c) Another comment objected to leaving the exemption decision to the discretion of the President. Presidential responsibility is required by the Act.

(d) The same comment suggested implementing this provision 30 days after rules are finalized. This would be contrary to the requirement of the Act that the rules become enforceable one year after the effective date of final regulations.

(e) Another comment sought further clarification of the phrase "right effectively to control," particularly whether operational and managerial control would be considered more important than financial control in determining whether the right to control existed. The Coast Guard intends to look primarily at operational matters. Financial interests would be examined when it appears financially interested parties are using those interests to control management or operation of the unit.

(f) Another comment endorsed the approach taken by the proposed regulations and noted it would prevent "paper subsidiaries" from circumventing the provisions of section 30(a)(3) of the Act.

(g) One comment suggested that the provision of § 141.5(c) authorizing the District Commander "upon request," to make determinations of foreign ownership be changed to require the District Commander to make such determinations whenever requested to do so. As this could limit the District Commander's discretion in a particular case, the suggestion was not adopted. The term "District Commander" in § 141.5 (c), (d) and (e) has been changed to "Commandant" to centralize the process of making such determinations.

2. Section 141.10—One comment maintained that § 141.10(c)(3) in effect established four criteria for judging whether a unit was exempt from U.S. manning requirements whereas Section 30(c)(2) of the Act only provides two, i.e. (1) where 50% of the ownership is by citizens of a foreign nation or (2) where citizens of a foreign nation have a right effectively to control a unit. The comment suggested that § 141.10(c)(3) be amended to read "in the case a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) over 50% of the ownership of such corporation is held by persons not citizens of the U.S. and (ii) the right to effectively control is in persons other than citizens of the United States." The criteria set forth for this exception in Section 30(c)(2) of the Act (43 U.S.C. 1356(c)(2)) are twofold. To qualify for the exception, a party must first show that it is a "citizen of a foreign nation" and then either that it has the "right effectively to control" the unit in question or that it owns over 50 percent of the unit. The first element is addressed in § 141.10(c) which defines who a citizen of a foreign nation is. This definition is based, in part, on terms used by Congress in the Shipping Act (46 U.S.C. 802(b)) for that Act's definition of a citizen of the United States. The second element, the right effectively to control or the over 50 percent ownership, is determined under the procedures in §§ 141.5 (c), (d), and (e).

3. Section 141.15—(a) Several comments, mostly concerning workers engaged in building platforms on the OCS, indicated that the criteria for determining when a position is not part of the regular complement of the unit is unclear. The second sentence in § 141.15(b), listing personnel who are not included in the regular complement, has been revised to track precisely the language used in the Conference Report (H.R. Report No. 95–1474, page 125). The key word in the report is "temporary" operation. Those who are on board the unit to perform a temporary function, such as those responding to an emergency, trainees, and consultative personnel providing non-routine, specialized advice or assistance, would be excluded. In determining if a position is excluded, it is important to note that a position may be part of the regular complement on one unit, but not on another. For example, a geologist may be a member of the regular complement on a seismic survey vessel; but that same geologist, if temporarily called on board a production platform to offer advice, does not necessarily become a member of the complement of the platform as well.

(b) One comment suggested that construction workers building a platform be considered part of the regular complement of the construction barge from which they work, if that vessel's primary purpose is construction, fabrication, or alteration of structures attached to the Outer Continental Shelf. The language of § 141.15 already permits such a conclusion and no change has been made.

(c) One comment suggested that only the person in charge of a unit and not the Coast Guard was qualified to determine who makes up the regular complement. Another comment suggested that only the Coast Guard should make this determination. The language of the section contemplates that the owner or the person in charge would normally establish the regular complement; however, the Coast Guard reserves the right to do so when necessary.

(d) Another comment suggested that the wording of § 141.15 would result in harassment by allowing any member of the public to request a determination. Although any member of the public may request a determination, it is the Officer in Charge, Marine Inspection, who decides whether a determination is warranted. The section has been revised to make this clearer.

(e) Five comments suggested changing the term "owner or operator" in paragraph (a) to "employer" to place responsibility for ensuring compliance on the person with access to employee records and in control of employee hiring. The paragraph has been revised to refer to "employer." To be consistent throughout this subpart, "owner or operator" as used in §§ 141.20, 141.25(a), 141.30, 141.35 (a) and (b) has been replaced by "employer."

(f) Another comment suggested that paragraph (b) be revised to delete the reference to support personnel who are directly employed by the owner or operator of the unit. The suggestion was not adopted because support personnel, such as kitchen workers, are necessary for the routine functioning of the unit and are considered part of the regular crew.

(g) Four comments suggested changing the term "including" in paragraph (b) to "may include" to make it clear that crew make-up varies considerably with the type, size, and configuration of unit and that all units do not include personnel in all of these categories. Crew make-up does vary and not all units include all of these categories of personnel; however, personnel falling within the listed categories are considered part of the regular complement. Because the suggested change could be confusing, it was not adopted.

(h) Another comment suggested that requiring only citizens of the United States to be employed as members of the regular complement of a unit could be a violation of the Civil Rights Act; no additional explanation was provided. Manning by U.S. citizens or lawfully admitted aliens is required by section 30 of the Act. Although the particular provision of law to which the comment refers was not provided, the Coast Guard is not aware of any provision of Federal law in conflict with section 30 of the Act.

(i) Another comment noted that the definition of "regular complement" in § 141.15(b) extends to personnel on virtually all devices used offshore, including vessels, MODUs, lay barges, service lift barges, pipelay barges, and production platforms. This is a correct construction of this provision which is based on the language of section 30 of the Act referring to "vessels, rigs, platforms, vehicles, or other structures."

(j) One comment questioned whether divers would be considered part of the "regular complement" because divers are employed under different circumstances. As divers could function either as regular crew members or as specialized workers for a temporary job, application to divers would depend on the particular circumstances. As the rule allows for this situation, no change was necessary.

(k) Another comment suggested that paragraphs (a) (1) and (2) of section 30 of the Act express a legislative desire to subject those who engage in construction and alteration activities to citizenship manning requirements and that the exclusion of construction personnel from the regular complement was contrary to that intent. However, neither paragraph (a)(1), which deals with safety standards, nor paragraph (a)(2), which deals with vessel documentation, refers to manning requirements.

4. Section 141.20—(a) One comment noted that for an alien employee to work on a geophysical crew, including on the OCS, he must have an H–2 visa issued by the U.S. Immigration and Naturalization Service, which uses procedures for eligibility determinations similar to those in this part. The comment suggested that the Coast Guard accept such visas as evidence of compliance with the citizenship requirements in these rules. In the opinion of the Immigration and Naturalization Service, the Immigration

and Naturalization Act does not apply on the OCS. Thus a worker on a geophysical crew operating only on the OCS is not required to have an H–2 visa. However, because in many cases these vessels operate both on and off the OCS and H–2 visas are needed by workers on these vessels, the Coast Guard will accept an H–2 visa as evidence that an individual is filling a position for which there are not a sufficient number of citizens of the United States or resident aliens qualified and available for work. The regulations have been modified to provide for this.

(b) Another comment suggested that the Coast Guard be required to publish notice when it seeks an opinion from the Department of Labor to determine the availability of U.S. workers. Requests for opinions are available to the public upon request. However, publication in every case would unnecessarily delay the review process. Therefore, this suggestion was not adopted.

(c) One comment suggested that public notice be required when an owner or operator seeks an exemption under proposed § 141.20(c). The time delay and additional cost associated with publication in every instance are not, in the Coast Guard's judgment, warranted under these circumstances.

(d) Another comment suggested that requests for an exemption under proposed paragraph (c) should not have to await the formulation of an advisory opinion by the Department of Labor and that the Coast Guard should be limited to a 10 day processing time. The same comment suggested establishing an emergency request procedure to provide for temporary exemption of an individual or position subject to later confirmation by the Coast Guard. Because consultation with other federal agencies is necessary, a 10 day time frame could not always be met. However, the section has been revised to provide an automatic temporary exemption if the Coast Guard does not respond to a request within 30 days.

(e) Another comment requested that applications from United Kingdom operators might be considered favorably under the national interest provision on the grounds that reciprocal arrangements exist for United States operators on the United Kingdom continental shelf. This determination, however, is reserved by the Act to the President. The procedure for seeking such a determination is contained in new paragraph (e).

(f) Because of the many changes made to this section as a result of the comments, this section has been reorganized for clarity.

5. Section 141.25—One comment observed that § 141.25(a)(2) fails to recognize other political subdivisions which carry the privilege of U.S. citizenship. Although the comment did not specify what subdivisions were being addressed, presumably political subdivisions such as the Commonwealth of Puerto Rico were intended. These entities commonly provide for U.S. citizenship only to persons born after a certain date; thus, a birth certificate prior to that date would not necessarily establish U.S. citizenship. Therefore, § 141.25(b) has been revised to provide that birth certificates from political subdivisions outside the United States may be considered as evidence of citizenship, though additional evidence may be necessary.

6. Section 141.35(a)—Two comments suggested deleting the requirement in proposed paragraph (b)(3) that a record of positions that make up the regular complement be maintained and, instead, inserting a requirement that a record of employees who are not U.S. citizens or lawfully admitted aliens be maintained. This change would complicate enforcement as an inspector would have no way of identifying the entire rig crew and verifying the status of employees not listed. The suggestion was not adopted.

(b) Another comment suggested adding a statement to the effect that a station bill indicating each individual's nationality would suffice for this purpose. Because a station bill indicating each individual's nationality meets the requirements of proposed paragraph (b)(3), no change to the language is necessary to permit this.

(c) Another comment suggested deleting the requirement in proposed § 141.35(b)(3) that a description of the positions that make up the regular complement be maintained and argued that the wide variation of job duties will make classification of positions impractical. However, each job position on a unit need not be described in detail and a listing of individuals with their job title would suffice. The term "description" has been replaced by the term "list" to make it clearer that each job need not be described in detail.

(d) Two comments suggested that it be permissible to maintain the citizenship records at field offices when it is impracticable to maintain them on board a unit. This section has been changed to permit this option.

(e) Another comment suggested that proposed § 141.35(b)(1) is unnecessary. Proposed paragraph (b)(1) would require that a copy of each determination made by the Coast Guard under § 141.15(c) concerning whether a position is part of the regular complement be maintained on the unit. As these determinations are already maintained by the Coast Guard, this provision has been deleted. For similar reasons, proposed paragraph (b)(2) referring to the maintenance of Coast Guard certificates issued under § 141.20 has been deleted.

