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Thursday
January 20, 1983

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Patent and Trademark Office

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Civil Aeronautics Board

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

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Agricultural Marketing Service

Military Air Transportation
Civil Aeronautics Board

Railroads
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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the Navel Orange Administrative Committee functioning under Marketing Order 907. Funds to administer this program are derived from assessments on handlers of navel oranges regulated under the order.

EFFECTIVE DATES: November 1, 1982–October 31, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Room 2532 South Building, Washington, D.C. 20250, telephone (202) 447–5975.

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

The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on the recommendation submitted by the Navel Orange Administrative Committee (NOAC) established under the marketing order, and upon other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The order requires that the rate of assessment for the fiscal period shall apply to all assessable navel oranges handled from the beginning of such period. To enable the committee to meet current fiscal obligations, approval of expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

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

PART 907—NAVEL ORANGES GROWN IN CALIFORNIA AND ARIZONA

Therefore, § 907.220 is added to read as follows (the following section prescribes the annual expenses and the rate of assessment and will not be published in the Code of Federal Regulations):

§ 907.220 Expenses and assessment rate.

Expenses of $912,500 by the Navel Orange Administrative Committee are authorized, and an assessment rate of $0.021 per carton of navel oranges is established for the fiscal year ending October 31, 1983; and a portion of unexpended funds from the fiscal year ended October 31, 1982, shall be carried over as a reserve in accordance with § 907.42.

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

Dated: January 14, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-1531 Filed 1-19-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 562 and Navel Orange Reg. 561, Amdt. 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 21–27, 1983, and increases the quantity of such oranges that may be so shipped during the period January 14–20, 1983. 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 January 21, 1983, and the amendment is effective for the period January 14–20, 1983.

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

SUPPLEMENTARY INFORMATION:

Findings

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

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

hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on January 18, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is improved.

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

List of Subjects in 7 CFR Part 907

Agricultural marketing service, Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.862 is added as follows:

§ 907.862 Navel orange regulation 562.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 21, 1983, through January 27, 1983, are established as follows:

(a) District 1: 1,650,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.861 Navel Orange Regulation 561 (48 FR 1481), paragraphs (a), (b), (c), and (d) are hereby revised to read:

§ 907.861 Navel orange regulation 561.

* * * * *

(a) District 1: 1,650,000 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: January 19, 1983.

D. S. Kuryloski,

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

(FR Doc. 83-9 Filed 1-19-83; 11:26 am)

BILLING CODE 3410-02-M

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7 CFR Part 915

Avocados Grown in South Florida; Amendment to Subpart—Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies voting procedures at grower nomination meetings by limiting proxy voting to growers residing outside the production area. Such action is designed to encourage more active grower participation at meetings held to nominate grower members of the Avocado Administrative Committee.

DATE: Effective January 20, 1983.

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

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

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

This final rule is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Avocado 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 final rule modifies voting procedures by limiting proxy voting at grower nomination meetings to those growers who reside outside the production area. Currently, all growers are permitted to vote by proxy at such nomination meetings, including growers residing in the production area. The committee is of the opinion that it is not necessary to extend the privilege of proxy voting to growers residing in the production area. Such growers live relatively close to the place where nomination meetings are held, and should not find it difficult or burdensome to attend such meetings in person. This final rule is designed to encourage more active participation at such meeting where growers nominate fellow growers to serve on the committee.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for issuing these regulatory provisions as specified, to become effective upon publication in the Federal Register. Interested persons were given an opportunity to submit information and views on this final rule at an open committee meeting. The provisions in this final rule are the same as those in a proposed rule, which was published in the Federal Register (47 FR 56500), on December 17, 1982. The proposed rule explained the recommendation of the committee, and allowed 15 days for written comments. No comments were received. Furthermore, this final rule should become effective as soon as possible, so the committee will have adequate time to notify growers of its provisions prior to a nomination meeting scheduled for February 10, 1983.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

PART 915—[AMENDED]

Accordingly, § 915.115 *Nomination procedure,* under Subpart—Rules and

Regulations is amended by revising paragraph (a) to read as follows:

§ 915.115 Nomination procedure.

(a) Any grower who resides outside the production area and desires to be represented in a nomination meeting by a duly authorized agent and to have such grower's vote cast by such agent in the nomination and election of nominees for grower members and alternate members to fill positions on the Avocado Administrative Committee, as provided in § 915.22(b)(2), shall submit to the committee, not later than January 20, a written statement containing the following:

(1) Name of grower;

(2) Mailing address;

(3) Location of each avocado grove (either legal or from established landmarks);

(4) Number of avocado trees owned;

(5) Number of 55-pound units of avocados marketed to date during the current season;

(6) Name of the handler of the fruit marketed;

(7) Authorization, including the name and address, of the person who is to represent said grower at the nomination meeting.

* * * * *

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

Dated: January 17, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 83-1593 Filed 1-19-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

10 CFR Parts 375, 376, 378, 390 and 391

30 CFR Parts 259, 260, 261, 262 and 263

Transfer and Redesignation of Department of Energy Regulations Governing Minerals Leasing

Correction

In FR Doc. 83–693 beginning on page 1161, in the issue of Tuesday, January 11, 1983, make the following correction.

On page 1181, first column, sixth line of the **SUMMARY** paragraph, the word "not", should read "now".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-51; Amdt. 39-4539]

Airworthiness Directives; Detroit Diesel Allison (DDA) Model 250-C28B and 250-C28C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an inspection and pressure test of the No. 8 bearing sump on affected turbine assemblies. The AD is necessary to prevent oil from being forced through the No. 8 bearing seal onto the No. 1 turbine wheel, resulting in possible oil fires and damage to the first-stage turbine wheel.

DATES: Effective January 24, 1983.

Comments due March 24, 1983.

Compliance as prescribed in body of AD.

ADDRESSES: The applicable Service Bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. A copy of the applicable Service Bulletin and a historical file on this AD are contained in the Rules Docket at the FAA, Office of Regional Counsel, Attn: Rules Docket No. 82-ANE-51, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7132.

SUPPLEMENTARY INFORMATION: There have been reports of oil fires and first-stage turbine wheel damage due to an air leak of the No. 8 bearing sump, forcing oil through the No. 8 bearing seal onto the No. 1 turbine wheel. The cause has been traced to either improper installation of P/N 6871541 U-ring gasket or incorrect installation of the very similar but smaller U-ring gasket, P/N 6875350, at the No. 8 bearing retainer plate. The inspection is to determine if the proper U-ring gasket is installed, and the pressure test is to ensure it is installed correctly.

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

Request for Comments on the Rule

Although this action, which involves requirements affecting immediate flight safety, is in the form of a final rule and thus was not preceded by notice and public comment, comments are now 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. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule.

List of Subjects in 14 CFR Part 39

Engine, Propellers, Aircraft, Aviation safety.

Adoption of the Amendment

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

Detroit Diesel Allison: Applies to Detroit Diesel Allison (DDA) Model 250-C28B and -C28C series engines with turbine assembly serial numbers CAT 70001 thru 70186, 70188, and 70191.

Compliance required, as indicated, unless already accomplished. To prevent possible damage to the first stage turbine wheel due to oil fires caused by the improper U-ring gasket or the proper U-ring gasket incorrectly installed at the No. 8 bearing retainer plate, accomplish the following:

a. Within the next 5 hours time in service after the effective date of this AD, inspect and pressure test the No. 8 bearing sump area, in accordance with Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-72-2082, dated January 3, 1983 or later FAA approved revisions, on affected turbine assemblies that meet either of the following conditions:

1. Turbine Assemblies with less than 500 hours time since new.

2. Turbine Assemblies that are experiencing or have experienced oil consumption in excess of one quart (0.9 liter) per hour.

Note.—Turbine Assemblies that have been overhauled and have had the pressure check accomplished or have been operated for more than 500 hours time since new, and have less than one quart (0.9 liter) per hour oil consumption are not required to have the inspection and pressure test.

b. Inspect and pressure test, before initial flight, uninstalled affected turbine assembly No. 8 bearing sump area per Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-2082, dated January 3, 1983, or later FAA approved revisions.

Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to

operate aircraft to a base where compliance with this AD can be accomplished.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This amendment becomes effective January 24, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1364(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.89 Federal Aviation Regulation (14 CFR 11.89))

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

Issued in Burlington, Massachusetts, on January 10, 1983.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 83-1386 Filed 1-19-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 290

[Economic Reg. Amdt. No. 1 to Part 290, Docket No. 40947; Reg. ER-1315]

Transfer of Airlift Among Air Carriers in Certain Emergencies

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates the exemption for aircraft leases for Civil Reserve Air Fleet operators. This exemption is no longer needed in light of the liberalizing of the exemption for all aircraft leases in another CAB rule.

DATES: Adopted: January 6, 1983. Effective: January 20, 1983.

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

SUPPLEMENTARY INFORMATION: Part 290 of the Board's rules allow Civil Reserve Air Fleet (CRAF) operators to lease aircraft to replace those used in CRAF operations without having to obtain prior Board approval under sections 408(a)(2) and 412 of the Act. Part 290 also gives an exemption from section 401 (certificate route authority) and section 403 (tariffs and fares) of the Act to the lessor to operate replacement aircraft over the lessee's routes. These exemptions were designed to encourage airlines to enter agreements that would provide for lease and charter of aircraft on a voluntary basis to take care of equipment shortages in emergencies. The Board proposed to eliminate Part 290 in EDR-446, 47 FR 40633, September 15, 1982.

By ER-1314, issued simultaneously, the Board is amending Part 299 of its rules to exempt all aircraft leases, except those that would result in one carrier controlling another, from the prior-approval requirements of section 408 of the Act. The exemption in Part 299, as revised, now covers leases previously governed by Part 290. The exemption from section 408 provided by Part 290 is therefore no longer necessary.

The Board has also concluded that the exemptions from sections 401, 403, and 412 are no longer necessary. The elimination of these exemptions was also proposed and justified in EDR-446. No comments were received opposing their elimination. For the reasons stated in EDR-446, therefore, the Board is eliminating Part 290.

Since this action merely removes an unnecessary rule and imposes no additional burdens, the Board finds for good cause that an effective date of less than 30 days from publication is in the public interest.

List of Subjects in 14 CFR Part 290

Military air transportation.

PART 290—[REMOVED]

Accordingly, the Board removes and reserves 14 CFR Part 290, *Transfer of Airlift Among Air Carriers in Certain Emergencies.*

(Secs. 204, 401, 403, 408, 412, 416, Pub. L. 85-726, 72 Stat. 743, 754, 758, 767, 770, 771; 49 U.S.C. 1324, 1371, 1373, 1378, 1382, 1386.)

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1559 Filed 1-17-83; 4:06 pm]

BILLING CODE 6320-01-M

14 CFR Part 299

[Economic Reg. Amdt. No. 6, Docket: 40947, Reg. ER-1314]

Exemption From Section 408 for Aircraft Acquisitions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB grants relief from the statutory requirement that aircraft acquisitions be approved by the Board. This expands the present rule to include all types of aircraft acquisitions regardless of the size of the transaction. This action is taken to further the goal of the Airline Deregulation Act that the airline industry be treated like other industries under the antitrust laws.

DATES:

Adopted: January 6, 1983.
Effective: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-637-5442.

SUPPLEMENTARY INFORMATION: Section 408 (a)(2) and (a)(3) of the Federal Aviation Act (49 U.S.C. 1378 (a)(2) and (a)(3)) require air carriers and certain other persons to obtain approval from the Board before buying, leasing, or contracting to operate the aircraft of another air carrier. In Part 299 of its rules, however, the Board has exempted some aircraft acquisition transactions from this prior approval requirement. The Board has declined to exercise jurisdiction over transactions involving air carriers where less than 20 percent of the seller's of lessor's fleet is affected (§ 299.2). The Board has exempted transactions of more than 20 percent where the transaction does not involve a purchase or lease from a certificated carrier, a lease with crew or an interchange agreement, or a purchase or lease under which payment is directly related to the gross revenue or profits resulting from operation of the aircraft (§ 299.3). Indirect air carriers, such as charter operators, do not have the benefit of the exemption in § 299.3.

By EDR-446, 47 FR 40633, September 15, 1982, the Board proposed to amend Part 299 to exempt all persons from the section 408 approval requirement for purchases or leases of aircraft. The exemption would apply to all transactions involving either direct or indirect air carriers without exceptions and without regard to the percentage of the fleet affected. The proposal was intended to further the goal of the Airline Deregulation Act (Pub. L. 95-504)

to treat the airline industry like other industries with respect to the antitrust laws.

Comments were filed by Air Florida and Delta Air Lines. Both supported the proposal. Air Florida agreed that prior Board approval of aircraft transactions was not necessary for the Board to carry out its responsibilities under section 408. It noted that since the adoption of part 299 in 1959, the Board's antitrust policies have undergone significant changes. It considered the Board's proposal in EDR-446 to be fully consistent with the Board's current approach.

Delta considered the Board's proposal to be "a modest but necessary step toward real deregulation of the airline industry." It stated that the current requirements complicate and delay air carrier transactions and unnecessarily consume airline and government resources. It called on the Board to eliminate "unnecessary and outdated requirements of section 408 and the attendant Board regulations."

For the reasons stated in EDR-446, and in light of the comments received, the Board has decided to amend part 299 as proposed. Increased competition and unsettled economic conditions sometimes require carriers to add or eliminate capacity quickly. The Board finds that it is in the public interest to remove regulatory barriers to aircraft transactions that do not amount to merger or control transactions. Aircraft transactions that would result in one carrier controlling another would still require Board approval under section 408 of the Act (§ 299.5.(c)).

Although prior approval requirements for leases and purchases of aircraft by indirect air carriers are being eliminated by this rule, these carriers will still have to obtain the required government approvals to operate these aircraft.

The wording of § 299.5(c) has been altered for clarity.

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. Small air carriers, which use only small aircraft, are already exempt from the statutory provisions affected by this rule.

Since this rule grants an exemption, relieves restrictions, and imposes no additional burdens, the Board finds for good cause that an effective date of less than 30 days from publication is in the public interest.

List of Subjects in 14 CFR Part 299

Air carriers, Antitrust.

PART 299—[AMENDED]

Accordingly, the Board amends 14 CFR Part 299, *Exemption From Section 408 For Aircraft Acquisitions*, as follows:

1. The authority for Part 299 is:

Authority: Secs. 204, 408, 416, Pub. L. 85-726, 72 Stat. 743, 767, 771, 92 Stat. 1726, 49 U.S.C. 1324, 1378, 1386.

§ 299.1 [Amended]

2. In § 299.1, paragraph (b) is removed.

§ 299.2 [Removed]

3. Section 299.2 is removed.

4. Section 299.3 is revised to read:

§ 299.3 Exemption.

All persons are hereby exempted from section 408 (a)(2) and (a)(3) of the Act for any purchase, lease, or lease with purchase option of aircraft.

5. In § 299.5, paragraph (c) is revised, as follows:

§299.5 Effect of exemption.

* * * * *

(c) This rule does not affect any duty that a person may have under section 412 with respect to a purchase, lease, or lease with purchase option of aircraft that is contained in an agreement on file and approved by the Board, or under the provisions of section 408 other than those described in § 299.3.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-1558 Filed 1-17-83; 4:00 pm]

BILLING CODE 6320-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Availability of Final Supplemental Environmental Impact Statement to OSM-EIS-1

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

ACTION: Rule related notice; availability of final supplemental environmental impact statement (EIS).

SUMMARY: The Office of Surface Mining (OSM) is making available a final supplement to OSM-EIS-1 on proposed revisions to the permanent program regulations implementing section 501(b) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, that may or would significantly affect the quality of the human environment or that may or would result in impacts over which public controversy exists.

DATE: Agency waiting period ends 30 days from publication by the Environmental Protection Agency (EPA) of notice of filing of this EIS.

ADDRESSES: Copies of the final supplemental EIS are available for inspection or may be obtained at the following OSM offices:

Administrative Record, Room 5315, Office of Surface Mining, 1100 L Street, NW., Washington, D.C.

Branch of Environmental Analysis, Room 134, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, (telephone, 202-343-5854).

Technical Center East, Room 54, Office of Surface Mining, U.S. Department of the Interior, Ten Parkway Center, Pittsburgh, PA 15220 (telephone, 412-937-2897).

Technical Center West, Library, Office of Surface Mining, U.S. Department of the Interior, Brooks Towers, 1020 15th Street, Denver, CO 80202 (telephone, 303-837-5656).

FOR FURTHER INFORMATION CONTACT: Dr. Mark Boster, Chief, Branch of Environmental Analysis, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (telephone, 202-343-5854).

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act of 1969, OSM has prepared this final supplement to OSM-EIS-1 in three volumes as follows:

Volume I—Analysis and responses to public comments.

Volume II—Public comments.

Volume III—Draft of final regulations.

The five alternative actions discussed in this final supplemental EIS are to adopt—

A. Draft final regulations;

B. No action/minimum action regulations;

C. Other OSM proposed regulations;

D. All or some modifications that diminish adverse environmental impacts;

E. All or some modifications that diminish the regulatory burden.

A notice of availability of the draft supplemental EIS was published in the **Federal Register** on June 18, 1982 (47 FR 26405).

Public hearings on the draft supplemental EIS were held on July 27, 28, 29, 30, and August 2, 1982, in Pittsburgh, Pa., Indianapolis, Ind., Lexington, Ky., Denver, Colo., and Washington, D.C., respectively.

Comments received during these hearings and the comment period, which ended August 25, 1982, and was extended to September 10, 1982, were considered in preparation of this final supplement, which analyzed the draft of the final regulations.

Pursuant to the Council on Environmental Quality's regulations (40 CFR 1506.10), the Department's decision on adoption of an action will not be made until 30 days after publication by EPA of a notice that this final supplemental EIS has been filed.

Dated: January 14, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83-1555 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 950

Disapproval of Amendment to the Wyoming Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: This document disapproves a proposed revision to the Wyoming State program consisting of a change in Wyoming Statute 35–11–406(b)(xx) to allow approval of alternatives by the State to State regulations without review by the Secretary of the Department of the Interior.

The amendment is disapproved because pending and completed revsions to the Federal regulations negate the need for it and the amendment exceeds the limit of State program flexibility established in section 503(a)(7) of the Surface Mining Control and Reclamation Act.

EFFECTIVE DATE: The disapproval of this proposed program amendment is effective September 30, 1983.

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

SUPPLEMENTARY INFORMATION:

A. Background on the Wyoming Program Submission

On August 15, 1979, OSM received a proposed regulatory program from the State of Wyoming. Following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary determined that certain parts of the Wyoming program met the minimum requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the Federal permanent regulations and that others did not. Accordingly, the Secretary approved the Wyoming program in part on February 15, 1980. The State of Wyoming resubmitted its program for approval on May 30, 1980. Following a review of the resubmitted program, the Secretary approved the program subject to the correction of seven minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 26, 1980, **Federal Register** (45 FR 78637–78684).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637–78684).

B. Program Amendment Background

On September 29, 1980, OSM received from the State of Wyoming, notice of a proposed revision to the State program consisting of a change in Wyoming Statute 36–11–406(b)(xx) to allow approval of alternatives to State regulations. The proposed revision was submitted formally as an amendment under 30 CFR 732.17 on February 27, 1981. OSM published a notice in the **Federal Register** on September 9, 1981, announcing receipt of this provision and others, and inviting public comment on whether the Secretary should approve the proposed amendments to the State program (46 FR 44995–44998). The public comment period ended October 6, 1981. A public hearing scheduled October 6, 1981, was not held because no one expressed a desire to present testimony. On February 18, 1982, OSM published a notice in the **Federal Register** which, among other things, deferred action on the amendment to allow alternatives to State regulations (47 FR 7218–7220). In a letter dated April 26, 1982, from Governor Herschler of Wyoming to the Secretary, the State requested a final decision on the proposed amendment. The proposed amendment is as follows:

35–11–406. Application for permit; generally; denial; limitations. (b) The application shall include a mining plan and reclamation plan dealing with the extent to which the mining operation will disturb or change the lands to be affected, the proposed future use or uses and the plan whereby the operator will reclaim the affected lands to the proposed future use or uses. The mining plan and reclamation plan shall be consistent with the objectives and purposes of this act and of the rules and regulations promulgated. The mining plan and reclamation plan shall include the following:

(xx) For surface coal mining operations, a request for approval of any alternatives which may be proposed to the provisions of the regulations promulgated by the council. For each alternative provision the applicant shall:

(A) Identify the provision in the regulations promulgated by the council for which the alternative is requested;

(B) Describe the alternative proposed and provide an explanation including the submission of data, analysis and information in order to demonstrate that the alternative is in accordance with the application provisions of the act and consistent with the regulations promulgated by the council. In addition, the applicant shall demonstrate that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions.

C. Secretary's Finding

The Secretary disapproves the proposed amendment for two reasons. First, the Secretary believes that under Section 503(a)(7) of SMCRA, in order for its regulatory program to be approved, a State must demonstrate that it has rules "consistent with regulations issued by the Secretary" under SMCRA. Similar consistency is required by Section 505(a) of SMCRA for State rules which may become effective any time thereafter.

The limit to State flexibility inherent in the concept of consistency with the Federal regulations is described somewhat in the legislative history of SMCRA. Congress expected Federal regulations to implement the general provisions of SMCRA in more detailed fashion. H.R. Rep. No. 95–218, 95th Cong., 1st Sess. 85 (1977). It also expected that a State, in order to have its program approved, would have to specifically demonstrate that its regulations are consistent with all the nationwide Federal regulations:

> The State program must specifically show that the State has a law providing for the regulation of surface mining and reclamation in accordance with all provisions of the Act and subsequent regulations. S. Rep. No. 95–128, 95th Cong., 1st Sess. 195 (1975); S. Rep. No. 29, 94th Cong., 1st Sess. 203 (1975).

The Secretary believes that under the Act and the legislative history, he

should conduct a detailed review of each individual provision of a State program. Under Wyoming's proposal, the Secretary would not be able to review all proposed State provisions since they could be varied site-by-site. He therefore would find it difficult to determine that the State had specifically demonstrated that its program met all the Federal regulations.

Second, the Secretary understands that there was a clear need for flexibility such as Wyoming's proposed amendment when it was passed by the State in 1980. Many States had complained that the existing regulations were not sufficiently flexible to respond to the particular needs of the individual States and that the existing regulations in many instances were burdensome, counterproductive and did not account for differences among the coal-producing regions of the nation.

To remedy the situation, OSM began two actions. The first was to amend the standard for approval of State programs. Under the amended standard, which became effective on November 27, 1981, State laws and regulations must be "no less effective than" the Secretary's regulations in meeting the requirements of the Act. This amendment was designed to introduce sufficient flexibility to respond to the particular needs of the individual States while retaining the Federal regulations as the benchmark for evaluation of State proposals. This flexibility was not available at the time Wyoming developed and submitted its proposal. The amendment was upheld on September 17, 1982, by the U.S. District Court for the District of Columbia in a case entitled *Sierra Club v. Watt*, Civil Action No. 81-315 F (D.D.C. September 16, 1982).

The second action OSM undertook has been a major effort to revise the Federal regulations contained in 30 CFR Chapter VII in order to make the regulations more flexible and less burdensome while still implementing the standards and requirements of SMCRA. In its effort, OSM is giving full consideration to allowing additional flexibility in terms of site-by-site considerations and variations in each standard. The current Federal regulations tend to prescribe specific practices and design criteria for mining and reclamation. The proposed revisions would offer additional flexibility by replacing many of these specific practices and design criteria, with performance standards sufficiently flexible to meet the needs of specific sites. The revised Federal regulations, however, will retain design criteria and other specific standards where difficulty in fashioning enforceable performance standards effectively precludes their use, and where SMCRA requires them. OSM expects to finalize these regulation changes in the near future so that they will become effective early in 1983.

In summary, the Federal regulations with which State programs are compared have been and are being significantly revised, and the standard of comparison by which State programs are evaluated already has been modified. Through these actions, the Secretary believes he has negated the need for the Wyoming proposal.

The Secretary believes the best course for Wyoming, and other States which opt for more flexible State programs, is to amend their State programs to incorporate as many of the revised Federal provisions as desired. The States may also take advantage of the increased flexibility under the revised standard for approval of State programs to develop alternative provisions to meet their unique circumstances.

OSM will work with Wyoming to amend its State program to remove burdensome provisions and to incorporate requirements that respond to the unique needs of the State.

As the regulatory reform effort cited above has not yet been completed by the OSM, the Secretary has delayed the effective date of this final rule until September 30, 1983. Through this action, the State of Wyoming will be afforded ample time to analyze and adopt the additional flexibility in the Wyoming State program through utilization of both the "no less effective than" standard and the revised Federal rules. The effective date of September 30, 1983, will also preserve the State's and commenter's rights to take legal action challenging this decision. That is, the 60-day period for judicial challenge under section 526(a)(1) of SMCRA would begin on September 30, 1983

With its proposed amendment, Wyoming submitted three alternative provisions as examples of how the proposed amendment would have been used if it were being approved. The first example concerns existing State regulations establishing time and distance limits for rough backfilling. Wyoming indicates that State rules require rough backfilling to follow coal removal with 180 days and that additional time may be approved where the applicant demonstrates, on the basis of mining conditions, that additional time is necessary. The example states that an operator may want to mine an intermittent drainage out of his logical mining sequence (running the cut with the drainage) so that he can restore the drainage and divert the runoff back through the drainage much earlier than if he had continued to run cuts perpendicular to the drainage. In that case, he may want to apply for an alternative backfilling plan which would not require him to attain the required backfilling until the mining (perpendicular cuts) had move through the area. Otherwise, if he were to attain backfilling, he would probably end up reaffecting the margins of the cut which paralleled the drainage by subsequent perpendicular cuts.