(f) Another comment suggested deleting references to "position," as the responsibility for determining positions belongs to the employer. As the Officer in Charge, Marine Inspection, may make determinations concerning position in disputed cases, the suggestion was not adopted.

Specific Comments: Part 142

1. Section 142.1—(a) Three comments suggested that the lessee's responsibility for maintaining all places of employment within the lease areas free from occupational hazards be revised to refer only to places of employment owned and operated by the lessee. The comments maintained that the operators of major equipment including MODUs, barges, and other vessels were separately and independently responsible for safety and health on those units. Although operators of major equipment are separately and primarily responsible for safety and health on their units, section 22(b) of the Act, on which § 142.1(a) is based, specifically extends the duties of lessees or permittees to all places of employment within the area covered by the lease or permit.

(b) One comment suggested that the occupational safety and health regulations referenced in paragraphs (a) and (b) be limited to those "in this part." Although all safety and health requirements applicable to the lease or permit area or to the operations within that area may not appear in this part, it is correct that these paragraphs require compliance only with the regulations in this part. The section has been changed by adding the words "of this part" and by changing "occupational" to "workplace" to conform with the title of the part.

(c) Another comment suggested changing the language of paragraphs (a) and (b) to refer to "applicable occupational safety and health regulations." The change noted above makes this unnecessary.

(d) Another comment suggested that § 142.1(b) would relieve lease and permit holders of their statutory obligation to comply with OCS safety and environmental regulations. However, this obligation is clearly stated in § 142.1(a) and in 43 U.S.C. 1348(b).

(e) Another comment suggested revising paragraph (c) by redefining "recognized hazards" to refer to hazards which are causing or likely to cause death or serious physical harm and which are detectable (1) by means of the (unaided) human senses or (2) by means of testing devices recognized by the affected industry as a means for making its presence known. The definition in proposed paragraph (c) contained two elements: First, the hazard must be one generally recognized in the affected industry; and second, the hazard must be routinely controlled in the industry concerned. The second provision implicitly recognizes that not all hazards which can be identified can be controlled. The suggested change does not take this problem into account and, therefore, was not adopted. However, some of the clarifying language suggested has been incorporated.

(f) Another comment asked what OSHA-type regulations must be complied with under paragraphs (a) and (b). Two other comments suggested there was no need to apply OSHA regulations, because they might conflict with Coast Guard regulations or be inappropriate for offshore operations. This section does not apply regulations of the Occupational Safety and Health Administration (OSHA).

(g) Two comments suggested deleting the term "free from recognized hazards" from paragraphs (a) and (b) as being unreasonably absolute, arguing that most work places have recognized hazards, the effects of which are minimized by protective equipment and safe work practices. The standard, "free from recognized hazards," is imposed by the Act. Paragraph (c) was included in the regulations to avoid any unreasonably absolute interpretation of this standard.

(h) Another comment suggested deletion of paragraph (c). As this could allow unreasonable application of the standard imposed by the Act, the suggestion was not adopted.

(i) Another comment stated that the wording of paragraph (c) had no basis in the Act or its legislative history. The requirement to keep workplaces "free from recognized hazards" appears in section 22(b) of the Act and is identical to language used in the Occupational Safety and Health Act of 1970 (29 U.S.C. 654). Paragraph (c) simply makes it clear that this requirement does not apply unless the hazard is capable of control and is routinely controlled in the affected industry.

(j) One comment noted that there is no mention in the Act of any duty being placed on a category of person other than lessees and permittees and suggested that, if others were to be included, a provision making each employee responsible for compliance with all occupational safety and health standards should be added. The comment noted that such a duty is placed on employees under the Occupational Safety and Health Act. The legislative history of section 22(b) of the Act makes it clear that section 22(b) does not relieve any contractor, subcontractor, or other person responsible for actual operations from the obligation to comply with occupational safety regulations. Section 142.1(b) applies to "persons." Under the definition in § 140.10, "person" includes individuals and, therefore, does not exclude employees. Therefore, the suggested change was considered unnecessary.

(k) Another comment questioned whether the occupational safety and health regulations referred to were Coast Guard, Corps of Engineers, OSHA, or USGS. The addition of the words "of this part," as noted above, eliminates this problem.

(l) One comment noted that use of the term "controlled" in the definition of "recognized hazards" did not mean that a hazard did not exist, it simply recognized the hazard and the fact that appropriate controls over activities were necessary. The Coast Guard agrees as explained in paragraph (e) above.

(m) The same comment suggested that paragraphs (a) and (b) be redrafted to exclude the requirement that a workplace be free from recognized hazards. This requirement is imposed by section 22 of the Act. The suggestion, therefore, was not adopted.

2. Section 142.5—(a) One comment suggested that, prior to any enforcement measures, the Officer in Charge, Marine Inspection, should be required to conduct an investigation. Although this is the normal Coast Guard practice, prior investigation may not be possible or desirable in every instance and the suggestion was not adopted.

(b) Two comments suggested that paragraph (c) should be revised to require persons reporting under paragraph (a) to do so in writing or by a sworn statement based on first hand knowledge. However, permitting only written or sworn reports may discourage persons with legitimate complaints from reporting. Therefore, this suggestion was not adopted.

(c) Two comments suggested that reporting be limited to employees, crew, and others directly affected by the unsafe conditions. The legislative history of section 21(e) makes it clear that any interested person, not merely employees, crew, or those directly affected, can report violations.

(d) Another comment suggested that the name, address, and telephone number of the proper Coast Guard official should be required to be displayed on all OCS facilities. Such a requirement is presently being considered under Coast Guard rulemaking docket #79-077, primarily for the purpose of informing the worker of his right to notify the Coast Guard of unsafe working conditions.

(e) Another comment suggested that Department of Transportation employees be included in § 142.5 as a function of investigative necessity. The investigative function is delegated to the Coast Guard and other Department of Transportation employees do not participate in these investigations. Therefore, the suggestion was not adopted.

Specific Comments: Part 143

1. Section 143.3—(a) This section has been transferred to § 140.4 without change, other than as noted in paragraph (b) below.

(b) One comment suggested adding the term "attending vessel" to § 143.3(c) because, for the purposes of this section, industrial equipment on an attending vessel should be treated in the same manner as that on a fixed structure. "Attending vessel" has been added.

2. Section 143.15—One comment on paragraph (a) suggested that mobile offshore drilling units in contact with the seabed not be required to display the lights and warning devices required for facilities but, instead, be allowed to display those required for vessels. The comment suggested that the lighting required for facilities under Part 67 of this chapter would not convey as much information to other vessels as would COLREG lighting and could be dangerously misleading. However, COLREG lighting requirements (33 CFR Chapter I, Subchapter DD) do not provide as much light display as do the requirements for artificial islands and fixed structures. Various means to differentiate MODUs from other structures is currently being reviewed by the Coast Guard's Office of Naviation as part of its review of Part 67. Any changes proposed will be published in the Federal Register for comment.

3. Sections 143.101, .105, and .110—Several comments suggested substantive changes to §§ 143.101, 143.105, and 143.110. As the preamble to the proposed rule noted, proposed §§ 143.101, 143.105, and 143.110 simply restate the existing regulations without

substantial change. The Coast Guard is aware that these sections need revising and will consider such revisions in a subsequent rulemaking notice. These comments, however, will be considered in developing the subsequent notice.

4. Section 143.120—(a) "Installation," as used throughout proposed §143.120, has been replaced by "facility." "Floating OCS facility" is the defined term (§140.10) which describes this type of unit.

(b) Two comments suggested that stability plans be submitted for Coast Guard approval, in addition to the arrangement and construction plans called for in §143.120(a). Because it is the intention of the Coast Guard that all plans applicable to the facility that are listed in Subpart C of Part 107 be submitted and because Subpart C already lists stability plans, it is not necessary to refer to stability plans in this paragraph. Paragraph (a) has been revised to make it clear that all plans listed in Subpart C that relate to the facility to be constructed are to be submitted for Coast Guard approval.

(c) Several comments suggested that paragraph (b) be deleted. Paragraph (b) requires floating OCS facilities to meet the same electrical engineering, marine, design, and equipment requirements as are required for vessels and MODUs. The comments argue that because the facilities serve an industrial function, rather than a marine transportation function, the facilities should not be required to comply with the same equipment regulations. Floating OCS facilities, MODUs, and vessels are all used in the open ocean and are subject to many of the same risks. However, it is correct to state that §143.120 does not apply to production systems on board floating facilities and a statement to that effect has been added to paragraph (b).

(d) In response to the comments considered in paragraph 10(e) of the preamble's discussion of Part 140, a new paragraph (c) is added to §143.120 to require a certificate of inspection for floating OCS facilities. The new paragraph (c) tracks the language of §143.210 requiring letters of compliance for uncertified MODUs.

5. Section 143.201—(a) One comment suggested that further explanation of the meaning of "design requirements" was needed to explain the application of 46 CFR Part 108, Design and Equipment, to existing units. The comment assumed that existing units must contain the necessary systems and equipment as stated in 46 CFR Part 108, (e.g. hull structure, fire protection, ventilation, rails, firemain systems) but that the design of the equipment need not be upgraded to meet the requirements of 46 CFR Part 108. The extent to which existing units must upgrade equipment to meet the requirements of 46 CFR Part 108 is evaluated on a unit by unit basis as explained in Navigation and Vessel Inspection Circular 4–78, which accompanied publication of 46 CFR Parts 107, 108, and 109. Revision of proposed §143.201 is not needed to make this clear.

(b) Another comment suggested rewording this paragraph to identify existing units more clearly. Specifically, the comment wanted to clarify that foreign documented units were included and that U.S. operators could continue to operate those units under the same grandfathering provisions extended to U.S. units by Subchapter IA of 46 CFR Chapter I. Section 143.201 does not distinguish between U.S. and foreign units and both units are to be treated the same for grandfathering purposes. Therefore, §143.201 has not been changed.

(c) Three comments raised the question of whether U.S.-owned/foreign-documented MODUs would be treated the same as U.S.-owned/U.S.-documented MODUs for purposes of the exemption provided for existing units under §143.201. The section does not distinguish between U.S. and foreign units and all are treated in the same manner under this exemption.

(d) Another comment questioned whether the provision was limited to design features and not equipment, noting that certain safety and equipment features need to be kept abreast of current teachnology. The Coast Guard believes it is clear that the exemption applies to features that affect the design of the unit.

6. Section 143.207—(a) Three comments suggested changes to §143.201 to make it clear that existing foreign units can continue to operate as long as they comply with the same grandfathering provisions extended to U.S. vessels. No change to this section is required to provide for this.

(b) For the response to comments concerning the incorporation by reference of the IMCO Code referred to in §143.207(c), see the discussion under §140.7 in this preamble.

Specific Comments: Part 144

1. The proposed revisions to Part 144 did not contain a provision updating the authority citation for this part. Because it was the intention, as expressed in the notice of proposed rulemaking, "to conform the scope of the existing regulations to the broader scope of the amended Act," the authority cited for this part is updated to refer to the delegation of authority under 49 CFR 1.46(z) and to delete the outmoded reference to 49 U.S.C. 1655(b)(1), relating to the transfer of the Coast Guard from the Department of the Treasury to the Department of Transportation.

2. Section 144.01–20—(a) Two comments suggested that the requirement for life preserver lights be deleted because lights are costly and retroreflective material, as required in paragraph (b), is sufficient. This requirement is equivalent to 46 CFR Part 108.514(e) requiring lights on life preservers on mobile offshore drilling units. The Coast Guard published a final rule on July 2,1981 (46 FR 38778) concerning lights and retroreflective material for life preservers and other lifesaving equipment on ocean and coastwise vessels. The regulations are based upon recommendations resulting from investigations of vessel casualties and upon a Coast Guard study entitled "Comparative Evaluation of Visual Distress Signals." Use of lights and retroreflective material should significantly increase the probability of detecting personnel who fall overboard or who are forced to abandon a facility in darkness.

(b) One comment suggested that lights on life preservers should not be required for five years because of a short supply. Life preserver lights, however, are becoming readily available and will be capable of attachment to existing preservers.

(c) Another comment found the requirements for retroreflective material too specific and preferred a performance oriented requirement. The material requirements in Subchapter Q are performance oriented. The requirements specify how much light is to be reflected under various conditions. They do not specify how the results are to be achieved. In conjunction with these minimum requirements, specifying the location and size of the retroreflecting patches is necessary in order to assume adequate visibility.

Specific comments: Part 146

1. Section 146.5—(a) One comment suggested that the requirement to designate a person in charge be limited to manned facilities. However, there are many instances when facilities that do not meet the criteria for manned facilities have numerous personnel working on board and a responsible person in charge is required under these circumstances.

(b) The comment also suggested the person in charge be confined to field supervisors who are on scene. The Coast Guard believes the owner and operator are generally in the best

position to select the individual designated as the person in charge and their ability to designate an appropriate individual should not be restricted.

2. Section 146.10—(a) One comment noted that this section appeared directed at fixed or floating installations and suggested that § 146.10(a) be amended to exclude mobile offshore drilling units. The Coast Guard agrees that the section does not apply to mobile offshore drilling units but a language change is not necessary. Section 146.1 notes that Subpart A of Part 146 applies to OCS facilities except mobile offshore drilling units.

(b) Another comment noted that the regulation should require advance notice of the date when construction will begin in order to allow the District Commander to determine the need for, and to establish, safety zones. The section has been modified to provide for notice prior to construction.

(c) Three other comments stated that notice is often difficult to give because the movement of a rig is not always known many days in advance. As noted above, this section does not apply to mobile rigs, which are covered under § 146.202.

(d) Another comment suggested that the Officer in Charge, Marine Inspection, be provided with a copy of the facility's plan of development. As these plans are available from the Department of the Interior, there is no need to provide for them here.

3. Section 146.15—Four comments suggested deleting or revising the reference to replacement of charges in fire extinguishers because not all fire extinguisher charges have a fixed life. The reference has been deleted.

4. Section 146.20—(a) Three comments suggested deleting the reference in paragraph (b) to "favorable work conditions" because the term is subject to wide interpretation. As the use of these vests is under the supervision of the person in charge, the reference has been deleted.

(b) Another comment objected to the requirement in paragraph (d) that a work vest that is beyond repair be destroyed or mutilated to prevent continued use as a work vest. If a work vest is beyond repair, the Coast Guard intends to preclude its subsequent use by persons who might innocently rely on it. No change to paragraph (d) was made.

5. Section 146.30—(a) One comment objected to the requirement that deaths, or injuries to five or more persons in a single incident, be reported immediately. The comment noted that other duties of the responsible person might take precedence over "immediate" reporting. The section has been revised to make it clearer that reports need to be made rapidly but recognize that reports cannot be made "immediately" under all circumstances.

(b) Another comment stated that this section requires three notices on the same incident—one by the owner, one by the operator, and one by the person in charge. Only one notice to the Coast Guard is required. The owner, the operator, and the person in charge are responsible for agreeing among themselves how the notice is given. The language also recognizes that they do not need to make the report personally but may allow agents to make it for them.

(c) Another comment suggested raising the dollar damage reporting requirements to $50,000. The Coast Guard has reevaluated the proposed monetary damage criterion and has increased the dollar amount to $25,000 for all categories.

(d) Another comment noted that the U.S. Geological Survey is responsible for verifying the structural adequacy of fixed facilities and suggested that reports to the Coast Guard of damage involving collisions be limited to damage to vessels and floating facilities. However, because the Coast Guard is interested in the fact that a collision took place, regardless of which "unit" was damaged, the suggestion was not adopted.

(e) One comment suggested that the operator should be prohibited from willfully disposing of any equipment directly related to a serious accident. The Coast Guard does not consider such a requirement necessary. Preservation of damaged equipment is a common practice and there are circumstances under which a requirement not to dispose of equipment would be unreasonable. If a problem develops in this regard, the Coast Guard will reconsider the need for such a requirement.

(f) Another comment suggested that, because the U.S. Geological Survey requires certain injury and damage reports, the Coast Guard should obtain copies of these reports from the Geological Survey. The Coast Guard and U.S. Geological Survey agreed in the Memorandum of Understanding dated December 18, 1980 to review reporting requirements and eliminate duplicative ones whenever possible. Under the agreement, the Coast Guard is generally responsible for the investigation of deaths and injuries. Additionally, the U.S. Geological Survey regulations (30 CFR 250.45) do not require reports of multiple injuries, damage to lifesaving or firefighting equipment, damage to a facility resulting from a collision, or damage to a floating installation. The suggestion was not adopted.

(g) One comment suggested that the Coast Guard and the U.S. Geological Survey use the same reporting form. U.S. Geological Survey regulations do not specify a reporting form or format, and the use of Coast Guard forms is optional. Both the Coast Guard and U.S. Geological Survey will accept a report in any format so long as it contains the required information.

(h) One comment suggested deleting the dollar damage criteria in § 146.30(b) except when the seaworthiness or the ability of a facility to perform its function is affected. The Coast Guard considers simple monetary damage criteria to be a more definite and workable standard than the one suggested.

(i) One comment suggested that the term "incapacitated" was uncertain and should be changed to "hospitalized." As commonly defined, "incapacitated" means incapable of normal activity, which does not necessarily involve hospitalization. The suggestion was not adopted.

(j) One comment suggested that the term "facility" should be changed to "OCS facility" if that was intended. It was, and the term has been changed.

6. Section 146.35—(a) Three comments suggested changes to § 146.35 to eliminate what they perceived as requirements for multiple reports. Multiple reports are not required but the section has been revised to make this clearer.

(b) One comment suggested that the requirement to report the apparent cause of a casualty could create problems because of the legal actions often associated with a casualty. The Coast Guard believes causal information is necessary to identify problems which need correction to prevent similar casualties from recurring in the future. However, rather than require identification of a single cause, the language has been changed to allow reporting of multiple factors which may have contributed to causing a casualty. This is more accurate and avoids the need to assign all responsibility for an accident to a single factor in cases where this may be difficult.

(c) One comment suggested beginning the ten day time period for submitting a report when the responsible person learned a casualty required reporting because it could take more than 10 days to determine the cost of damage to property. Approximate estimates of damage can be made quickly and

provide sufficent guidance to determine whether a report need be submitted. If a responsible individual is in doubt, a report should be submitted.

(d) One comment maintained that requiring identification of witnesses in § 146.30(a)(2) was excessive except when the Coast Guard decides to investigate a particular casualty. It is essential to promptly identify persons who are witnesses to casualties; if this is not done until a determination to investigate is made, the information may be lost. The suggestion was not adopted.

(e) One comment suggested that the term "filed" should be changed to "postmarked or mailed" because of the limited time available to prepare this information. The Coast Guard agrees that mailing satisfies the requirement and the language has been revised.

7. Sections 146.105, .110, .115, .120, .125, .130, and .135—Several comments suggest substantive changes to these sections in Subpart B. As the preamble to the proposed rule noted, Subpart B restates the existing regulations without substantial change, other than to exclude mobile offshore drilling units from coverage under this subpart. As the preamble also stated, the Coast Guard is reviewing the substantive provisions of this subpart and will consider changes to these provisions in a subsequent rulemaking notice. Comments on this subpart submitted in response to the notice of May 1, 1980 will be considered in developing the subsequent notice.

8. Section 146.202—(a) One comment suggested that the information required for notice of arrival or relocation of units on the OCS could be obtained through the U.S. Geological Survey and thus avoid additional paperwork. No paperwork is required; oral notice is sufficient. Additionally, information on aids to navigation, inspection certificates, and construction data is not always available through the Geological Survey.

(b) The same comment suggested that the data should not be required for relocation in the same area. Precise location information is needed for search and rescue, notices to mariners, and navigation and inspection functions. Therefore, the suggestion was not adopted.

(c) Another comment suggested that some of this information is already provided in an application for certificate of financial responsibilities under 33 CFR Parts 135. Section 146.202(c) has been revised to take this into account.

(d) The comment also suggested that the information required by paragraph (a) would have to be provided by the owner. The section has been revised to reflect this.

(e) The same comment maintained that this provision duplicated § 146.10. However, § 146.10 applies only to fixed units.

(f) Another comment suggested a more flexible notice provision of 14 days or as soon as practicable because of the occasional necessity to move units on short notice. The section has been revised to reflect this.

(g) Several comments noted that the reference to Corps of Engineers permits would not be helpful as they are often of a general nature. Reference to Corps of Engineers permits in paragraph (a) has been deleted.

(h) Another comment suggested that the Coast Guard probably has no use for most classification or inspection certificates held by the unit. However, the certificates aid the Coast Guard in determining the condition of the unit and the amount of inspection likely to be required.

9. Section 146.205—(a) One comment suggested including mobile well servicing units in this section. Because the requirements for mobile offshore drilling units would not be appropriate for many mobile well servicing units, these requirements were not extended to these units.

(b) Another comment suggested deleting the term "operating" as the IMCO standards are not "operating" standards. Chapter XII of the IMCO Code is titled "Operating Requirements" and contains a number of provisions covering MODU operation.

(c) For the response to comments concerning the incorporation by reference of the IMCO Code referred to in § 146.205(c), see the discussion under § 140.7 in this preamble.