The State notes that any departure from the 180-day time period could not be approved because it is not due to mining conditions. They point out that under the State's proposed amendment, the operator could apply to have an alternative backfilling procedure approved based on environmental need to mine and restore the drainage as quickly as possible.

The Secretary does not see the need for the proposed amendment in order for the State to allow an extension of time for backfilling in the situation described in the example. There are several methods available to the State to deal effectively with this case. First, the Secretary interprets the condition described to be a mining condition for which the operator would be eligible for additional time under the existing State rule. Second, the existing Federal regulations at 30 CFR 816.101(a) differ from the State rule in that they provide for the approval of additional time on the basis simply that it is necessary. Therefore, the State could amend its program to incorporate the flexibility in the existing Federal regulations. Third, it is OSM's intention to revise the Federal regulations to a more general requirement that reclamation efforts, including backfilling and grading, shall occur as contemporaneously as practicable with mining. The State could amend its program to incorporate the revised standard when it becomes effective. In any event, the State has three alternative means of solving the problem in this example without use of its proposed program amendment.

In the second example, Wyoming cites State regulation requirements that permanent impoundments must be authorized in accordance with requirements for an alternative land use. They state that an operator often wants to reestablish stockwater ponds or irrrigation ponds that will be destroyed by mining. Because of the agricultural and wildlife value of these ponds, operators may want to pursue the alternative that these type permanent

impoundments do not constitute an alternative land use.

Under the Federal regulations the return of stockwater ponds or irrigation ponds that will be destroyed by mining does not constitute a land use change. Neither could the construction of a new permanent impoundment that is consistent with the current land use be construed as causing a land use change. The existing regulations would allow the State to approve the type of permanent impoundments described in the examples.

In the third example Wyoming suggests the need for a variance to State requirements that runoff from affected lands must be treated prior to leaving the affected lands, generally by sedimentation ponds. The State indicates that, for a particular site, the required treatment could detain runoff sufficient to impact downstream water rights and the operator may not receive an appropriation for his proposed sediment pond. Because of this local requirement, the operator would pursue an alternative to the performance standard that waters leaving the permit area must meet effluent standards and not degrade the receiving waters. In the example the operator proposes that an irrigation structure downstream and outside the permit area would function as a treatment device for waters further down the stream. Wyoming contends that the proposed amendment could be used to approve the alternative.

In this example the variance being considered is an alternative to the requirements of SMCRA Section 515(b)(10) (B)(i) that provide for the conduct of surface coal mining and reclamation operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, *or runoff outside the permit area*, but in no event shall contributions be in excess of requirements set by applicable State or Federal law. The latter would involve the Clean Water Act. As such, the type of variance considered in the example is not acceptable since it would involve an impermissible variance from requirements of SMCRA and the Clean Water Act. None of the efforts OSM is undertaking to provide additional flexibility lessen the requirement to comply with all provisions of SMCRA and other State and Federal laws. The Secretary understands that the circumstances described in the example may exist in Wyoming and other western States. However, SMCRA precludes mining in situations where all requirements of the Act cannot be met.

A solution to the situation described in the example may be for the applicant to permit the stream and the downstream structure so that treatment is applied within the permit area. Also, OSM is currently beginning a study to determine if any means other than sediment ponds might qualify as best technology currently available to prevent contributions of suspended solids to streamflow or runoff outside the permit area.

D. Public Comments

1. Three commenters objected to Wyoming's proposed amendment, claiming that it amounts to a general variance from SMCRA, which notion Congress and the courts have rejected. Further, the commenters disagreed with Wyoming's argument that 30 CFR 731.13 (since repealed) authorizes this amendment. They stated that SMCRA section 201(c) provides variances for State programs, not for individual operators. The Secretary is disapproving the proposed amendment for the reasons stated above under *Secretary's Finding*.

2. The U.S. Geological Survey suggested adding a paragraph to the proposed amendment which would defer to the Secretary the approval by the State of any alternatives for surface coal mining operations on Federal lands which impact on the Secretary's responsibilities under the Mineral Leasing Act of 1920, as amended. For the reasons set forth in the section above, the Secretary has disapproved this provision and therefore there will be no alternatives under consideration.

Additional Determinations

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 950

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

Dated: December 6, 1982.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-1504 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

33 CFR Part 52

49 CFR Part 1

[OST Docket No. 73]

Requests for Correction of Coast Guard Military Records

AGENCY: Board for Correction of Military Records, Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule permits the Board for Correction of Military Records to take final action, on behalf of the Secretary, in certain categories of cases. The rule also establishes the categories of cases on which final action has to be taken by the Secretary. The rule will reduce the time necessary to process several categories of requests for correction of Coast Guard military records.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: William T. Underwood, Chairman, Board for Correction of Military Records, U.S. Department of Transportation, 400 Seventh Street, SW., Room 9414, Washington, D.C. 20590. (202) 755-8750.

SUPPLEMENTARY INFORMATION: The Department of Transportation's Board for Correction of Military Records (Board), established under 10 U.S.C. 1552, considers applications by present and former members of the Coast Guard and Coast Guard Reserve to correct their military records. Applications for the correction of military records include a wide variety of matters, such as requests for the upgrade of discharges, correction of officers' fitness reports, changes in reenlistment codes, and assignment or modification of disability ratings for disability retirement purposes.

Applications for the correction of a military record are administratively processed by the Board's staff. The Chairman may informally deny an application pursuant to 33 CFR 52.15-5. Applications which are not informally denied by the Chairman, pursuant to 33 CFR 52.15-5, are referred to a three-member Board, drawn from a precept of civilian attorneys who work for the Department of Transportation, for a formal decision. Requests for reconsideration of informal denials and requests for reconsideration of formal Board decisions approved by the General Counsel are also considered by a three-member Board. After the Board members sign a formal decision, other than a denial of a request for

reconsideration of an informal denial, it is transmitted to the Office of the General Counsel for review. The General Counsel has been delegated the Secretary's authority to take final action on requests for the correction of military records (see 49 CFR 1.57(e)).

This rule is concerned with the above authority to take final action. The rule identifies a series of Board actions which, if taken unanimously by all three members of a Board, are not transmitted to the General Counsel for review. In these cases, the action of the Board itself is administratively final. The purpose of the change is to speed the processing of routine and uncontroversial cases by eliminating an extra layer of review.

All unanimous Board decisions to grant relief, in matters falling into the categories identified in § 52.35–15(a)(2), are made administratively final by the Board, unless the Chief Counsel of the Coast Guard states that the application raises a significant issue of Coast Guard policy. A unanimous Board may approve any other application, as long as the Coast Guard recommends relief. A unanimous Board may also deny any application. All other Board actions are still referred to the Office of the General Counsel for final action. A technical conforming amendment is also made, in this final rule, to 49 CFR 1.57(e) to make that delegation of authority consistent with this change to 33 CFR Part 52.

A notice of proposed rulemaking was published on September 20, 1982. Comments from the public were solicited by the notice; however, no comments were received.

This rule is not a major rule within the meaning of Executive Order 12291 or a significant rule under the Department of Transportation's Regulatory Policies and Procedures. This rule relates to agency management and personnel and, therefore, it may be made effective in fewer than thirty days after publication in the **Federal Register.**

Since this rule only applies to individual Coast Guard personnel, under the criteria of the Regulatory Flexibility Act, the Department certifies that this rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 52

Military personnel.

49 CFR Part 1

Authority delegations (Government Agencies), Organization and functions (Government Agencies)

TITLE 33—[AMENDED]

PART 52—[AMENDED]

Accordingly, 33 CFR 52.35–15, "Action of the Secretary," is revised and reads as follows:

§ 52.35–15 Final action.

(a) Final Action by the Board. The Board may take final action on behalf of the Secretary, under 10 U.S.C. 1552, as follows, provided that the Board acts unanimously:

(1) The Board may deny any application for the correction of military records.

(2) The Board may approve an application for the correction of military records in one of the following categories, unless the Chief Counsel of the Coast Guard, in submitting the views of the Coast Guard under § 52.45–5(c), states that the application involves a significant issue of Coast Guard policy:

(i) An application to correct an enlistment or reenlistment contract or agreement to extend an enlistment for the purpose of effecting or increasing entitlement to a Selective Reenlistment Bonus;

(ii) An application to modify an election to participate in the Survivor Benefit Plan;

(iii) An application to change a reenlistment eligibility code;

(iv) An application to correct the character of or reason for a discharge or separation.

(3) The Board may approve any application for the correction of military records not falling into one of the categories in paragraph (a)(2) of this section, provided that the Chief Counsel of the Coast Guard recommends relief. The Board may not take final action under this subsection if the Chief Counsel recommends relief substantially different from that requested by the applicant.

(b) *Final Action by the Secretary.* Except in cases where the Board takes final action under paragraph (a) of this section, the Board shall forward the record of its proceedings to the Secretary for approval, disapproval, or return for additional consideration. After taking final action, the Secretary returns the record to the Board for disposition.

TITLE 49—[AMENDED]

PART 1—[AMENDED]

In addition, 49 CFR 1.57 is amended by revising paragraph (e) to read as follows:

§ 1.57 Delegations to General Counsel.

* * * * *

(e) Review and take final action on referrals of the findings of the Board for Correction of Military Records of the Coast Guard (except with respect to those matters on which the Secretary's authority to take final action is exercised by the Board pursuant to 33 CFR 52.35–15) and the Coast Guard Discharge Review Board.

* * * * *

(10 U.S.C. 1552; 49 U.S.C. 1655(b))

Issued at Washington, D.C. on January 10, 1983.

Andrew L. Lewis,

Secretary of Transportation.

[FR Doc. 83–1245 Filed 1–19–83; 8:45 am]

BILLING CODE 4910–62–M

POSTAL SERVICE

39 CFR Part 447

Code of Ethical Conduct; Filing of Confidential Statements

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service amends its conflict of interest regulations to require that all employees in the Postal Career Executive Service file Confidential Statements of Employment and Financial Interests, unless they are required by the Ethics in Government Act to file a public financial disclosure report. The Postal Service also deletes a requirement, now rendered inappropriate by the general increase in salary levels, that all employees receiving a basic salary of $30,000 a year or more file confidential statements. The Service also amends its regulations to permit an employee representing the Postal Service to accept commemorative items of reasonable value presented in the course of public events, such as a convention. Other minor or editorial changes in the regulations are also made.

EFFECTIVE DATE: February 21, 1983.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley (202) 245–4584.

SUPPLEMENTARY INFORMATION: This action amends the Code of Ethical Conduct for Postal Employees in several respects. The principal changes are to Subpart D which governs the submission of financial disclosure statements by postal employees who occupy positions having duties which may affect private financial interests. Postal employees in these positions file either the public Financial Disclosure Report required by the Ethics in Government Act (Pub. L. 95–521) or the Confidential Statement of Employment and Financial Interests which is required generally within the Executive Branch by

Executive Order 11222, as made applicable to the Postal Service by Executive Order 11590.

By the terms of the Code of Ethical Conduct, postal employees in level 24 of the Executive and Administrative Salary Schedule (EAS-24) or higher levels are to file a confidential statement if their duties involve contracting with or auditing non-postal enterprises or involve responsibilities, such as the design of postal rates or the approval of claims, which may have an economic impact on private interests.

Since 1974, when the present Code was adopted, it has also required the filing of confidential statements by all employees, receiving a basic annual salary of $30,000 or more. In 1974, this salary level identified key executive and management positions. Due to inflation and resultant increases in wage levels throughout the ecomomy, however, it no longer serves this purpose. Experience, moreover, suggests that any specific salary figure would similarly be overtaken by changes in wage levels. Accordingly, the Postal Service will no longer use a salary level expressed in dollars as a basis for requiring the filing of confidential statements, but instead will require that they be filed by all employees in the Postal Career Executive Service (PCES).

The PCES consists of all of the Officers (see 39 CFR 221.7) and most of the senior executives of the Postal Service, including the postmasters of more than 200 major post offices and executives holding responsible positions in national and regional headquarters and in the Postal Inspection Service. While most, if not all, of these executives occupy positions otherwise required to file these statements on the basis of their duties, as described above, we think it a convenient simplification of the task of identifying relevant positions to make the requirement generally applicable to PCES executives.

A second, related change relieves those senior postal employees who file the more comprehensive public Financial Disclosure Report of the duty also to file the confidential statement.

The existing sections of Subpart D have been renumbered as § 447.41(a)—(h) to permit the convenient adoption in the near future of a parallel section governing the filing of the public Financial Disclosure Reports noted above. Other minor or editorial changes have also been made in these sections.

One other section of the Code is also being amended at this time. Section 447.24 relates to the acceptance of gifts and entertainment from persons having business dealings with, or financial interests which may be affected by the Postal Service. Following Executive Order 11222, § 447.24(b) of the Code permits the acceptance of gifts of limited value, or what might be considered gifts, under circumstances in which the integrity of the Postal Service is adequately safeguarded. We are amending § 447.24(b) to permit the acceptance of publicly-offered commemorative items of reasonable value by persons who represent the Postal Service at public events such as a convention or conference. This change is intended, for example, to permit a postal executive who represents the Postal Service as a guest speaker at a convention of a trade association or employee organization to accept a memento or souvenir which is presented to him or her in an open session of the convention. Such a gift typically has no great value and may bear an inscription of the event and often the speaker's name so that it cannot effectively be returned. To refuse or return the item is sometimes embarrassing, often awkward and, we think, unnecessary for the protection of the integrity of the Postal Service. We consider, moreover, that the requirement that the item be publicly presented serves as a substantial protection, if additional protection is needed, against the possible abuse of the provision. We are also deleting from this section an existing reference to inaugural flights.

A further amendment to § 447.24(f) relating to Postal Service implementation of the Foreign Gifts and Decorations Act (5 U.S.C. 7342, as amended), incorporates by reference Postal Service Headquarters Circular 80-11 which provides detailed instructions for compliance with the Act.

These amendments have been reviewed and approved by the Office of Personnel Management, as required by Executive Order 11222 and 5 CFR 735.104.

Accordingly, 39 CFR is amended as follows:

List of Subjects in 39 CFR Part 447

Conflict of interests, Government employees, Postal Service.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

1. In § 447.24, paragraph (b)(5) and paragraph (f) are revised to read as follows:

§ 447.24 Conflicts of interests—gifts, entertainments, and favors.

* * * * *

(b) * * *

(5) Participate as an authorized representative of the Postal Service in a public event such as a convention or conference and accept without payment transportation or meals which are an integral part of the event or commemorative items of reasonable value which are publicly presented in the course of the event.

* * * * *

(f) No employee shall accept a gift, present, decoration, or any other thing from a foreign government unless authorized in accordance with section 7342 of title 5, United States Code. See USPS Headquarters Circular 80-11 for instructions on the implementation of this statute.

* * * * *

2. In Part 447, revise Subpart D to read as follows:

Subpart D—Reports of Employment and Financial Interests

§ 447.41 Confidential statements.

(a) *Employees required to file statements.*

(1) Each employee who is in one or more of the following categories, (other than a special employee or one required by Public Law 95-521, the Ethics in Government Act, to file a Financial Disclosure Report for Executive Branch Personnel (Standard Form 278)) shall file a Confidential Statement of Employment and Financial Interests (Postal Service Form 2417):

(i) Each employee who is a member of the Postal Career Executive Service.

(ii) Each employee who is in pay grade EAS-24 or a comparable or higher pay grade whose basic duties and responsibilities require the employee to make or recommend a decision, or take or recommend official action, in regard to—

(A) Contracting or procurement. For the purpose of this section contracting or procurement includes all functions that pertain to the authorization, award, or administration of contracts with non-Postal Service entities.

(B) Auditing enterprises other than the Postal Service, including the supervision of auditors engaged in audit activities or the participation in the development of policies and procedures for performing such audits.

(C) Activities in which the decision may have an economic impact on the interests of any enterprise other than the Postal Service, including the design and maintenance of the Postal Service rate structure, the selection of carriers for the transportation of mail, the selection of sites for postal facilities, and the recommending or approval of claims of any person against the Postal Service or any such claims by the Postal Service against any person.

(2) An employee temporarily performing the duties of a position which meets the criteria in paragraph (a)(1) of this section shall also be subject to the filing requirement in this section if he performs those duties for more than 60 calendar days.

(3) Determination as to whether an employee is in one or more of the categories set forth in paragraphs (a) (1) and (2) of this section and is therefore required to submit a Confidential Statement of Employment and Financial Interests shall be made by the employee's Associate Ethical Conduct Officer in consultation with the Ethical Conduct Officer.

(4) With the prior approval of the Office of Government Ethics, an employee in pay grade EAS–23, or a comparable or lower pay grade, who is in a position which otherwise meets the criteria of paragraph (a)(1)(ii) of this section, shall submit a Statement when it is essential to protect the integrity of the Postal Service and to avoid employee involvement in possible conflict-of-interest situations. Associate Ethical Conduct Officers may recommend to the Ethical Conduct Officer, with full justification in writing, that the approval of the Office be sought with respect to specific positions.

(5) Each special employee, regardless of the rate of compensation received, if any, shall submit a Confidential Statement of Employment and Financial Interests (For Use By Special Government Employees) (Postal Service Form 2418). The Ethical Conduct Officer, however, may waive the requirement for the submission of a statement by a special employee, other than a consultant or an expert, when he finds, either by general regulation or in a specific instance that the duties of the position held by that special employee are of a nature and are at such a level of responsibility that the submission of the statement is not necessary to protect the integrity of the Postal Service.

(6) An employee who believes that his position has been improperly included as one required to submit a statement in accordance with this subpart may obtain review of his complaint to that effect through the grievance procedure provided by collective bargaining agreement or Postal Service regulations, as applicable.

(b) *Persons to whom statements should be submitted.*

(1) Employees required to submit statements who are within the jurisdiction of a District Manager shall submit their statements to the District Manager. District Managers shall review the statements, after which they will forward the statements directly to their Associate Ethical Conduct Officer with any recommendations for action in accordance with paragraph (h) of this section.

(2) Associate Ethical Conduct Officers required to submit confidential statements shall submit them to the Ethical Conduct Officer.

(3) All other employees shall submit their statements directly to their Associate Ethical Conduct Officers.

(c) *Time for submission of statements.*

(1) An employee required to file a Statement shall submit that Statement no later than 30 days after he first becomes subject to the reporting requirements.

(2) Changes in, or additions to, the information contained in an employee's Statement shall be reported in a supplementary Statement, in the format prescribed by the Ethical Conduct Officer, as of June 30 each year. If no changes or additions occur, a report to that effect is required.

(3) In addition to filing the Statement required by this subpart, each employee shall, at all times, avoid acquiring a financial interest, or taking any action that could result, in a violation of the conflicts of interest provisions of this part, and in particular § 447.22(b)(7) which generally prohibits acting officially in any matter in which he or she has a personal financial interest.

(d) *Confidentiality and retention of statements.*

(1) Statements and Supplementary Statements shall be held in confidence and may not be disclosed to anyone other than the Postmaster General, the Ethical Conduct Officer, the employee's Associate Ethical Conduct Officer, or their designees, without express written approval of the Ethical Conduct Officer. The Statements and Supplementary Statements shall be retained under appropriate security by the Associate Ethical Conduct Officer except as may be otherwise directed by the Ethical Conduct Officer. When Statements are transmitted, they shall be enclosed in opaque inner and outer envelopes. The inner envelope shall be sealed and plainly marked "Restricted Information To Be Opened Only by Authorized Reviewer" and addressed to the authorized reviewer. The outer envelope shall also be sealed and addressed, but shall bear no legend indicating the contents. Employees, when transmitting their Statements and Supplementary Statements, are authorized to use this double envelope procedure.

(2) Statements and Supplementary Statements do not require that amounts be shown. An authorized reviewer, however, may require disclosure if he deems it essential to making a determination as to whether a conflict of interest, or appearance of a conflict, exists.

(3) The Statement and any Supplementary Statements submitted by an employee or special employee shall be destroyed two years after the employee leaves the Postal Service, or two years after he ceases to occupy a position for which the submission of a Statement is required, whichever is earlier.

(e) *Information not known by employees.* If any information required to be included in a Statement or Supplementary Statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf, except when the trust is a blind, no-control trust, in which case a copy of the trust shall be submitted for review. Failure by the other person or trustee to furnish the needed information shall not constitute a violation by the employee of this provision if he certifies that he made a bona fide effort to have the information submitted and it was refused.

(f) *Information not required.* This section does not require an employee to submit any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. Savings accounts in credit unions, loan associations or banks, savings certificates and interests in mutual funds are not interests in "business enterprises." For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Postal Service are "business enterprises" and are required to be included in an employee's statement.

(g) *Exclusions.* An employee who is otherwise required to file a statement under § 447.41(a) may be relieved of the reporting requirement if the Ethical Conduct Officer determines that:

(1) His duties are such that the likelihood of his involvement in a conflict of interest situation is remote; or

(2) The duties of the position are at such a level of responsibility that the submission of a Statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of the position on the integrity of the Government.

(h) *Reviewing statements and remedial action.* Associate Ethical Conduct Officers shall review all Statements received by them whether submitted to them directly or forwarded by District Managers. Whenever the employee's Statement reveals a possible conflict of interest or appearance of a conflict of interest, appropriate action shall be taken pursuant to § 447.32.

(39 U.S.C. 401 and E.O. 11222, as amended by E.O. 11590)

W. Allen Sanders,

Associate General Counsel.

[FR Doc. 83-1591 Filed 1-19-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50 and 58

[AH-FRL 2215-4]

National Ambient Air Quality Measurement Methodology; Ambient Air Quality Surveillance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Current EPA regulations in 40 CFR Parts 50 and 58 require that pollutant concentration standards used to calibrate and audit air monitoring instruments be traceable to National Bureau of Standards (NBS) Standard Reference Materials (SRM's). This requirement has created a substantial demand for SRM's which NBS has found difficult to fulfill in a timely manner.

To help alleviate this problem, NBS and EPA have jointly established a program to allow gas manufacturers to produce and sell high quality gas standards called Certified Reference Materials (CRM). These CRM's are prepared and certified according to NBS/EPA CRM procedures (described in EPA publication No. EPA-600/7-81-010), and they are considered equivalent to SRM's for purposes of establishing traceability of working standards used for calibrations and audits. These amendments revised appropriate paragraphs of Parts 50 and 58 to specifically allow CRM's in lieu of SRM's for those purposes. Also, the term "traceable" is formally defined to specify that not more than one intermediate standard may be used in certifying a working standard against an SRM or CRM.

DATE: This action becomes effective February 22, 1983.

ADDRESS: Docket No. A-81-35, containing the public comments received by EPA and other information pertinent to this action is located at the U.S. Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. This docket may be inspected at this address between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Darryl J. von Lehmden, Senior Scientific Advisor (MD-77), Quality Assurance Division, Environmental Monitoring Systems Laboratory, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-2415.

SUPPLEMENTARY INFORMATION: These amendments were proposed for public comment in the January 14, 1982 issue of the **Federal Register** (47 FR 2127). EPA received comments from 12 commenters representing industrial or commercial organizations (8) and government agencies (4). Eleven of the commenters supported the amendments, agreeing with EPA that the proposed changes will help to relieve the demand on NBS for SRM's, make primary standards less expensive and more readily available, and cause no significant loss of accuracy.

One commenter suggested that permeation devices should be considered for approval as CRM's. However, at the present time, the necessary test and comparison techniques and protocol have been developed only for cylinder gas standards. Hence, no permeation device CRM's will be available initially. If procedures are eventually developed for permeation devices and such devices can be shown to meet the necessary requirements, then permeation device CRM's will become available in the future.

Another commenter recommended a formal mechanism for notifying CRM users in the event that a defect or problem is discovered in a particular batch of CRM's. This comment applies to the CRM approval protocol and not to the monitoring regulations, so no changes were made to the amendments as proposed. However, the suggestion is a good one, and such a notification requirement will be considered for subsequent incorporation into the EPA/NBS CRM protocol.

A third comment indicated that two sentences that were deleted from Section 2.3.1.2 of Appendix F of Part 50 should be retained. The first sentence was a reminder that local NO standard cylinders should be recertified on a regular basis. EPA agrees that such a reminder is appropriate in this section, and the original sentence has been restored. The other sentence indicated that a procedure for determining the amount of NO_2 impurity in an NO cylinder was given in Reference 13. This sentence had been simply relocated to Section 2.3.1, which appears to be a more appropriate place for it.

An objection to the proposed definition of "traceable" was raised by one commenter, who believed that allowing working standards to be traceable to an SRM or CRM via an intermediate local primary standard was inadvisable because of the potential errors that may exist in local standards. An alternative definition was proposed, allowing only direct certification against an SRM, CRM, or other *USEPA*-approved standard. The wording of the suggested alternative definition was simpler and clearer than that of the proposed definition, but EPA still believes that one intermediate standard should be permitted to allow for possible situations where direct comparison to an SRM or CRM is not practical. However, the proposed allowance for an alternative certification approved by the Administrator or Regional Administrator was deleted. The definition has been revised to incorporate this change and the clearer language, and also to more correctly define traceable as an adjective.

A final comment suggested that permeation devices should not be allowed to be traceable to a CRM because some commercial permeation devices have been inaccurately assayed by their manufacturer, and allowing traceability to CRM's rather than SRM's would only increase the errors. EPA rejected this comment, however, for two reasons. First, the rigid requirements for CRM's should not cause any significant decrease in accuracy compared to SRM's. Second, observed inaccuracies in some commercially-assayed permeation devices is not the fault of the primary standard and should not prevent other manufacturers or users from assaying their permeation devices against CRM's.

As discussed above, the amendments have been modified slightly and are now ready for final promulgation.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This rule is not a major regulation because it will result in no

increased costs to state and local air monitoring agencies.