10. Section 146.303—One comment suggested changing this section to eliminate what the comment believed to be duplicate reports. Another suggested that paragraph (c) was duplicative of Geological Survey requirements. The Geological Survey requirements, however, apply only to lessees and many vessels engaged in OCS activities are not within the scope of the Geological Survey reporting requirements. The suggestions were not adopted.

Specific Comments: Part 147

1. One comment suggested addition of a new subpart to automatically establish a 500 meter safety zone around all manned facilities quartering personnel on the OCS to reduce the risk of accidents involving large numbers of personnel. The Coast Guard believes the need for safety zones varies with the location of the facility and Part 147 provides ample authority for local District Commanders to establish such zones whenever necessary.

2. Section 147.1—One comment suggested that the Coast Guard was exceeding its authority by referring to protection of the living resources of the sea from harmful agents and that only oil spill cleanup should be referred to. Under the Clean Water Act (33 U.S.C. 1321) and the 1956 Geneva Convention on the Continental Shelf (TIAS 5200), the Coast Guard has authority to protect marine resources from hazardous polluting substances in addition to oil.

Incorporation by Reference

If subsequent changes to the material incorporated are considered, the changes will be published in the Federal Register for comment before final action by the Coast Guard.

The material incorporated by reference is maintained on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, D.C. 20408 and is available for inspection and copying at Coast Guard Headquarters, Room 4407, 2100 2d Street, SW., Washington, D.C. 20593. A copy of the material may be purchased from the Inter-Governmental Maritime Consultative Organization, IMCO Sales, New York Nautical Instrument and Service Corp., 140 West Broadway, New York, NY 10013.

Regulatory Evaluation

This regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1981) and classified as "non-significant" under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980. Though exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a final regulatory evaluation has been prepared, copies of which are available for inspection or copying at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2d Street SW., Washington, D.C. 20593, (202) 426–1477. This rulemaking is also exempt from the requirements of the Regulatory Flexibility Act (Pub. L. 96–354) as provided for under the Effective Date section (Section 4) of that Act; however, the impact of these regulations on small entities was considered during the preparation of the evaluation.

As explained more fully in the evaluation, many of the amendments to Subchapter N do not impose an economic burden. Several of the requirements which do impose economic burdens, such as the requirements for

manning by U.S. citizens, are required by the Act. The estimated total cost to comply with the other proposed changes to Subchapter N is estimated at $9.1 million. Annual costs are estimated at $1.8 million. The principal benefit of these amendments is expected to be the improved safety of operations on the Outer Continental Shelf.

The following comments were received on the draft regulatory evaluation:

1. Two comments stated that the total compliance cost estimated in the draft evaluation for the rules ($8.2 million) was too low. One estimated that the average unit on the OCS will require $25,000 to achieve compliance and that drilling units will require even more. The comment suggested that the total compliance cost would exceed $45 million. As indicated in the evaluation, the project compliance cost for a unit substantially affected by these regulations will exceed $25,000 and is estimated at $337,000 for new construction and $116,000 for existing units. However, these costs directly affect only a limited number of units, primarily foreign flag mobile offshore drilling units. The $45 million estimate in the comment assumed 1,900 units would be directly affected by most of the new requirements. However, as of October 1981, there were 163 mobile rigs working on the OCS. Less than 60 of these rigs should incur significant costs because of these requirements. Total compliance cost for these units is estimated at approximately $7 million.

2. Another comment estimated that it would cost an additional $30 million to bring foreign documented MODUs into compliance with § 143.207. Section 143.207 allows foreign units to comply with one of three sets of design and equipment requirements: the IMCO Code for Mobile Offshore Drilling Units, 46 CFR Part 108, or the standards of the documenting nation which provide a level of safety equivalent to Part 108. In addition, $143.201 exempts existing MODUs, including foreign units, from any new design requirements. As a result, these regulations will substantially affect only a limited number of foreign MODUs. In October 1981, there were 19 foreign units operating on the OCS; less than 10 of these should incur significant costs because of these requirements. These costs are included in the total compliance estimate.

Paperwork Reduction Act

Information collection requirements contained in this regulation (§§ 141.5(c), 141.15(c), 141.20, 141.25, 141.35, 146.30, 146.35, 146.40, 146.125, and 146.303) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned one or more of the following OMB control numbers: 2115–0003, 2115–0004, 2115–0071, and 2130–0182. The control numbers have been inserted in the regulatory text at the end of the paragraphs or sections to which the numbers apply. No number is inserted at the end of § 146.40 because that section merely cross references existing reporting requirements which have been approved under OMB control number 2115–0004.

The requirement in § 146.130 (old § 146.05–30) calling for the preparation of a station bill (muster list) has not yet been approved by OMB and will not become effective until so approved.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

In consideration of the foregoing, Parts 140, 141, 142, 143, 144, 146, and 147 of Subchapter N, Chapter I, Title 33, Code of Federal Regulations, are amended as follows.

1. By revising the title of Subchapter N to read as follows:

Subchapter N—Outer Continental Shelf Activities

2. By revising Part 140 to read as follows:

PART 140—GENERAL

Subpart A—General

Sec.

140.1 Purpose.
140.3 Applicability.
140.4 Relationship to other law.
140.5 Exemptions during construction.
140.7 Incorporation by reference.
140.10 Definitions.
140.15 Equivalents and approved equipment.
140.20 Delegations.
140.25 Intra-agency appeals.
140.30 Judicial review.
140.35 Sanctions.
140.40 Processing penalty cases.

Subpart B—Inspections

140.101 General inspection requirements.
140.102 Foreign units.
140.103 Deficiencies discovered during inspections.
140.105 OCS facility inspections.

Subpart C—Investigations

140.201 General.
140.203 Procedures.
140.205 Subpoenas.
140.210 Access.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95–372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 140.1 Purpose.

This subchapter is intended to promote safety of life and property on Outer Continental Shelf (OCS) facilities, vessels, and other units engaged in OCS activities, protect the marine environment, and implement the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372, 92 Stat. 629).

§ 140.3 Applicability.

Unless otherwise stated, this subchapter applies to OCS facilities, vessels, and other units engaged in OCS activities as the term "OCS activities" is defined in § 140.10. This subchapter does not apply to pipelines and deepwater ports (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

§ 140.4 Relationship to other law.

(a) Design and equipment requirements of this subchapter for OCS facilities, including mobile offshore drilling units in contact with the seabed of the OCS for exploration or exploitation of subsea resources, are in addition to the regulations and orders of the U.S. Geological Survey applicable to those facilities.

(b) Any apparent conflict between the application of any requirement of this subchapter and any regulation or order of the U.S. Geological Survey should immediately be brought to the attention of the Officer in Charge, Marine Inspection.

(c) This subchapter does not establish design requirements for fixed OCS facilities or regulate drilling or production equipment on any OCS facility or attending vessel, except for matters affecting navigation or workplace safety or health.

§ 140.5 Exemptions during construction.

The Officer in Charge, Marine Inspection, may exempt any unit under construction from any requirements of this subchapter that would be impracticable or unreasonable to apply during construction or erection of the unit.

§ 140.7 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this subchapter where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the Federal Register and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and is available for inspection or copying at U.S. Coast Guard Headquarters, Room 2418, Transpoint Building, 2100 Second Street, SW., Washington, DC 20593, (202) 426–1477.

(b) The materials approved for incorporation by reference in this subchapter are:

Inter-Governmental Maritime Consultative Organization (IMCO) Resolution A.414(XI), Code for the Construction and Equipment of Mobile Offshore Drilling Units.

§ 140.10 Definitions.

As used in this subchapter: "Act" means the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372).

"Approved" means approved by the Commandant, unless otherwise indicated.

"Attending vessel" means a vessel which is moored close to and readily accessible from an OCS facility for the purpose of providing power, fuel, or other services to the operation being conducted on the facility.

"Commandant" means Commandant of the Coast Guard or that person's authorized representative.

"Development" means those activities which take place following discovery of minerals in paying quantities, including, but not limited to, geophysical activity, drilling, and platform construction, and which are for the purpose of ultimately producing the minerals discovered.

"District Commander" means an officer who commands a Coast Guard District described in Part 3 of this chapter or that person's authorized representative.

"Exploration" means the process of searching for minerals, including, but not limited to, (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after the discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

"Fixed OCS facility" means a bottom founded OCS facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated gravity platforms, and other structures.

"Floating OCS facility" means a buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This term includes tension leg platforms and permanently moored semisubmersibles or shipshape hulls but does not include mobile offshore drilling units and other vessels.

"Investigating officer" means a person assigned by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, to conduct an investigation of an accident, casualty, or other incident.

"Manned facility" means an OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

"Manned platform" means a fixed OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

"Marine inspector" means a person designated as such by an Officer in Charge, Marine Inspection, to perform inspections of units to determine whether or not the requirements of laws administered by the Coast Guard and of Coast Guard regulations are met.

"Minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

"Mobile offshore drilling unit" or "MODU" means a vessel, other than a public vessel of the United States, capable of engaging in drilling operations for exploration or exploitation of subsea resources.

"Officer in Charge, Marine Inspection" means a person who commands a Marine Inspection Zone described in Part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing units.

"Operator" means—(1) In the case of a vessel, a charterer by demise or any other person who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(2) In the case of an OCS facility, the operator as defined in 30 CFR 250.2(gg).

"Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"OCS activity" means any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.

"OCS facility" means any artificial island, installation, or other device permanently or temporarily attached to the subsoil or seabed of the Outer Continental Shelf, erected for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources. The term includes mobile offshore drilling units when in contact with the seabed of the OCS for exploration or exploitation of subsea resources. The term does not include any pipeline or deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

"Owner" means a person holding title to or, in the absence of title, other indicia of ownership of a unit; however, this does not include a person who holds indicia of ownership primarily to protect a security interest in the unit and does not participate in the management or operation of the unit.

"Person" means an individual, association, partnership, consortium, joint venture, private, public, or municipal firm or corporation, or a government entity.

"Person in charge" means the master or other individual designated as such by the owner or operator under § 146.5 of this subchapter or 46 CFR 109.107.

"Production" means those activities which take place after the successful completion of any means for the removal of minerals, including, but not limited to, such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover.

"Rebuilt" means having had substantial alteration or reconstruction

of the hull or principal structural component.

"Unit" means any OCS facility, vessel, rig, platform, or other vehicle or structure, domestic or foreign.

"Unmanned facility" means an OCS facility, other than a floating facility or mobile offshore drilling unit, which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Unmanned platform" means a fixed, bottom-founded OCS facility which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 140.15 Equivalents and approved equipment.

(a) The use of alternate equipment or procedures for those specified in this subchapter may be permitted by an Officer in Charge, Marine Inspection, to the extent and upon conditions as will insure a degree of safety comparable to or greater than that provided by the minimum standards in this subchapter.

(b) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in the **Federal Register** and Coast Guard Publication CG–190, "Equipment Lists", available from Commandant (G–MMT–2), U.S. Coast Guard, Washington, D.C. 20593.

(c) Specifications for certain items required to be of an approved type are contained in 46 CFR Parts 160 through 164.

§ 140.20 Delegations.

(a) Each District Commander is responsible for the administration and enforcement of the regulations in this subchapter within that person's assigned district.

(b) Under the general superintendence of the District Commander, the Officer in Charge, Marine Inspection, is delegated authority to administer and enforce the regulations in this subchapter.

(c) Authority delegated under this section may be redelegated as necessary by the delegate.

§ 140.25 Appeals.

(a) Any person directly affected by an action or decision of an Officer in Charge, Marine Inspection, under the Act or the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied, that person may appeal the action or decision of the Officer in Charge, Marine Inspection, within 30 days to the District Commander of the District in which the action was taken or the decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that decision within 30 days to the Commandant, who issues a ruling after reviewing the appeal submitted under this paragraph. Rulings of the Commandant constitute final agency action.

(c) An appeal to the District Commander or Commandant—

(1) Must be made in writing, except in an emergency when an oral appeal may be accepted;

(2) Must be submitted to the District Commander of the District in which the action was taken or the decision made;

(3) Must describe the decision or action being appealed;

(4) Must state the reasons why the action or decision should be set aside or modified; and

(5) May contain any supporting documents and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Commandant.

§ 140.30 Judicial review.

(a) Nothing in this subchapter shall be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final ruling or order of the Commandant or that person's delegate pursuant to the Act or the regulations in this subchapter, is governed by the judical review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.35 Sanctions.

(a) Any person who fails to comply with—

(1) Any provision of the Act;

(2) Any regulation in this subchapter; or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of the failure.

(b) Any person who knowingly and willfully—

(1) Violates any provision of the Act;

(2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;

(3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment;

(4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or the regulations in this subchapter;

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or

(6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

§ 140.40 Processing penalty cases.

Apparent violations of the regulations in this subchapter are processed in accordance with Subpart 1.07 of 33 CFR Part 1 on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(b) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the District Commander determines whether to refer the case to the U.S. Attorney for criminal prosecution or to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings.

(c) When the U.S. Attorney declines to institute criminal proceedings, the District Commander decides whether to refer the case to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings or to close the case.

Subpart B—Inspections

§ 140.101 General inspection requirements.

(a) Each unit engaged in OCS activities is subject to inspection by the Coast Guard.

(b) Under the direction of the Officer in Charge, Marine Inspection, marine inspectors inspect units engaged in OCS activities to determine whether the requirements of this subchapter are met. These inspections may be conducted with or without advance notice at any time deemed necessary by the Officer in Charge, Marine Inspection.

(c) As part of an inspection, a marine inspector may review records and require and observe the conduct of emergency drills and other tests and procedures as may be necessary to demonstrate to that person's satisfaction that the unit and its equipment are in full compliance with applicable Coast Guard regulations. The marine inspector consults with the person in charge of the unit before requiring a drill or other test or procedure to be conducted to minimize disruption of unit activities and risk to life or property.

§ 140.102 Foreign units.

(a) Coast Guard inspections of foreign units recognize valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and Mobile Offshore Drilling Unit (MODU) Code certificates for matters covered by the certificates, unless there are clear grounds for believing that the condition of the unit or its equipment does not correspond substantially with the particulars of the certificate.

(b) The owner or operator of a foreign mobile offshore drilling unit which must comply with requirements of this subchapter is issued a letter of compliance by the Officer in Charge, Marine Inspection, when that person determines the requirements of this subchapter are met.

(c) A letter of compliance issued under this section is valid for one year or until a unit departs the OCS for foreign operations, whichever comes first.

§ 140.103 Deficiencies discovered during inspections.

(a) Any deficiency or hazard discovered during an inspection is reported to the unit's owner or operator, who shall have the deficiency or hazard eliminated or corrected as soon as practicable and within any period of time that may be specified for elimination or correction by the Coast Guard marine inspector.

(b) Whenever a deficiency or hazard remains uneliminated or uncorrected after notice and after the expriation of any period specified for elimination or correction by the marine inspector, the Officer in Charge, Marine Inspection, initiates appropriate enforcement measures.

(c) Lifesaving or firefighting equipment which is found defective by a marine inspector and which cannot be satisfactorily repaired shall be so mutilated that it cannot be used for the purpose for which it was originally intended.

§ 140.105 OCS facility inspections.

(a) This section applies to OCS facilities other than mobile offshore drilling units required to be inspected under 46 CFR Part 107.

(b) Each OCS facility is subject to an annual on-site inspection by the Coast Guard.

(c) An annual inspection includes inspection of all Coast Guard approved or required equipment and procedures designed to prevent or mitigate fires, spillages, and other major accidents on OCS facilities.

(d) The Coast Guard may conduct the first annual inspection of any OCS facility prior to commencement of drilling or production operations.

Subpart C—Investigations

§ 140.201 General.

Under the direction of the Officer in Charge, Marine Inspection, investigating officers investigate the following incidents occurring as a result of OCS activities:

(a) Death.

(b) Injury resulting in substantial impairment of any bodily unit or function.

(c) Fire which causes death, serious injury or property damage exceeding $25,000.

(d) Oil spillage exceeding two hundred barrels of oil in one occurrence during a thirty-day period.

(e) Other injuries, casualties, accidents, complaints of unsafe working conditions, fires, pollution, and incidents occurring as a result of OCS activities as the Officer in Charge, Marine Inspection, deems necessary to promote the safety of life or property or protect the marine environment.

§ 140.203 Investigation procedures.

(a) Insofar as practicable, investigations conducted pursuant to this subchapter shall follow the procedures of 46 CFR Part 4.

(b) Representatives of the U.S. Geological Survey may participate in these investigations. This participation may include, but is not limited to—

(1) Participating in a joint on-scene investigation;

(2) Making recommendations concerning the scope of the investigation;

(3) Calling and examing witnesses; and

(4) Submitting or requesting additional evidence.

(c) Reports of investigations conducted under this subchapter shall be made available to parties to the investigation and the public upon completion of agency action.

§ 140.205 Subpoenas.

(a) In any investigation conducted pursuant to this subchapter, the investigating officer shall have the power to administer necessary oaths, subpoena witnesses, and require the production of books, papers, documents, and any other evidence.

(b) Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a process similar to that used in the District Courts of the United States.

3. By adding a new Part 141 to read as follows:

PART 141—PERSONNEL

Subpart A—Restrictions on Employment

Sec.

141.1 Purpose.
141.5 Applicability.
141.10 Definitions.
141.15 Restrictions on employment.
141.20 Exemptions from restrictions on employment.
141.25 Evidence of U.S. citizenship.
141.30 Evidence of status as a resident alien.
141.35 Records to be kept by the employer.

Authority: Sec. 30 of sec. 208, Pub. L. 95–372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—Restrictions on Employment

§ 141.1 Purpose.

This subpart prescribes rules governing restrictions on the employment of personnel on units engaged in OCS activities.

§ 141.5 Applicability.

(a) This subpart applies to employment of personnel on units engaged in OCS activities, except as provided in paragraph (b) of this section.

(b) This subpart does not apply to employment of personnel on any—

(1) Vessel subject to the citizenship requirements of 46 U.S.C. 672a for pilots, licensed officers, and unlicensed crew when the vessel is transiting to or from an OCS facility or a United States port;

(2) Vessel subject to the citizenship requirements of 46 U.S.C. 1132 for officers and crew on federally subsidized or documented vessels; or

(3) Unit over 50 percent of which is owned by one or more citizens of a foreign nation or with respect to which one or more citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil or gas in its offshore areas.

(c) The Commandant may, upon request or upon that person's own initiative, determine whether over 50 percent of a particular unit is owned by citizens of a foreign nation or whether citizens of a foreign nation have the right effectively to control the unit.

(Approved by the Office of Management and Budget under OMB control number 2130–0182)

(d) In determining whether ownership or a right effectively to control exists, the Commandant may consider operational control of a unit, management responsibility, title, lease and charter arrangements, and financial interests.

(e) The owner or operator of any unit affected is notified of the Commandant's determination.

§ 141.10 Definitions.

As used in this subpart:

"Citizens of the United States" means—

(1) In the case of an individual, one who is a native born, derivative, or fully naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which 50% or more of the controlling interest is vested in citizens of the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of any State thereof.

"Citizen of a foreign nation" means—

(1) In the case of an individual, one who is not a citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which more than 50% of the controlling interest is vested in citizens of a nation other than the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) the title to a majority of the stock thereof is free from any trust or fiduciary obligation in favor of any citizen of the United States; (ii) the majority of the voting power in the corporation is not vested in any citizen of the United States; (iii) through any contract or understanding, the majority of the voting power may not be exercised directly or indirectly on behalf of any citizen of the United States; or (iv) by no other means, control of the corporation is conferred upon or permitted to be exercised by any citizen of the United States.

"Resident alien" means an alien lawfully admitted to the United States for permanent residence in accordance with section 101(a)(20) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101(a)(20).

§ 141.15 Restrictions on employment.

(a) On or after April 5, 1983, each employer of personnel on any unit engaged in OCS activities that is subject to this part must employ, as members of the regular complement of the unit, only citizens of the United States or resident aliens except as provided by § 141.20.

(b) As used in paragraph (a) of this section, "regular complement of a unit" means those personnel necessary for the routine functioning of the unit, including marine officers and crew; industrial personnel on the unit, such as toolpushers, drillers, roustabouts, floor hands, crane operators, derrickmen, mechanics, motormen, and general maintenance personnel; and support personnel on the unit, such as cooks, stewards and radio operators. The term does not include specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary operations; extra personnel on a unit for training; and other personnel temporarily on a unit for specialized operations, such as construction, alteration, well logging, or unusual repairs or emergencies.

(c) The Officer in Charge, Marine Inspection, may determine whether a particular individual or position is part of the regular complement of a unit. A copy of the determination is provided to the owner or operator of the unit affected.

(Approved by the Office of Management and Budget under OMB control number 2130–0182)

§ 141.20 Exemptions from restrictions on employment.