This rule has been exempt from review under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This rule will impose no new regulatory requirements; it will merely revise existing air monitoring regulations to specifically allow the use of commercially available Certified Reference Materials in lieu of Standard Reference Materials to establish the traceability of pollutant concentration standards used to calibrate and audit air monitoring instruments.

List of Subjects

40 CFR Part 50

Air pollution control, Carbon monoxide, Ozone, Sulfur oxides, Particulate matter, Nitrogen dioxide, Lead.

40 CFR Part 58

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Pollutants standard index, Ambient air quality monitoring network.

Dated: January 13, 1983.

Anne M. Gorsuch,

Administrator.

Chapter I, Title 40, Parts 50 and 58 are amended as follows:

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

1. By amending § 50.1 to include an additional definition to read as follows:

§ 50.1 Definitions.

* * * * *

(h) "Traceable" means that a local standard has been compared and certified either directly or via not more than one intermediate standard, to a primary standard such as a National Bureau of Standards Standard Reference Material (NBS SRM), or a USEPA/NBS-approved Certified Reference Material (CRM).

Appendix F—[Amended]

2. By revising paragraphs 1.3.1, 2.3.1, 2.3.1.1 and 2.3.1.2 in the *Calibration* section of Appendix F, "Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)," to read as follows:

Calibration

* * * * *

1.3.1 NO concentration standard. Gas cylinder standard containing 50 to 100 ppm NO in N_2 with less than 1 ppm NO_2. This standard must be traceable to a National Bureau of Standards (NBS) NO in N_2 Standard Reference Material (SRM 1683 or SRM 1684), an NBS NO_2 Standard Reference Material (SRM 1629), or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 14, and a list of CRM sources is available from the address shown for Reference 14. A recommended protocol for certifying NO gas cylinders against either an NO SRM or CRM is given in section 2.0.7 of Reference 15. Reference 13 gives procedures for certifying an NO gas cylinder against an NBS NO_2 SRM and for determining the amount of NO_2 impurity in an NO cylinder.

* * * * *

2.3.1 *Calibration Standards.* Calibration standards are required for both NO and NO_2. The reference standard for the calibration may be either an NO or NO_2 standard, and must be traceable to a National Bureau of Standards (NBS) NO in N_2 Standard Reference Material (SRM 1683 or SRM 1684), and NBS NO_2 Standard Reference Material (SRM 1629), or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 14, and a list of CRM sources is available from the address shown for Reference 14. Reference 15 gives recommended procedures for certifying an NO gas cylinder against an NO SRM or CRM and for certifying an NO_2 permeation device against an NO_2 SRM. Reference 13 contains procedures for certifying an NO gas cylinder against an NO_2 SRM and for certifying an NO_2 permeation device against an NO SRM or CRM. A procedure for determining the amount of NO_2 impurity in an NO cylinder is also contained in Reference 13. The NO or NO_2 standard selected as the reference standard must be used to certify the other standard to ensure consistency between the two standards.

2.3.1.1 *NO_2 Concentration Standard.* A permeation device suitable for generating NO_2 concentrations at the required flow-rates over the required concentration range. If the permeation device is used as the reference standard, it must be traceable to an SRM or CRM as specified in 2.3.1. If an NO cylinder is used as the reference standard, the NO_2 permeation device must be certified against the NO standard according to the procedure given in Reference 13. The use of the permeation device should be in strict accordance with the instructions supplied with the device. Additional information regarding the use of permeation devices is given by Scaringelli et al. (11) and Rook et al. (12).

2.3.1.2 *NO Concentration Standard.* Gas cylinder containing 50 to 100 ppm NO in N_2 with less than 1 ppm NO_2. If this cylinder is used as the reference standard, the cylinder must be traceable to an SRM or CRM as specified in 2.3.1. If an NO_2 permeation device is used as the reference standard, the NO cylinder must be certified against the NO_2 standard according to the procedure given in Reference 13. The cylinder should be recertified on a regular basis as determined by the local quality control program.

3. By adding the following references to Appendix F:

References

* * * * *

14. A Procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials. EPA-600/7-81-010, Joint publication by NBS and EPA. Available from the U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD-77), Research Triangle Park, North Carolina 27711, May 1981.

15. *Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods.* The U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina 27711. Publication No. EAP-600/4-77-027a.

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

4. By revising § 58.1 to include an additional definition to read as follows:

§ 58.1 Definitions.

* * * * *

(r) "Traceable" means that a local standard has been compared and certified, either directly or via not more than one intermediate standard, to a primary standard such as a National Bureau of Standards Standard Reference Material (NBS SRM) or a USEPA/NBS-approved Certified Reference Material (CRM).

Appendix A—[Amended]

5. By revising paragraph 2.3.1 of Appendix A, "Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS)," to read as follows:

* * * * *

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test

concentrations for CO, SO_2, and NO_2 must be traceable to either a National Bureau of Standards (NBS) Standard Reference Material (SRM) or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 7, and a list of CRM sources is available from the address shown for Reference 7. A recommended protocol for certifying gaseous standards against an SRM or CRM is given in References 2 and 3. Direct use of a CRM as a working standard is acceptable, but direct use of an NBS SRM as a working standard is discouraged because of the limited supply and expense of SRM's

6. By adding "CRM," to the third sentence of the fourth paragraph of section 3.1.2 of Appendix A to read: * * * The auditing standards and calibration standards may be referenced to the same NBS SRM, CRM, or primary UV photometer. * * *

7. By adding the following reference to Appendix A:

References

* * * * *

7. A procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials. EPA-600/7-81-010, Joint publication by NBS and EPA. Available from the U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD-77), Research Triangle Park, North Carolina 27711, May 1981.

Appendix B—[Amended]

8. By revising paragraph 2.3.1 of Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring," to read as follows:

* * * * *

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, and NO_2 must be traceable to either a National Bureau of Standards (NBS) gaseous Standard Reference Material (SRM) or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 7, and a list of CRM sources is available from the address shown for Reference 7. A recommended protocol for certifying gaseous standards against an SRM or CRM is given in References 2 and 3. Direct use of a CRM as a working standard is acceptable, but direct use of an NBS SRM as a working standard is discouraged because of the limited supply and expense of SRM's.

9. By adding, "CRM," to the third sentence of the second paragraph of section 3.2 of Appendix B to read: * * * The auditing standards and calibration standards may be referenced to the same NBS SRM, CRM, or primary UV photometer. * * *

10. By adding the following reference to Appendix B:

References

* * * * *

7. "A Procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials." EPA-600/7-81-010, Joint publication by NBS and EPA. Available from the U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD-77), Research Triangle Park, North Carolina 27711 May 1981.

[FR Doc. 83-1447 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SWH-FRL 2254-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comment.

SUMMARY: Regulations implementing the Resource Conservation and Recovery Act of 1976 (RCRA), provide a set of management standards for persons managing recycled hazardous wastes. The Agency is today making several changes to these rules to correct mistakes in regulatory language. The effect of these changes will be to clarify any misunderstandings the regulated community may have regarding these rules' applicability to facilities that store hazardous wastes prior to recycling.

DATES: Effective date: Interim final rule effective January 20, 1983. There is one possible exception. We have made several changes to these rules to clarify any misunderstandings the regulated community may have regarding the applicability of these rules. Although we believe that this amendment merely revises 40 CFR 261.6 to read as it was intended to apply, and as it is understood to apply, as a practical matter, we do not intend to penalize any individual for good faith failure to comply with the technical standards. Therefore, any person who legitimately misunderstood the scope of 40 CFR 261.6(b)(5) has until July 20, 1983 to comply with the technical interim status standards for Subparts F and K. Comment date: EPA will accept public comment on this amendment until March 7, 1983.

ADDRESSES: Comments on this interim final rule may be mailed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001/Changes to Facility Standards in 40 CFR 261.6." The public docket for this rule making is located in Room S-269C, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800)424-9346 or at (202)382-3000. For technical information contact Matthew A. Straus, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; (202)382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, EPA promulgated the first phase of regulations implementing the hazardous waste management system established by Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). A vital aspect of the regulations is a definition of solid waste which, among other things, provides the regulatory provision stating which materials are solid wastes when recycled (see 40 CFR 261.2). In addition, the regulations provide that persons who generate, transport, or store hazardous sludges or wastes listed in 40 CFR 261.31 or 261.32 prior to use, reuse, recycling, or reclamation (referred to as "recycling" in this notice), are subject to regulation as hazardous waste generators, transporters, or storage facilities, respectively (See 40 CFR 261.6(b)).[1]

In reviewing the regulations regarding the management standards for hazardous wastes that are recycled, the Agency has identified several unintended omissions from the facility standards in 40 CFR 261.6(b) (*i.e.*, the standards for new and existing storage facilities contained in 40 CFR Parts 264 and 265 and cross-referenced in § 261.6(b)). This amendment is designed to correct these mistakes, and merely amends the regulation to read as it already is understood to apply.

[1] It should be noted that unlisted hazardous wastes, other than hazardous sludges, which exhibit a hazardous waste characteristic, and are beneficially used, reused, recycled, or reclaimed, are excluded from regulation under the hazardous waste management regulations (40 CFR 261.6(a)).

The remainder of this preamble discusses these corrections.

II. Technical Corrections To the Facility Standards Cited in 40 CFR 261.6(b)

A. Correction to the Part 265 Interim Status Standards Cited in 40 CFR 261.6(b)(5)

Section 261.6(b)(5) of the regulations sets forth the standards applicable to those facilities storing hazardous wastes prior to recycling which are eligible for interim status. As promulgated, these facilities must comply with the following Subparts of the Part 265 interim status standards; the administrative requirements (Subparts A through E), the financial responsibility requirements (Subparts G and H), and the substantive technical standards for wastes stored in containers (Subpart I), tanks (Subpart J), and in waste piles (Subpart L). In reviewing these regulations, we discovered that they failed to include the substantive technical standards for wastes stored in surface impoundments (Subpart K) prior to being recycled and the ground water monitoring requirements (Subpart F) for surface impoundments.

These omissions were accidental, as is clear from our discussion of the purpose of the regulation and the text of the regulation itself. In promulgating § 261.6(b), we noted that "(w)astes which present a hazard in storage * * * arguably pose the same danger in storage * * * irrespective of whether they are destined for disposal or for use, reuse, recycle, or reclamation" (45 FR at 33091, May 19, 1980). Accordingly, we developed a regulation which regulated waste storage prior to recycling (*id.*, at 33093). We did not intend to differentiate between various types of storage facilities nor among the technical standards for these facilities. Nor would the rationale for the regulation support any such omission.[3] Thus, impoundments used to store hazardous wastes prior to recycling should be and were meant to be included in the regulation, and should be required to meet ground water monitoring requirements.

The text of the regulation likewise shows that the Agency meant for Subparts F and K to apply. As written, facilities storing wastes in surface impoundments prior to recycling are still subject to the administrative and financial responsibility requirements of Part 265. It makes no sense for facilities to be subject to these requirements and not to the technical standards in Subparts F and K.

We also believe most persons already interpret the regulation as it was intended to apply; *i.e.*, that all of the technical standards for impoundments are applicable. Various members of the regulated community have indeed told us that they read the rules to include Subparts F and K.

Therefore, in order to clarify this unintended omission, the Agency is amending 40 CFR 261.6(b)(5) by requiring facilities that store hazardous wastes in surface impoundments under interim status prior to recycling to comply with the Subpart F and K standards.

B. Correction to the Part 264 Permitting Standards Cited in 40 CFR 261.6(b)(4)

When the Agency promulgated the May 19 definition of solid waste and the special requirements for hazardous wastes which are used, reused, recycled, or reclaimed, the only standards promulgated by the Agency under Part 264 were the administrative requirements in Subparts A to E. Thus, at that time, the only standards a facility would have to comply with to obtain a permit to store listed hazardous wastes and hazardous sludges prior to recycling were the administrative requirements.

The Agency then amended Part 264 by promulgating substantive technical storage standards. (See 46 FR 2802, January 12, 1981). Included in these regulations are standards for: Closure and Post-Closure (Subpart G), Financial Responsibility (Subpart H), Use and Management of Containers (Subpart I), Tanks (Subpart J), Surface Impoundments (Subpart K), and Waste Piles (Subpart L). The standards for waste piles and surface impoundments were later superseded by the interim final rules promulgated on July 26, 1982. (See 47 FR 32274.) This regulation included revisions to the ground water monitoring and protection requirements (Subpart F). The Agency, however, neglected to conform 40 CFR 261.6(b)(4) to include these standards as requirements for facilities that store listed hazardous wastes and hazardous sludges prior to recycling. Thus, unless we amend this section of the regulation, a facility could still obtain a RCRA permit to store such hazardous wastes before recycling by meeting only the administrative requirements under Part 264 (Subparts A to E), conditions much less rigorous than the interim status standards promulgated under Part 265. This result obviously was never intended by the Agency. Nor are the regulations understood to include only the administrative standards of Part 264. In fact, the only recycling facility to receive a storage permit to date has a permit reflecting the technical standards of Subparts G, H, I, and J. To correct this oversight, EPA is today amending this regulation to include Subparts F through L under 40 CFR 261.6(b)(4) as requirements that must be met to receive a permit for storing listed hazardous waste and hazardous sludges before recycling.