(a) An employer may request an exemption from the restrictions on employment in § 141.15 in order to employ persons other than citizens of the United States or resident aliens as part of the regular complement of the unit under the following circumstances:

(1) When specific contractual provisions or national registry manning requirements in effect on September 18, 1978 provide that a person other than a citizen of the United States or a resident alien is to be employed on a particular unit.

(2) When there is not a sufficient number of citizens of the United States or resident aliens qualified and available for the work.

(3) When the President determines with respect to a particular unit that the employment of only citizens of the United States or resident aliens is not consistent with the national interest.

(b) The request must be in writing, identify the provision of paragraph (a) of this section relied upon, and—

(1) If involving specific contractual provisions under paragraph (a)(1) of this section, list the persons claimed exempt and contain a copy of the contract;

(2) If involving persons without an H–2 Visa under paragraph (a)(2) of this section, list the persons or positions sought to be exempted; or

(3) If under paragraph (a)(3) of this section, identify the unit involved and contain any information in support of the claim.

(c) Requests must be submitted to the Commandant (G–MVP), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

(d) Upon receipt of a request under paragraph (a)(2) of this section, the Coast Guard seeks information from the Department of Labor concerning whether there are citizens of the United States or resident aliens qualified and available for work. If information is

provided that citizens of the United States or resident aliens are qualified and available, the employer may be required to seek their employment before the request is approved.

(e) Upon receipt of a request under paragraph (a)(3) of this section and after consulting with other Federal agencies as appropriate, the Commandant forwards the request and the comments of the Coast Guard and other interested agencies to the President for determination.

(f) Upon approval by the President for request under paragraph (a)(3) of this section or by the Coast Guard for all other requests, the Coast Guard issues a certification of the exemption. A certification issued under paragraph (a)(2) of this section is valid for one year from the date of issuance.

(g) If, within 30 days of receipt by the Coast Guard of a request under paragraph (a)(2) of this section, the Coast Guard does not make a determination or advise the employer that additional time for consideration is necessary, the request is considered approved for a period of 90 days from the end of the 30 day period.

(h) A request need not be submitted for persons who are not citizens of the United States or resident aliens and who—

(1) Are employed under the national registry manning requirements exception in paragraph (a)(1) of this section; or

(2) Have been classified and admitted to the United States as temporary workers under 8 U.S.C. 1101(a)(15)(H)(ii) for work in a position for which admitted.

(Approved by the Office of Management and Budget under OMB control number 2130–0182)

§ 141.25 Evidence of citizenship.

(a) The employer may accept as sufficient evidence that a person is a citizen of the United States any one of the following documents and no others:

(1) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12 which shows the holder to be citizen of the United States.

(2) An original or certified copy of a birth certificate or birth registration issued by a state or the District of Columbia.

(3) A United States passport.

(4) A Certificate of Citizenship issued by the Immigration and Naturalization Service.

(5) A Certificate of Naturalization issued by a Naturalization Court.

(6) A letter from the Coast Guard issued under paragraph (d) of this section.

(b) If a person does not have one of the documents listed in paragraphs (a)(1) through (a)(6) of this section, that person may appear in person before an Officer in Charge, Marine Inspection, and submit one or more of the following documents which may be considered as evidence that the applicant is a citizen of the United States:

(1) A Certificate of Derivative Citizenship or a Certificate of Naturalization of either parent and a birth certificate of the applicant or other evidence satisfactorily establishing that the applicant was under 21 years of age at the time of the parent's naturalization.

(2) An original or certified copy of a birth certificate from a political jurisdiction outside the United States which demonstrates citizenship status.

(3) A Baptismal certificate or parish record recorded within one year after birth.

(4) A statement of a practicing physician certifying that the physician attended the birth and has a record showing the date on which the birth occurred.

(5) A commission, or evidence of commission, in the Armed Forces of the United States which shows the holder to be a citizen of the United States.

(6) A continuous discharge book or certificate of identification issued by the Coast Guard or the former Bureau of Marine Inspection, provided the document shows that the applicant produced satisfactory evidence of citizenship at the time the document was issued.

(7) A delayed certificate of birth issued under a state seal, provided there are no collateral facts indicating fraud in its procurement.

(8) A report of the Census Bureau showing the earliest available record of the applicant's age or birth.

(9) Affidavits of parents, relatives, or two or more responsible citizens of the United States, school records; immigration records; insurance policies; or other records which support the citizenship claim.

(c) In any case where doubt exists concerning evidence of citizenship submitted under paragraph (b) of this section, the Officer in Charge, Marine Inspection, may refer the matter to the United States Immigration and Naturalization Service for an advisory opinion.

(d) If the documents submitted under paragraph (b) of this section are determined by the Officer in Charge, Marine Inspection, to be sufficient evidence that the applicant is a citizen of the United States, the Coast Guard issues the applicant a letter acknowledging this determination.

(Approved by the Office of Management and Budget under OMB control number 2130–0182)

§ 141.30 Evidence of status as a resident alien.

The employer may accept as sufficient evidence that a person is a resident alien any one of the following documents and no others:

(a) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12.

(b) An alien registration receipt card issued by the Immigration and Naturalization Service certifying that the card holder has been admitted to the United States as an immigrant.

(c) A declaration of intention to become a citizen of the United States issued by the a Naturalization Court.

§ 141.35 Records to be kept by the employer.

(a) The employer of personnel subject to this subpart shall maintain, and make available to the Coast Guard upon request, a record identifying which of the documents listed in §§ 141.25 and 141.30 were relied upon for each employee. The record must consist of either a copy of the document or the following information on the document:

(1) For a merchant mariner's document or a United States passport, the document's title and identification number.

(2) For a birth certificate or birth registration, the document's title and the employee's date and place of birth.

(3) For all other documents listed in §§ 141.25 and 141.30, the document's title and date and place of issuance.

(b) The employer of personnel subject to this subpart shall maintain a written list of the positions that make up the regular complement of the unit and the name and nationality of the individual filling each employee position. This list may be in summary form and any simple format.

(Approved by the Office of Management and Budget under OMB control number 2130–0182)

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Sec.

142.1 Duties of lessees, permittees, and persons responsible for actual operations.

142.5 Reports of unsafe working conditions.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

§ 142.1 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit on the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.5 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and employees of the Department of Transportation who have a need for the record in the performance of their official duties.

5. By revising Part 143 to read as follows:

PART 143—DESIGN AND EQUIPMENT

Subpart A—General

Sec.
143.1 Purpose.
143.15 Lights and warning devices.

Subpart B—OCS Facilities

143.100 Applicability.
143.101 Means of escape.
143.105 Personnel landings.
143.110 Guards and rails.
143.120 Floating OCS facilities.

Subpart C—Mobile Offshore Drilling Units (MODUs)

143.200 Applicability.
143.201 Existing MODUs exempted from new design requirements.
143.205 Requirements for U.S. and undocumented MODUs.
143.207 Requirements for foreign MODUs.
143.210 Letter of compliance.

Subpart D—Vessels

143.300 Applicability.
143.301 Load line requirements.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 143.1 Purpose.

This part prescribes design and equipment requirements for units engaged in OCS activities.

§ 143.15 Lights and warning devices.

(a) OCS facilities must meet the lights and warning devices requirements under Part 67 of this chapter concerning aids to navigation on artificial islands and fixed structures.

(b) Vessels, including attending vessels but excluding MODUs under paragraph (a) of this section, must meet the lights and warning devices requirements under the International Regulations for Preventing Collisions at Sea 1972 (33 CFR Part 87, Appendix A) or under local rules provided for in Rule 1 of those Regulations.

Subpart B—OCS Facilities

§ 143.100 Applicability.

This subpart applies to OCS facilities except mobile offshore drilling units.

§ 143.101 Means of escape.

(a) "Primary means of escape" shall be fixed stairways or fixed ladders of metal construction.

(b) "Secondary means of escape" shall be types approved for "primary means of escape" or portable, flexible ladders, knotted man ropes, and other devices satisfactory to the Officer in Charge, Marine Inspection.

(c) Manned OCS facilities shall be provided with at least two "primary means of escape" extending from the uppermost platform level that contains living quarters or that personnel occupy continuously, to each successively lower working level and to the water surface. Working levels without living quarters, shops, or offices in manned facility structural appendages, extensions, and installations that personnel occupy only occasionally shall be provided with one "primary means of escape" and, when necessary in the opinion of the Officer in Charge, Marine Inspection, one or more "secondary means of escape."

(d) Unmanned OCS facilities shall be provided with at least one "primary means of escape" extending from the uppermost platform working level to each successively lower working level and to the water surface. When personnel are on board, unmanned facilities shall also be provided with one or more "secondary means of escape," but not more than one will be required for every 10 persons extending from the uppermost working level of the facility to each successively lower working level and to the water surface, excluding facility appendages and installations, unless "secondary means of escape" from such appendages and installations are necessary in the opinion of the Officer in Charge, Marine Inspection.

(e) "Means of escape" shall be suitably accessible to personnel for rapid facility evacuation.

(f) When two or more "means of escape" are installed, at least two shall be located as nearly diagonally opposite each other as practicable unless such requirement is unreasonable or impracticable in the opinion of the Officer in Charge, Marine Inspection.

§ 143.105 Personnel landings.

(a) Sufficient personnel landings shall be provided on each manned OCS facility to assure safe access and egress. When due to special construction personnel landings are not feasible, then suitable transfer facilities to provide safe access and egress shall be installed.

(b) The personnel landings shall be provided with satisfactory illumination. The minimum shall be one-foot candle of artificial illumination as measured at the landing floor and guards and rails.

§ 143.110 Guards and rails.

(a) Except for helicopter landing decks which are provided for in paragraph (b) of this section, and areas not normally occupied, the unprotected perimeter of all floor or deck areas and openings shall be rimmed with guards and rails or wire mesh fence. The guard rail or fence shall be at least 42 inches high. The two intermediate rails shall be so placed that the rails are approximately evenly spaced between the guard rail and the floor or deck area: *Provided,* That if a toe board is installed then one of the intermediate rails may be omitted and the other rail placed approximately half way between the top of the toe board and the top guard rail.

(b) The unprotected perimeter of the helicopter landing deck shall be protected with a device of sufficient

strength and size as to prevent any person from falling from such deck.

(c) Each catwalk and each stairway shall be provided with a suitable guard rail or rails, as necessary.

§ 143.120 Floating OCS facilities.

(a) Before construction is started on a proposed floating OCS facility, the owner or operator of the facility must submit to the Coast Guard for approval all plans and information listed in Subpart C of 46 CFR Part 107 which relate to the facility. All plans and information must be submitted according to the procedures in that subpart.