C. Clarification That Only Wastes Listed in 40 CFR 261.31 and 261.32 Are Included in 40 CFR 261.6(b)

Section 261.6(b) states that the provision applies to wastes "listed in Subpart D" of Part 261. This language is overbroad. The provision applies to wastes listed in §§ 261.31 and 261.32, but not to the discarded commercial chemical products (and related materials) listed in § 261.33. The Agency already has made this clear (see 45 FR at 78540, November 25, 1980). In addition, under the language of the regulations, § 261.33 materials are not solid wastes when recycled, because they are wastes only when "discarded," as defined in 40 CFR § 261.2(c). However, in order to clarify that § 261.6(b) does not apply to commercial chemical products being recycled, we are also amending the language of that provision.

III. Effective Date

Section 3010(b) of RCRA provides that the hazardous waste management regulations ordinarily take effect six months after promulgation. The purpose of this requirement is to allow persons handling hazardous waste sufficient lead time to prepare and to comply with new regulatory requirements.

We do not think the reasons underlying the six month effective date apply here, and we are making this technical amendment effective immediately. This amendment merely revises § 261.6 to read as it was intended to apply, and as it is understood to apply. We thus do not believe that, as a practical matter, we are changing the present regulatory scope of the provision, and there consequently is no need to allow time for persons to prepare to comply with these standards. (In addition, no facilities could even arguably be newly added to the universe of hazardous waste management facilities as a result of these technical changes, because all of these facilities are presently subject to the adminstrative standards of Parts 264 and 265.)

If the owner or operator of any existing surface impoundment, however,

[3] We note that the interim status standards for surface impoundments do indeed apply to "facilities that use surface impoundments to * * * store * * * hazardous wastes * * *" 40 CFR 265.220.

legitimately misunderstood the scope of § 261.6(b)(5), he has until July 20, 1983 to comply with the technical interim status standards for Subparts F and K. Owners and operators of facilities whose Part B permit applications are called in by the Agency after publication of this notice must comply with the standards of Subparts F–L, assuming the Agency issues a final permit to the facility. New facilities applying for final RCRA permits likewise must comply with these standards. Owners and operators of container and tank storage facilities will be subject to the permit standards published on January 12, 1981. Owners and operators of surface impoundments and piles will be subject to the permit standards published on July 26, 1982.

IV. Interim Final Rule and Request for Comment

EPA has determined under section 553 of the Administrative Procedure Act, U.S.C. 553, that there is good cause for promulgating these amendments as interim final rules [3] without prior notice and comment. These amendments are technical corrections to the rules which conform the rules to reflect actual understanding. The underlying rules (*i.e.*, § 261.6 and the Part 264 technical storage standards) already have been subject to notice and comment. We thus believe that the policy behind the notice and comment provision has been fully satisfied. In case anyone disagrees, we have allowed a 45-day comment period.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This interim final rule is not a major rule because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this amendment is primarily a technical correction which clarifies requirements applicable to facilities that manage hazardous waste which is recycled. Thus, there will be no adverse impact on the ability of U.S. based enterprises to compete with the foreign-based interprises in domestic or export markets. Because this amendment is not a major regulation, no regulatory impact analysis is being conducted.

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

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on small entities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: January 13, 1983.

Anne M. Gorsuch,

Administrator.

PART 261—[AMENDED]

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

1. The authority citation for Part 261 reads as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 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, and 6922).

2. Section 261.6 is amended by revising the introductory test of paragraph(b) and paragraphs (b)(4) and (b)(5) to read as follows:

§ 261.6 Special requirements for hazardous waste which is used, re-used, recycled or reclaimed.

* * * * *

(b) Except for those wastes listed in paragraph (a)(3) of this section, a hazardous waste that is a sludge, or that is listed in §§ 261.31 or 261.32, or that contains one or more hazardous wastes listed in §§ 261.31 or 261.32; and that is transported or stored prior to being used, re-used, recycled, or reclaimed is subject to the following requirements with respect to such transporation or storage:

* * * * *

(4) Applicable provisions of Subparts A through L of Part 264 of this Chapter;

(5) Applicable provisions of Subparts A through L of Part 265 of this Chapter.

* * * * *

[FR Doc. 83-1448 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

[3] We are promulgationg these corrections as interim final rules because § 261.6 itself is an interim final regulation.

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40 CFR Part 256

[SW-7-FRL 2281-2]

Partial Approval of Nebraska Solid Waste Management Plan

AGENCY: Environmental Protection Agency (EPA), Region VII.

ACTION: Final rule; partial approval.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Nebraska has received Federal financial assistance for development of a State solid waste management plan. The State of Nebraska has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its partial approval of the Nebraska solid waste management plan. Only partial approval is given as Nebraska is lacking adequate authority for the following criteria: Open burning; disease; application of waste to land; and safety. In addition, Nebraska exempts from licensing requirements solid waste management facilities serving cities of the second class and villages. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby, Chief, Waste Management Branch, EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–6536.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guideline were required by section 4002(b) of the Solid Waste Disposal Act, as amended by RCRA.

On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for Development and

Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 256 and 257). In part, these amendments allow EPA to give partial approval for an adopted State plan that is inadequate while the State is developing the other parts of the plan. The completion of the remaining parts of the plan will be conducted in a timely and orderly manner as set forth in schedule mutually agreed upon by the State and EPA.

Response to comments: On August 20, 1982, at 47 FR 36452 the Nebraska solid waste management plan was noticed for public review and comment. Comments on the Nebraska plan were received for 30 days. No comments were received.

Finding: I have reviewed the solid waste management plan submitted by Nebraska. I have found that the Nebraska plan does not meet all of the requirements of section 4007(a) of RCRA for approval because of limitations in State statutory authority and because of the need for amendments to their State regulations. The State statutory or regulatory authority is inadequate to ensure compliance with the criteria that are contained in 40 CFR Part 257 for open burning, disease, application of waste to land, and safety.

In addition State statutes exempt from licensing requirements solid waste management facilities serving cities of the second class and villages. Nebraska statute section 81–1528(6) Provides that: cities of the second class and villages shall be exempt * * *pertaining to licensing and control of solid waste disposal facilities; *Provided*, that such cities and villages provide solid waste disposal systems so that no pollution of waters of the state result * * *; *and provided further*, that such cities and villages comply with minimum standards for identification and disposition of hazardous wastes. The department * * * shall have the right to inspect solid waste disposal sites and evaluate them according to site evaluation criteria promulgated pursuant to the Resource Conservation and Recovery Act.

I am today approving all of the plan except for those areas described above. In accordance with § 256.04 Nebraska has submitted a schedule outlining in a timely and orderly manner the steps that will be taken in completing the plan to meet the remaining requirements of section 4007(a) of RCRA for approval of the complete plan. Necessary legislative changes will be sought by the Nebraska Department of Environmental Control during the 1984 legislative session. Rulemaking will follow thereafter.

Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major", and therefore subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Nebraska solid waste management plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; results in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise not from EPA's partial aproval but because the plan complies with earlier requirements issued by EPA [Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257, as amended]. Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget ("OMB") for review under Executive Order 12291.

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval if the Nebraska solid waste management plan will not have a significant economic impact on substantial number of small entities. This approval will reduce burdens on some small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 256

Grant programs—environmental protection, Waste treatment and disposal.

(Sec. 400(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Dated: December 29, 1982.

Morris Kay,

Regional Administrator.

[FR Doc. 83–1632 Filed 1–19–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Evaluation of the Impact and Effectiveness of Title XVI Uncompensated Services Assurance

AGENCY: Health Resources and Services Administration, PHS, HHS.

ACTION: Rule related notice.

SUMMARY: The purpose of this notice is to solicit comments on an evaluation plan which has been developed to examine the impact and effectiveness of the regulations (42 CFR 124.501 *et seq.*) governing the provision of uncompensated services by health facilities obligated under Titles VI and XVI of the Public Health Service Act to provide a reasonable volume of services to persons unable to pay.

DATE: The Department will consider comments received on or before February 22, 1983.

ADDRESS: Interested persons may request copies of the evaluation plan from, and submit comments to: Florence B. Fiori, Dr. P.H., Acting Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5–44, Hyattsville, Maryland 20782.

All comments received in timely response to this notice will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles A. Wells, Ph. D., Chief, Assurances Data and Analysis Branch, Division of Facilities Compliance, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5–44, Hyattsville, Maryland 20782, (301) 436–6893.

SUPPLEMENTARY INFORMATION: Health facilities which received assistance under Titles VI and XVI of the Public Health Service Act provided an assurance that they would make available a reasonable volume of services to persons unable to pay. On May 18, 1979, the Secretary published regulations (42 CFR 124.501 *et seq.*) governing the assurance to provide uncompensated services. In the preamble to the rules (44 FR 29374), the Secretary announced the Department's intent to develop a plan to evaluate the administrative compliance costs and the

impact of the inflation factor, and to seek public comment on the plan. This notice implements the Secretary's directive.

Dated: January 17, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-1599 Filed 1-19-83; 8:45 am]

BILLING CODE 4160-16-M

Office of Child Support Enforcement

45 CFR Parts 302 and 303

Collection of Past-Due Support From Federal Tax Refunds

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: These regulations implement section 2331 of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, and respond to comments made with respect to our interim final regulations published in the **Federal Register** on February 19, 1982 (47 FR 7425). Section 2331 amplifies statutory authority for collection of past-due support from Federal tax refunds by making such collection a State plan requirement of the Child Support Enforcement program. Under section 2331, only AFDC cases are eligible for referral to the IRS for collection by tax refund offset. Child support agencies must reimburse the IRS for the cost of applying the offset procedure.

DATES: These regulations are adopted as final effective on publication (January 20, 1983).

FOR FURTHER INFORMATION CONTACT: Carol Jordan, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Effective October 1, 1981, section 2331 of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, provides for collection of certain past-due child and spousal support from Federal tax refunds. This section provides separate statutory authority and contains specific procedures for tax refund offset that are distinct from the IRS full collection process authorized by section 452(b) of the Social Security Act (the Act). (For regulations on the IRS full collection process, see the **Federal Register**, 47 FR 16027, dated April 14, 1982.)

Section 2331 of Pub. L. 97-35 adds section 464 and paragraph 454(18) to title IV-D of the Act and amends section 6402 of the Internal Revenue Code of 1954.

Section 464 of the Act provides that, upon receiving notice from a State IV-D agency that an individual owes past-due support that has been assigned to the State, the IRS shall determine whether any tax refund is payable to the individual. If a refund is due, the IRS shall withhold from the refund an amount up to the amount of the past-due support and pay the withheld amount to the State IV-D agency with a notice of the individual's home address. Section 464 further provides that the Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services (HHS), setting standards and requirements for child support enforcement agencies to follow in requesting tax refund offsets. In this context, it is OCSE's role to participate in the process by acting as the agent of the IRS.

Paragraph 454(18) of the Act specifies that the State plan for child support enforcement must provide that the State has in effect procedures necessary to obtain payment of past-due support from Federal tax refunds as set forth in section 464 of the Act and that the State will take all steps necessary to implement and use the procedures.

Statutory Effective Date

The provisions being implemented by these regulations have a statutory effective date of October 1, 1981, unless a State effectively demonstrates to the Secretary of HHS that the effective date should be postponed for the State. OCSE-AT-81-24, dated October 7, 1981, contains instructions for requesting such postponements. All States must have and use procedures for collection of past-due support by tax refund offset, unless a postponement is approved for a State.

Provisions of Interim Final Regulations

The IRS published regulations implementing section 2331 of Pub. L. 97-35 on February 8, 1982 in the **Federal Register** (47 FR 5712). Those regulations establish standards and requirements for child support enforcement agencies to follow when requesting tax refund offsets. OCSE published interim final regulations implementing section 2331 on February 19, 1982 in the **Federal Register** (47 FR 7425). OCSE's regulations establish the new State plan requirement for State IV-D agencies and procedures related to collecting past-due support from Federal tax refunds.

OCSE's interim final regulations added a new 45 CFR 302.60 to IV-D regulations that contains the State plan requirement for tax refund offset as specified in paragraph 454(18) of the Act. Under § 302.60, the State plan must provide that the IV-D agency has in effect procedures to obtain payment of past-due support from Federal tax refunds, and that the IV-D agency shall take the steps necessary to implement and use the procedures. Section 302.60 cross-references the requirements of section 464 of the Act, 45 CFR 303.72 which is discussed below, and IRS regulations at 26 CFR 304.6402-1. We have not changed § 302.60 in this document.