(b) The facility must comply with the requirements of Subchapters F (Marine Engineering) and J (Electrical Engineering) of 46 CFR Chapter I and 46 CFR Part 108 (Design and Equipment). Where unusual design or equipment needs make compliance impracticable, alternative proposals that provide an equivalent level of safety may be accepted. These requirements do not apply to production systems on the facility.

(c) The Officer in Charge, Marine Inspection, determines whether a floating OCS facility meets the requirements of paragraph (b) of this section and issues a certificate of inspection for each facility which meets these requirements. Inspection of the facility may be required as part of this determination.

Subpart C—Mobile Offshore Drilling Units

§ 143.200 Applicability.

This subpart applies to mobile offshore drilling units when engaged in OCS activities.

§ 143.201 Existing MODUs exempted from new design requirements.

Any mobile offshore drilling unit built before, under construction on, or contracted for prior to April 5, 1982 is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on April 5, 1983.

§ 143.205 Requirements for U.S. and undocumented MODUs.

Each mobile offshore drilling unit that is documented under the laws of the United States or not documented under the laws of any nation must comply with the design, equipment, and inspection requirements of 46 CFR Parts 107 and 108 in order to engage in OCS activities.

§ 143.207 Requirements for foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The design and equipment standards of 46 CFR Part 108.

(b) The design and equipment standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 108.

(c) The design and equipment standards for mobile offshore drilling units contained in the Inter-Governmental Maritime Consultative Organization (IMCO) Code for Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A.414(XI)) which has been incorporated by reference.

§ 143.210 Letter of compliance.

The Officer in Charge, Marine Inspection, determines whether a mobile offshore drilling unit which does not hold a valid Coast Guard Certificate of Inspection meets the requirements of § 143.205 or § 143.207 relating to design and equipment standards and issues a letter of compliance for each unit which meets the requirements. Inspection of the unit may be required as part of this determination.

Subpart D—Vessels

§ 143.300 Applicability.

This subpart applies to all vessels engaged in OCS activities except mobile offshore drilling units.

§ 143.301 Load line requirements.

(a) Vessels, including foreign vessels, which would be subject to the requirements of Subchapter E of 46 CFR Chapter I concerning load lines when arriving at or proceeding to sea from any port or place within the United States must comply with those requirements when engaged in activities on the OCS.

(b) Load line certificates and load line exemption certificates issued or accepted under Subchapter E of 46 CFR Chapter I are acepted as evidence of compliance with paragraph (a) of this section.

PART 144—LIFESAVING APPLIANCES

6. The authority citation for Part 144 is revised to read as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

7. By adding new paragraphs (c) and (d) to § 144.01–20 as follows:

§ 144.01–20 Life preservers.

* * * * *

(c) Each life preserver carried on a manned platform after October 5, 1982, must have a personal flotation device light that is approved under Subpart 161.012 of 46 CFR Part 161. Each light must be securely attached to the front shoulder area of the life preserver.

(d) Each life preserver carried on a manned platform after October 5, 1982, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at leat 200 sq. cm of material on each of its reversible sides. The material must be Type I material that is approved under 46 CFR 164.018. The material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

8. By revising Part 146 to read as follows:

PART 146—OPERATIONS

Subpart A—OCS Facilities

Sec.
146.1 Applicability.
146.5 Person in charge.
146.10 Notice of new facilities.
146.15 Maintenance of emergency equipment.
146.20 Work vests.
146.30 Notice of casualty or accident.
146.35 Written report of casualty.
146.40 Diving casualties.
146.45 Pollution incidents.

Subpart B—Manned OCS Facilities

146.101 Applicability.
146.105 General alarm system.
146.110 Emergency signals.
146.115 Duties of personnel during an emergency.
146.120 Manning of survival craft.
146.125 Emergency drills.
146.130 Station bill.
146.135 Markings for emergency equipment.

Subpart C—Mobile Offshore Drilling Units (MODUs)

146.201 Applicability.
146.202 Notice of arrival or relocation of MODUs on the OCS.
146.203 Requirements for U.S. and undocumented MODUs.
146.205 Requirements for foreign MODUs.

Subpart D—Vessels

146.301 Applicability.
146.303 Notice of casualty or accident.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z).

Subpart A—OCS Facilities

§ 146.1 Application.

The provisions of this subpart apply to OCS facilities except mobile offshore drilling units.

§ 146.5 Person in charge.

(a) The owner or operator, or the agent of either of them, shall designate by title and in order of succession the persons on each OCS facility who shall be the "person in charge."

(b) In case an emergency arises, nothing in the regulations in this subchapter shall be so construed as preventing the person in charge from pursuing the most effective action in that person's judgement for rectifying the conditions causing the emergency.

§ 146.10 Notice of new facilities.

(a) The owner or operator of each OCS facility not in operation before April 5, 1982 shall, at least 30 days before the date on-site construction of the facility is expected to commence, notify the District Commander for the area in which the facility will be located of—

(1) The position in which the facility will be operated;

(2) The designation assigned to the facility for identification under 30 CFR 250.37;

(3) The date when operation of the facility is expected to commence; and

(4) The date when the facility is expected to be available for inspection by the Coast Guard.

(b) The information required in paragraph (a) of this section may be submitted together with an need not repeat information submitted in connection with the application and notice requirements in 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf.

§ 146.15 Maintenance of emergency equipment.

(a) The emergency equipment provided, regardless of whether or not required by this subchapter, shall be maintained in good condition at all times. Good operating practices require replacement of expended equipment, as well as periodic renewal of those items which have a limited period of effectiveness.

(b) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(c) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

§ 146.20 Work vests.

(a) *Approved unicellular plastic foam.* Buoyant work vests carried under the permissive authority of this section shall conform to the specifications for Type V work vests in 46 CFR Subpart 160.053.

(b) *Use.* Approved buoyant work vests are considered to be items of safety apparel and may be carried aboard OCS facilities to be worn by persons employed thereon when working near or over the water. The use and control of such vests shall be under the supervision of the person in charge of the facility. When carried, such vests shall not be accepted in lieu of any portion of the required number of approved life preservers and shall not be substituted for the approved life preservers required to be worn during drills and emergencies.

(c) *Stowage.* The work vests shall be stowed separately from the regular stowage of approved life preservers. The location for the stowage of work vests shall be such as not to be easily confused with that for approved life preservers.

(d) *Inspections.* Each work vest shall be subject to examination by a marine inspector to determine its serviceability. If found to be satisfactory, it may be continued in service, but shall not be stamped by a marine inspector with a Coast Guard stamp. If a work vest is found not to be in a serviceable condition, then such work vest shall be removed from the OCS facility. If a work vest is beyond repair, it shall be destroyed or mutilated in the presence of a marine inspector so as to prevent its continued use as a work vest.

§ 146.30 Notice of casualties.

(a) The owner, operator, and person in charge of an OCS facility shall ensure that the Coast Guard is notified as soon as possible after a casualty occurs, and by the most rapid means available, of each casualty involving the facility which results in—

(1) Death; or

(2) Injury to 5 or more persons in a single incident.

(b) The owner, operator, and person in charge shall ensure that the Coast Guard is notified promptly of each casualty involving the facility which results in—

(1) Damage affecting the usefulness of primary lifesaving or firefighting equipment;

(2) Injury causing any person to be incapacitated for more than 72 hours;

(3) Damage to the facility exceeding $25,000 resulting from a collision by a vessel with the facility; or

(4) Damage to a floating OCS facility exceeding $25,000.

(c) The notice required by paragraphs (a) and (b) of this section must identify the person giving the notice and the facility involved and describe, insofar as practicable, the nature of the casualty and the extent of injury to personnel and damage to property.

(d) The damage amounts set forth in paragraphs (b)(3) and (b)(4) of this section are based on the costs necessary to restore the facility to the same condition of serviceability that the facility was in before the casualty, including the cost of salvage, gas freeing, and drydockage. It does not include demurrage or similar items.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0003 and 2115–0004)

§ 146.35 Written report of casualty.

(a) In addition to the notice of a casualty required by § 146.30, the owner, operator, or person in charge shall, within 10 days of the casualty, submit to the Officer in Charge, Marine Inspection, a written report which—

(1) Identifies the facility involved, its owner, operator, and person in charge;

(2) Describes the casualty, including the date and time;

(3) Describes the nature and extent of injury to personnel and damage to property;

(4) Describes the factors which may have contributed to causing the casualty;

(5) Gives the name, address, and phone number of persons involved in or witnessing the casualty; and

(6) Gives any desired comments, especially with respect to use of or need for emergency equipment.

(b) The written report required by paragraph (a) of this section may be—

(1) In narrative form;

(2) On Form CG 2692 for casualties resulting in only property damage; or

(3) On Form CG 924E for casualties resulting only in injury to personnel.

(c) If filed or postmarked within 5 days of the casualty, the written report required by paragraph (a) of this section serves as the notice required by § 146.30(b).

(Approved by the Office of Management and Budget under OMB control numbers 2115–0003 and 2115–0004)

§ 146.40 Diving casualties.

Diving related casualties are reported in accordance with 46 CFR 197.484 and 197.486.

§ 146.45 Pollution incidents.

Oil pollution incidents involving an OCS facility are reported in accordance with §§ 135.305 and 135.307 of this

chapter. Additional provisions concerning liability and compensation because of oil pollution are contained in Subchapter M of this chapter.

Subpart B—Manned OCS Facilities

§ 146.101 Application.

The provisions of this subpart apply only to manned OCS facilities except mobile offshore drilling units.

§ 146.105 General alarm system.

Each manned facility must have a general alarm system. When operated, this system shall be audible in all parts of the structure on which provided.

§ 146.110 Emergency signals.

(a) The owner, the owner's agent, or the person in charge shall establish emergency signals to be used for calling the personnel to their emergency stations.

(b) The signal to man emergency stations shall be an intermittent signal on the general alarm system for not less than 10 seconds. The abandon facility signal shall be a continuous signal on the general alarm system.

§ 146.115 Duties of personnel during an emergency.

(a) The owner, the owner's agent, or the person in charge shall assign to each person on a manned facility special duties and duty stations so that in event an emergency arises confusion will be minimized and no delay will occur with respect to the use or application of equipment required by this subchapter. The duties shall, as far as possible, be comparable with the regular work of the individual.

(b) The duties shall be assigned as necessary for the proper handing of any emergency, and shall include the following:

(1) The closing of air ports, watertight doors, scuppers, and sanitary and other discharges which lead through the facility's hull.

(2) The stopping of fans and ventilation systems.

(3) The donning of life preserves.

(4) The preparation and launching of life floats, lifeboats, or life rafts.

§ 146.120 Manning of survival craft.

The owner, the owner's agent, or the person in charge shall assign a person to each life float, lifeboat, life raft, or survival capsule who shall be responsible for launching it in event of an emergency.

§ 146.125 Emergency drills.

(a) Emergency drills shall be conducted at least once each month by the person in charge of the manned facility. The drill shall be conducted as if an actual emergency existed. All personnel should report to their respective stations and be prepared to perform the duties assigned to them.

(b) The person in charge and conducting the emergency drill shall instruct the personnel as necessary to insure that all persons are familiar with their duties and stations.

(c) The date and time of such drills shall be reported in writing by the person in charge at the time of the drill to the owner who shall maintain this report record for a year and furnish it upon request to the Coast Guard. After one year, such records may be destroyed. When it is impossible to conduct emergency drills as required by this section during a particular calendar month, during the following month, a written report by the owner shall be submitted to the Officer in Charge, Marine Inspection, stating why the drills could not be conducted.

(Approved by the Office of Management and Budget under OMB control number 2115–0071)

§ 146.130 Station bill.

(a) The person in charge of each manned platform shall be responsible for and have prepared a station bill (muster list). This station bill must be signed by the person in charge. Copies shall be duly posted in conspicuous locations on the manned platform.

(b) The station bill shall set forth the special duties and duty stations of each member of the personnel for any emergency which involves the use or application of equipment required by this subchapter. In addition, it shall contain all other duties assigned and considered as necessary for the proper handling of other emergencies.

(c) The station bill shall contain the various signals to be used for calling the personnel to their emergency stations, and to abandon the facility.

§ 146.135 Markings for emergency equipment.

(a) Markings shall be provided as considered necessary for the guidance of persons on manned facilities.

(b) The general alarm bell switches shall be identified by red letters at least one inch high with a contrasting background: "General Alarm."

(c) All general alarm bells shall be identified by a sign at each bell in red letters at least one inch high with a sharp contrasting background: "General Alarm—When Bell Rings Go to Your Station.

(d) All life floats, lifeboats, life rafts, and survival capsules, together with paddles or oars, shall be conspicuously marked with a name or number of, or other inscription identifying, the facility on which placed. The number of persons allowed on each life float, lifeboat, or life raft shall be conspicuously marked thereon in letters and numbers 1½ inches high. These numbers shall be placed on both sides of the life float, lifeboat, or life raft. Inflatable life rafts shall be marked in accordance with Subpart 160.051 of 46 CFR Part 160 and no additional markings are required.

(e) All life preservers and ring life buoys shall be marked with the name or number of, or other inscription identifying, the facility on which placed except those which accompany mobile crews to unmanned platforms may be marked with the operator's name and field designation.

Subpart C—Mobile Offshore Drilling Units

§ 146.201 Application.

This subpart applies to mobile offshore drilling units engaged in OCS activities.

§ 146.202 Notice of arrival or relocation of MODUs on the OCS.

(a) The owner of any mobile offshore drilling unit engaged in OCS activities shall, 14 days before arrival of the unit on the OCS or as soon thereafter as practicable, notify the District Commander for the area in which the unit will operate of—

(1) The unit's name, nationality, and designation assigned for identification under 30 CFR 250.37;

(2) The location and year that the unit was built;

(3) The name and address of the owner, and the owner's local representative, if any;

(4) Classification or inspection certificates currently held by the unit;

(5) The location and date that operations are expected to commence and their anticipated duration; and

(6) The location and date that the unit will be available and ready for inspection by the Coast Guard.

(b) Once a unit is located on the OCS, the owner of the unit shall notify the District Commander before relocating the unit.

(c) The information required in paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat information contained in, applications and notices under 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf or 33 CFR Part 135 for applications for certificate of financial responsibility.

§ 146.203 Requirements for U.S. and undocumented MODUs.

Each mobile offshore drilling unit documented under the laws of the United States and each mobile offshore drilling unit that is not documented under the laws of any nation must comply with the operating standards of 46 CFR Part 109 when engaged in OCS activities.

§ 146.205 Requirements for foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The operating standards of 46 CFR Part 109.

(b) The operating standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 109.

(c) The operating standards for mobile offshore drilling units contained in the Inter-Governmental Maritime Consultative Organization (IMCO) Code for the Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A. 414(XI)) which has been incorporated by reference and the requirements of 46 CFR Part 109 for matters not addressed by the Code.

Subpart D—Vessels

§ 146.301 Applicability.

This subpart applies to vessels engaged in OCS activities other than United States vessels already required to report marine casualties under Subpart 4.05 of 46 CFR Part 4 or Subpart D of 46 CFR Part 109.

§ 146.303 Notice and written report of casualties.

The owner, operator, or person in charge of a vessel engaged in OCS activities shall ensure that the notice of casualty requirements of §146.30 and the written report requirements of §146.35 are complied with whenever a casualty involving the vessel occurs which results in—

(a) Death;

(b) Injury to 5 or more persons in a single incident; or

(c) Injury causing any person to be incapacitated for more than 72 hours.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0003 and 2115–0004)

9. By revising Part 147 to read as follows:

PART 147—SAFETY ZONES

Sec.

147.1 Purpose of safety zones.
147.5 Delegation of authority.
147.10 Establishment of safety zones.
147.15 Extent of safety zones.

Authority: Sec 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

§ 147.1 Purpose of safety zones.

Safety zones may be established around OCS facilities being constructed, maintained, or operated on the Outer Continental Shelf to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones. Regulations adopted for safety zones may extend to the prevention or control of specific activities and access by vessels or persons, and include measures to protect the living resources of the sea from harmful agents. The regulations do not encompass the operating equipment or procedures used in the drilling for and production of oil, gas, or other minerals, or the transportation of oil, gas, or other minerals by pipeline except as they relate to the safety of life and property on OCS facilities and on the waters adjacent to OCS facilities or to the protection of the living resources of the sea within a safety zone from harmful agents.

§ 147.5 Delegation of authority.

The authority to establish safety zones and to issue and enforce safety zone regulations in accordance with the provisions of this part is delegated to District Commanders.

§ 147.10 Establishment of safety zones.

(a) Whenever it comes to the attention of the District Commander that a safety zone and regulations may be required concerning any OCS facility being constructed, maintained, or operated on the Outer Continental Shelf or its appurtenances and attending vessels, or the adjacent waters, the District Commander may initiate appropriate inquiry to determine whether a safety zone and regulations should be established. In making this determination, the District Commander considers all relevant safety factors, including existing or reasonably foreseeable congestion of vessels, the presence of unusually harmful or hazardous substances, and any obstructions within 500 meters of the OCS facility. If the District Commander determines that the circumstances warrant the establishment of a safety zone and regulations the District Commander takes action as necessary consistent with the provisions of this part.

(b) Except as provided in paragraph (c) of this section, a safety zone and necessary regulations may be established concerning any OCS facility being constructed, maintained or operated on the Outer Continental Shelf, following publication of a notice of proposed rule making in the **Federal Register** and after interested parties have been given the opportunity to submit comments. A zone and necessary regulations may be in effect during any period when construction equipment and materials are within 500 meters of the construction site until the removal of all portions of the facility.

(c) A safety zone and necessary regulations may be established without public rule making procedures when the District Commander determined that imminent danger exists with respect to the safety of life and property on an OCS facility constructed, maintained, or operated on the Outer Continental Shelf, its appurtenances and attending vessels or adjacent waters. A safety zone and regulations may be made effective on the date the rule is published in the **Federal Register.** However, if circumstances require, they may be placed into effect immediately, followed promptly by publication in the **Federal Register.** The District Commander may utilize, in addition to broadcast Notices to Mariners, Local Notices to Mariners, and Notices to Mariners, newspapers, and broadcasting stations to disseminate information concerning a safety zone and regulations pertaining thereto. The public may comment concerning the establishment of a safety zone or regulations under this paragraph. A safety zone or regulations may be modified or withdrawn, as appropriate, based on the comments received.

§ 147.15 Extent of safety zones.

A safety zone establishment under this part may extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge or from its construction site, but may not interfere with the use of recognized sea lanes essential to navigation.

(43 U.S.C. 1331 et seq.; 49 CFR 1.46(z))

Dated: March 1, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

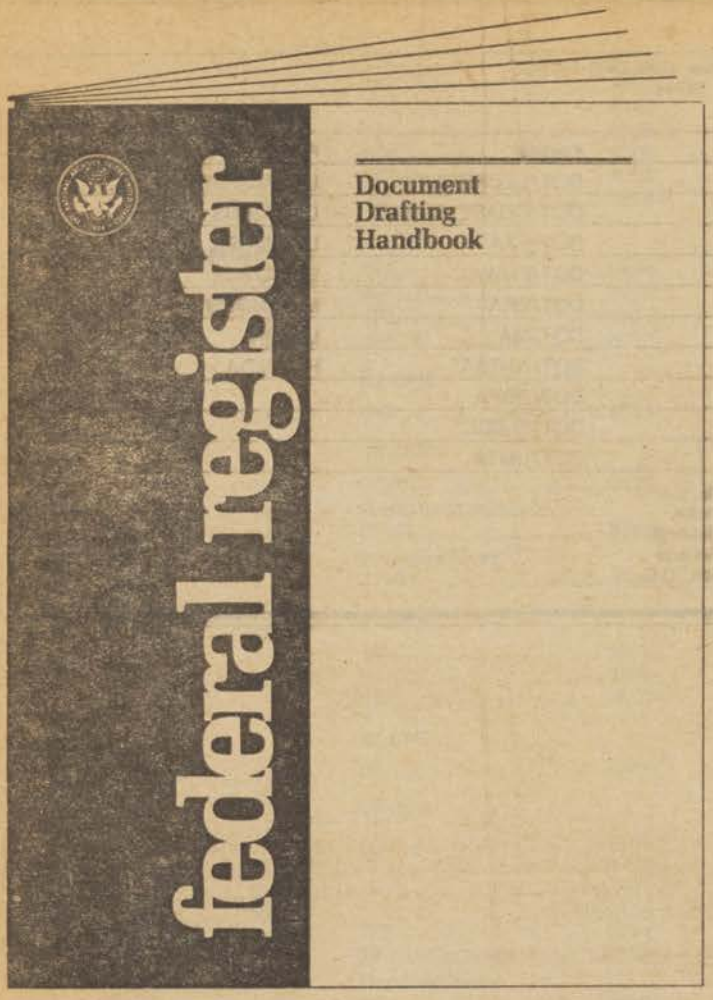
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing March 3, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 122 / Pub. L. 97–150 To authorize and request the President to designate the week of February 28, 1982, through March 6, 1982, as "National Construction Industry Week". (Mar. 1, 1982; 96 Stat. 8) Price: $1.50.



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