OCSE's interim final regulations also added a new 45 CFR 303.72 to IV-D regulations entitled Requests for Collection of Past-Due Support from Federal Tax Refunds. This section defines past-due support, specifies which past-due support qualifies for offset, and describes procedures States must follow to refer a case for Federal tax refund offset, to distribute collections received, and to respond to complaints received from individuals whose refunds were offset. By agreement with IRS, OCSE is acting as IRS's agent in processing State requests.

The definition of past-due support provides important specifications concerning amounts that may be referred to the IRS for collection by Federal tax refund offset. First, the definition of past-due support rules out requesting that current support be collected by refund offset. Second, the past-due amount must be for a support obligation determined under a court order or an order of an administrative process established under State law. Third, past-due support collected by refund offset must be support owed on behalf of a child or on behalf of the child and the parent with whom the child is living.

Not all past-due support qualifies for offset. Under § 303.72, past-due support qualifies for offset only if: the support is assigned under 45 CFR 232.11 to the State making the request for offset; the State has made reasonable efforts to collect the amount of the obligation; the amount of past-due support is not less than $150; the past-due support has been delinquent for three months or longer; and a notification of liability for past-due support has been received by the IRS. These criteria are also specified by the IRS in their regulations at 26 CFR 304.6402-1 as requirements of the offset process.

Section 303.72 further specifies that the IV-D agency (defined for purposes of the refund offset process as the *State* IV-D agency) shall submit, by October 1 of each year, a notification of liability for past-due support on magnetic tape to OCSE as specified in instructions and shall provide specified information on

each debtor. The required information is the minimum needed by the IRS and OCSE to process a refund offset case. It consists of the individual's name and social security number, the amount of the arrearage, and the State code. In addition, the State IV–D agency may submit the county code where the case originated and the individual's case number if the agency wants this information to accompany any collection sent to the State. Procedures for submitting changes in case status are also included in this section.

Section 303.72 mentions that the IRS provides a notice to an individual upon offset of his or her tax refund. The notice informs the individual of the amount and date of the offset for past-due support and of the State to which the amount has been paid.

Under this section, in the event of a complaint from an individual concerning a tax refund offset, the IV–D agency must take steps to investigate the individual's concerns to determine if an error has been made. If the amount offset is found to exceed the past-due support owed, the child support agency must refund the excess to the individual because the statute provides for collection and distribution of past-due support only.

Under § 303.72, the State IV–D agency is billed by the Secretary of HHS, or designee, for the IRS processing fee associated with execution of the offset process. The amount of the fee is agreed to by the Secretary of the Treasury and the Secretary of HHS and must be sufficient to reimburse the IRS for the full cost of the offset procedure.

Changes to Interim Final Regulations

This document amends parts of § 303.72 (a), (b), (e), (f), (g) and (h) of the interim final regulations in response to comments received and as a result of OCSE experience with this year's offset program.

Section 303.72(a) defines "past-due support" for purposes of refund offset referrals. We are revising the definition in response to requests that we clarify whether it is the past-due amount or the support obligation that must be determined by court or administrative order. The amount of the delinquency is not required to be determined by court order or administrative process. The revised definition clarifies that it is the support obligation, not the delinquency amount, that must be determined under a court order or an order of an administrative process established under State law.

A new § 303.72(b)(4) has been added to require that, before the case is submitted, the State IV–D agency must verify the accuracy of the name and social security number of the individual whose case is being submitted, and the accuracy of the arrearage amount. If the State IV–D agency has verified this information previously, it need not reverify it. The provision contained in paragraph (b)(4) of the interim final regulations has been included in a new paragraph (b)(5) under § 303.72 of the final regulations.

We have amended § 303.72(e) in response to comments received from several States during the July 1982 OCSE workshops on Federal tax refund offset. Because the regulations specify that only the State that has an assignment may refer a case for offset, the responding State, in interstate situations, is often unaware of the referral for offset and of any collections made. This can lead to duplicative collection activity by a responding State, and result in inconsistent records between the initiating and responding States. Thus, we are amending this section by adding paragraph (e)(1) to provide that the initiating State must notify the responding State when it submits an interstate case for offset and when it receives the offset amount from the IRS.

Section 303.72(e) also requires States to notify OCSE of a decrease in, or elimination of, an amount referred for collection by Federal tax refund offset. In response to comments that States be permitted to establish thresholds for determining when the State agency must notify OCSE of decreases in arrearage amounts, this document amends § 303.72 by adding paragraph (e)(2) to require States to notify OCSE of decreases in arrearage amounts only if the decrease is significant according to guidelines developed by the State. We would suggest, however, that, if the original amount submitted for offset is $1000 or less, any decrease in the arrearage should be reported.

We have also revised § 303.72(e) to delete the requirement that States include the original arrearage amount when submitting changes in case status and to add the requirement that States submit changes within time frames established by OCSE in instructions.

Section 303.72(f)(1) is a new provision which did not appear in the interim final regulations. As a result of OCSE experience with the first year's offset program, and in response to comments from a legal advocacy group, we have added paragraph (f)(1) to the final regulations. This paragraph specifies that OCSE will send advance notices to individuals before referring their names to the IRS for offset if the State IV–D agency does not choose to send advance notices. If the IV–D agency sends the advance notices, the agency must ensure that they meet the conditions for timeliness specified by OCSE in instructions. OCSE's notices will refer addressees to the IV–D agency if they have any questions, want to report an error, or want to pay past-due support to avoid offset of their tax refund.

Section 303.72(g) contains procedures that States must follow when handling complaints from an individual concerning a tax refund offset. The IV–D agency must take steps to investigate the complaint and must refund any offset amounts that exceed the past-due support owned. We have revised these procedures, in response to comments and as a result of experience with the current year's tax refund offset program, to require that the IV–D agency refer individuals to IRS if a complaint involves a joint tax return. In addition, the IV–D agency must have procedures that include a mechanism for reimbursing excess offset amounts promptly. We believe it is improper for the State to avoid reimbursing an individual until collections are received from the IRS.

Section 303.72(h) specifies that amounts collected by refund offset are to be distributed as past-due support under 45 CFR 302.51(b)(4). This document revises paragraph (h) by adding 45 CFR 302.51 (b)(5) as another cross-reference regarding distribution of past-due support. We are including this cross-reference to provide complete instructions on the relevant distribution procedures for amounts collected by refund offset. 45 CFR 302.51(b)(5) requires the State to pay the family any amounts collected which are in excess of the amount owed to the State as reimbursement for past assistance payments but not in excess of the assigned support arrearage. A new paragraph (h)(3) clarifies that States may apply collections from offset only against the accrued arrearage which was specified in the advance notice to the taxpayer.

Response to Comments

We received nine comments in response to the interim final regulations published in the **Federal Register** on February 19, 1982. Seven State agencies, one governor and one legal advocacy group submitted comments. A discussion of these comments and our responses follow:

1. Section 303.72(a)

Comment: Two State agencies requested that we revise the definition of "past-due support" to clarify: (1) The

effect of court orders containing payment schedules of arrearages on the amount that may be offset, and (2) the effect of judgments that payment be delayed until a later date or until the payor is able to pay.

Response: Because IV–D statute and regulations do not specify how States must treat court orders containing payment schedules of arrearages or delayed payment dates, the State may use the total arrearage amount to determine the liability against which the IRS will offset, if permitted by State law, or take into consideration the court-ordered payment schedule. We encourage States to recognize good faith efforts to pay on past-due support and to use discretion in referring such cases for offset.

Comment: Two State agencies requested clarification of the definition of "past-due support" regarding whether it is the amount of the deliquency or the amount of the support obligation that must be established by court order.

Response: The definition of "past-due support" in the interim final regulations is the definition used in the statute (section 464 of the Act). This document revises the definition used in the interim final regulations to clarify that the support obligation must be established by court or administrative order. There is no requirement that the amount of the delinquency referred for offset must be determined by court order or administrative process.

2. Section 303.72(b)(1)

Comment: Two State agencies recommended that the responding jurisdiction be responsible for submitting the offset request for interstate cases.

Response: We have required that offset referrals be made by the State having the assignment of support rights to reduce the likelihood of more than one State submitting a request for IRS collection of the same debt in interstate cases. We discussed this situation with many of the States at meetings held in July, 1981 and again at workshops held in July, 1982. The majority of States preferred having the State that secures the assignment make the IRS collection request, since that State has the ultimate responsibility for managing the case and because that State is where distribution of the collection will be made under section 457 of the Act. We recognize the importance of maintaining accurate records in interstate cases, however, and, as suggested by several States during the July, 1982 workshops, have revised the final regulations to require initiating States to notify any other involved State of the offset referral and the support collection.

Comment: One State agency pointed out that several States might have past-due support owed to them because of assignments of rights to support by the same individual for different time periods. This would result in more than one State submitting a request for offset of the same individual's tax return.

Response: Any State may submit a request for collection of past-due support by Federal tax refund offset if there has been an assignment of the support obligation under 45 CFR 232.11 and if the referral meets the additional criteria specified at 45 CFR 303.72(b). We realize that over a period of time more than one State might have an assignment of rights to support from the same individual. This situation is unavoidable although we believe duplication will occur less often than if responding jurisdictions submitted cases for offset. Because IRS will accept only one offset request per individual, the first submittal received will be referred to the IRS by OCSE.

Comment: One commenter recommended that States be permitted to determine under State law what constitutes a "reasonable effort" to collect child support obligations before referring a case for collection by refund offset. Another asked that the phrase be clarified if we do not intend States to have discretion in this area.

Response: We agree that States should have discretion in determining what constitutes a "reasonable effort" to collect the support and, therefore, we have not defined "reasonable effort" in the regulation. While we wish to provide flexibility to the States, at the same time we wish to ensure that States refer cases for offset that are appropriate and accurate. For this reason, we have revised the interim final regulations at § 303.72(b)(4) to require States to verify the name, social security number and arrearage amount before submitting a case. If the State has verified the information previously, it need not reverify it. It is crucial that cases being referred for offset include the name and social security number of the correct individual. States should limit cases referred for offset to those in which there is no question about the identity of the individual to avoid the erroneous offset of an individual's tax refund because of mistaken identity, an occurrence which can seriously damage the success of the offset program. States must also ensure that the amount of the arrearage submitted is as accurate as possible.

3. Section 303.72(b)(2) and (b)(3)

Comment: One State agency recommended that States be permitted to establish their own policy regarding the age of the arrearages submitted for refund offset.

Response: We believe uniform policy in this area is more equitable. OCSE and the IRS agree that the 3-month minimum arrearage age will ensure that enough time is provided to account for late payments. The IRS offset process should not be treated as a collection method of first resort. Rather, it is a method for collecting arrearages in cases in which other enforcement techniques have not resulted in collection of full amounts owed.

Comment: One State agency recommended that States be permitted to refer cases for offset if part of the arrearage is at least three months old.

Response: This recommendation was not adopted because it would be difficult to determine arrearage amounts accurately. There would not be sufficient control to ensure that the arrearage amount is correct because the IV–D agency would not be able to take late payments on recent months' obligations into consideration before the case is referred for offset. Further, this proposal would weaken the requirement that a IV–D agency must attempt to collect on the obligation before referring a case for the IRS offset.

4. Section 303.72(c)

Comment: One State agency recommended that the due date of October 1 for State IV–D agencies to notify OCSE of offset cases be changed to December 1 or November 15.

Response: This recommendation was not adopted because the time after October 1 is needed by OCSE to edit the information on the tapes, make corrections, transmit the tapes to the IRS, and provide advance notice to individuals whose names are being referred for IRS offset.

5. Section 303.72(e)

Comment: A commenter requested that we establish parameters or thresholds for determining when the State agency must notify OCSE of decreases in arrearage amounts.

Response: These final regulations clarify that the State IV–D agency must notify OCSE of a decreased arrearage only if the decrease is significant according to guidelines developed by the State. As mentioned above, we suggest that, if the arrearage amount referred to the IRS is $1,000 or less, the State should notify OCSE of any decrease.

6. Section 303.72(f)

Comment: One State agency recommended that the regulations indicate that the State has no responsibility to notify delinquent payers that their cases are being submitted to the IRS for tax refund offset.

Response: The interim final regulations have been revised to specify that OCSE will provide an advance notice to taxpayers whose names will be referred to the IRS for tax refund offset if the State does not wish to send its own notice. Our reasoning for including this provision is discussed earlier under the heading "Changes to Interim Final Regulations." These notices will provide individuals with the opportunity to contact the State before an offset occurs if, for example, the amount of the arrearage, or other facts, are in error.

Comment: One comment received from a legal advocacy group stated that the regulations do not provide adequate notice requirements and appeal rights.

Response: As already discussed, we have revised the regulation to specify that OCSE or the State will send a notice to the individual before a case is referred to the IRS for offset. In addition, § 303.72(g) requires IV–D agencies to investigate complaints from individuals concerning tax refund offsets. We believe these provisions will result in an efficient and timely response to individuals whose tax refunds may have been erroneously offset.

7. Section 303.72(g)

Comment: One State agency recommended that OCSE regulations clarify that the IRS is responsible for resolving joint tax return issues.

Response: We agree with the commentor's recommendation and have revised the interim final regulations accordingly. Final regulations at § 303.72(g) specify that, if an individual's complaint involves a joint tax return, the State IV–D agency shall refer the individual to the IRS.

Comment: A legal advocacy group recommended that States be required to consider factors other than a numerical comparison of the amount of past-due support owed and the amount of the offset when determining that the offset is correct. The other factors included situations where a joint tax return is filed or State law prohibits collection of the child support debt from individuals receiving AFDC.

Response: Factors such as those mentioned above that could result in erroneous offsets should be considered both before a State refers a case for offset and in determining whether the offset amount is correct. If a case is inappropriate for offset under State law, the case need not be submitted under these regulations.

Certain information cannot be considered prior to the referral to the IRS. For example, the State IV–D agency will not know if an individual is filing a joint tax return at the time a referral for offset is made. These regulations at paragraph (g)(2) now specify that joint return complaints should be referred to the IRS.

The State IV–D agency should be aware of any State law that precludes referring certain groups of individuals for offset. This knowledge should prevent erroneous referrals because the decision that an amount of past-due support qualifies for offset is initially made by the State pursuant to State law and within parameters established by these regulations. If an offset is nonetheless made in conflict with a provision of State law, nothing prohibits the State from making restitution to the individual.

8. Section 303.72(h)

Comment: One State agency recommended that we include 45 CFR 302.51(b)(5) in our cross-references at 45 CFR 303.72(h).

Response: We agree with the recommendation and have revised § 303.72(h) (1) and (2) to cross-reference 45 CFR 302.51(b)(5) in order to provide complete instructions concerning the relevant distribution process for offset collections. § 302.51(b)(5) provides that amounts collected in excess of the total unreimbursed AFDC payments but not in excess of the assigned support arrearage must be paid to the family. If the amounts collected exceed the total assigned support arrearage, that excess amount must be refunded to the taxpayer.

Comment: One State agency recommended that States be permitted to apply excess offset amounts to arrearages accumulated after the offset referral was made. One requested clarification regarding whether the offset amount is applied to the arrearage owed at the time of the offset or to the arrearage owed at the time of referral.

Response: States may only apply the offset collection to the accrued arrearage which was specified in the advance notice. Any arrearage which accrues thereafter may not be offset for reason that the taxpayer will not have been notified and will not have had an opportunity to contest the offset. This has been clarified in the regulations at §303.72(h)(3).

9. Section 303.72(i)

Comment: One State Governor recommended that we deduct fees automatically from the amounts collected through the offset process before collections are forwarded by the IRS to the IV–D agency.

Response: Section 464 of the Act does not authorize the Secretary of the Treasury to deduct fees from the amounts withheld through the offset process. It requires the Secretary of the Treasury to pay such amounts to the State agency for distribution under section 457(b)(3) of the Act.

10. General Comment

Two States have recommended that the IRS provide the IV–D agency with an advance list of individuals whose returns are being held by the IRS for offset.

Response: The IRS cannot provide IV–D agencies with a list of individuals whose refunds are being held for offset because it would violate IRS confidentiality requirements under section 6103 of the Internal Revenue Code of 1954. However, States will be provided with a list of the cases referred that do not match against the IRS listing of taxpayers. A State IV–D agency will be able to determine, based on this list the individuals whose refunds will be offset if a refund is available.

Paperwork Reduction Act

In accordance with the paperwork Reduction Act of 1980 (Pub. L. 96–511), the information collection requirement contained in this regulation (§302.60) has been approved by the Office of Management and Budget and assigned OMB No. 0960–0253.

List of Subjects in 45 CFR Parts 302 and 303

Child welfare, Grant programs/social programs.

PART 303—[AMENDED]

The interim final regulations published in the **Federal Register** on February 19, 1982 (47 FR 7425) are adopted as Final rules and amended at 45 CFR §303.72 by revising paragraphs (a), (b)(1), (b)(4), (e), (f), (g) and (h), and by adding a new paragraph (b)(5) as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) *Definition.* "Past-due support" means the amount of support determined under a court order or an order of an administrative process established under State law, for support and maintenance of a child or of a child

and the parent with whom the child is living, which has not been paid.

(b) *Past-due support qualifying for offset.* Past-due support qualifies for offset if:

(1) There has been an assignment of the support obligation under 45 CFR 232.11 of this title to the State making the request for offset and that State has made reasonable efforts to collect the amount of the obligation, using methods available under state law, as appropriate.

* * * * *

(4) Before the case is submitted, the State IV–D agency has verified the accuracy of the name and social security number of the individual whose case is being submitted, and the accuracy of the arrearage amount. If the State IV–D agency has verified this information previously, it need not reverify it.

(5) A notification of liability for past-due support has been received by the Secretary of the Treasury as prescribed by paragraph (c) of this section.

* * * * *

(e) *Notification of changes in case status.* (1) The initiating State must, in interstate situations, notify the responding State when it submits an interstate case for offset when it receives the offset amount from the IRS.

(2) The State IV–D agency shall, within time frames established by the Office in instructions, notify the Deputy Director in writing of any decrease in, or elimination of, an amount referred for collection by Federal tax offset if the decrease is significant according to guidelines developed by the State. The notification shall contain the information specified in paragraph (c) of this section.

(f) *Notice to taxpayer of offset.* (1) The Office, or the State IV–D agency if it elects to do so, shall send a written advance notice to inform an individual that the amount of his or her past-due support is being referred to the IRS for collection by Federal tax offset. If the IV–D agency sends the notice, it must meet the conditions for timeliness specified by the Office in instructions.

(2) The Internal Revenue Service shall notify the taxpayer in writing of the amount and date of the offset for past-due support and of the State to which this amount of past-due support has been paid.

(g) *Complaint procedure.* (1) Upon receipt of a complaint from an individual concerning a tax refund which has been offset, the State IV–D agency shall take steps to investigate the complaint to determine its validity.

(2) If the complaint from an individual concerns a joint tax return, the State IV–D agency shall refer the individual to the IRS.

(3) If the offset is found to exceed the amount of the past-due support owed, the State IV–D agency shall take steps to refund the excess amount to the individual as specified in paragraph (h) of this section in accordance with procedures that include a mechanism for promptly reimbursing the individual.

(h) *Distribution of collections.* (1) Collections received by the IV–D agency as a result of refund offset shall be distributed as past-due support as required under § 302.51(b) (4) and (5) of this chapter.

(2) If the amount collected is in excess of the amounts required to be distributed under § 302.51(b) (4) and (5) of this chapter, the IV–D agency must repay the excess to the individual whose refund was offset within a reasonable period in accordance with State law.

(3) Collections from offset may be applied only against the accrued arrearage which was specified in the advance notice described in paragraph (f) of this section.

* * * * *

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302), section 464 of the Social Security Act (42 U.S.C. 664), and section 454(18) of the Social Security Act (42 U.S.C. 654(18)

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: September 28, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-1498 Filed 1-19-83; 8:45 am]

BILLING CODE 4190-11-M

Public Health Service

45 CFR Part 51

Exchange Visitors Program—Criteria for Evaluating Comprehensive Plan To Reduce Reliance on Alien Physicians

AGENCY: Public Health Service, HHS.

ACTION: Interim-final rule with request for comments.

SUMMARY: These interim final regulations establish the criteria for evaluating the comprehensive plan by programs of graduate medical education or training to reduce reliance on alien physicians under Section 212(j)(2)(A)(ii) of the Immigration and Nationality Act as amended by Pub. L. 97–116.

EFFECTIVE DATE: These interim final regulations are effective January 20, 1983. As discussed below, comments on the regulations are invited, but must be received on or before March 21, 1983.

ADDRESS: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Professions, Health Resources and Services Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying in the Office of Program Support, Room 4–22, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moritsugu, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Room 3–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 (Telephone: (301) 436–6418).

SUPPLEMENTARY INFORMATION: Amendments made to Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(j)(2)(A)) by Pub. L. 94–484, effective January 1977, prescribed requirements aliens had to satisfy in order to enter the United States as exchange visitors to participate in programs of graduate medical education or training, including the requirement that each alien pass Parts I and II of the National Board of Medical Examiners examination or an equivalent examination, as determined by the Secretary of Health and Human Services (HHS). In a separate provision not made a part of the Immigration and Nationality Act, Pub. L. 94–484 also provided for the suspension, upon certain conditions, of certain of these exchange visitor requirements in the event that there would be a "substantial disruption" in the health services provided by a training program if an alien physician were not permitted to enter the United States due to failure to meet those requirements.

Applications for "substantial disruption waivers," as these suspensions of requirements are

referred to, have been submitted primarily by programs which have traditionally relied heavily on alien graduates of foreign medical schools. These residency training programs generally provide health services to low income population groups who live in urban areas for which it is difficult to recruit adequate number of physicians in certain specialities or subspecialities such as psychiatry, pediatrics and neonatalogy (the care of high-risk newborn infants). If the use of exchange visitor physicians in these residency programs were curtailed, a substantial disruption of health services in these areas would result. While the actual number of physicians involved has been small, these physicians have been critical to the adequate provision of health care to the areas affected.

The Immigration and Nationality Act Amendments of 1981 (Pub. L.97-116, enacted on December 29, 1981) further amended Section 212 of the Immigration and Nationality Act to limit substantial disruption waivers. As so amended, Section 212 allows such waivers only if (1) The Secretary of HHS determines, on a case-by-case basis, that there would be a substantial disruption in the health services provided in the program because such alien was not permitted, because of his or her failure to meet the requirements, to enter the United States to participate in the program, and (2) the program has a comprehensive plan to reduce reliance on alien physicians that the Secretary finds, in accordance with criteria published by the Secretary, to be satisfactory. The legislation also describes the basic elements that an acceptable plan must include.

The Secretary is issuing these regulations to provide general information about the application process for obtaining substantial disruption waivers and to set forth the criteria for determining whether a program has a satisfactory comprehensive plan to reduce reliance on alien physicians. These criteria specify, for each of the basic elements described in the legislation, the types of factors to be weighed in deciding whether or not a proposed plan is satisfactory, including: (1) Specific problems the applicant anticipates without a waiver, (2) the adequacy of alternative resources and methods, (3) changes that have been considered to attract more U.S. citizens who are medical school graduates, (4) recruitment efforts to attract more such graduates, and (5) the extent to which dependency on foreign medical graduates is in fact being reduced at the institution. In sum, an applicant must demonstrate a real commitment to reduction in reliance on alien graduates of foreign medical schools in order to receive favorable action on a substantial disruption waiver.

E.O. 12291, Federal Regulation

The Department has determined that these interim-final rules are not "major rules" under Executive Order 12291. Thus, a regulatory impact analysis is not required because they will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in cost or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulations establish the criteria for evaluating the comprehensive plan to reduce reliance on alien physicians. The administrative costs of implementation will be minimal.

Regulatory Flexibility Act

I certify that the regulations will not have a significant impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects in 45 CFR Part 51

Aliens, Health care, Passport and visas, Public health.

Justification for Omitting Notice of Proposed Rulemaking

The residency training programs which apply for substantial disruption waivers have been unable to recruit adequate numbers of physicians to provide health services within their geographic areas. While the dependency of hospitals on alien physicians to provide service has decreased considerably over the past few years, there continue to be chronic shortages in certain geographic areas of physicians in important medical fields, primarily in pediatrics and neonatalogy. Without exchange visitors to help fill this gap, a substantial disruption in the health services to these areas would result.

Although the actual number of physicians for which waivers are required is relatively small, these physicians are necessary for the adequate provision of health care and the need of the hospitals for the physicians is critical. For example, many of the substantial disruption waiver requests come from hospitals serving highly vulnerable populations who are dependent on the pediatric and neonatal services provided by these hospitals. These populations are in congested urban areas, are by and large medically indigent, and contain a disproportionately high number of newborn infants and children. With the loss of the services provided by alien physicians in these areas, many children and newborn infants would simply not be able to obtain the necessary medical care due to financial constraints and lack of mobility.

Consequently, in order to avoid any unwarranted disruption in such care and to implement Pub. L. 97-116 as soon as possible, the Secretary has determined, in accordance with 5 U.S.C. 553 and Departmental policy, that it would be unnecessary and contrary to the public interest to follow proposed rulemaking procedures in the issuance of regulations or to delay their effective date. However, comments will be accepted at the above listed address for a period of 60 days following the publication of these regulations.

Accordingly, Part 51 is added to Title 45 of the Code of Federal Regulations.

Dated: December 8, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

PART 51—CRITERIA FOR EVALUATING COMPREHENSIVE PLAN TO REDUCE RELIANCE ON ALIEN PHYSICIANS

Sec.

51.1 Purpose.
51.2 Application.
51.3 Who is eligible to apply?
51.4 How will the plans be evaluated?

Authority: Sec. 212, the Immigration and Nationality Act, Pub. L. 82-114, as amended by Pub. L. 97-116, 95 Stat. 1611 (8 U.S.C. 1182(j)(2)(A)).

§ 51.1 Purpose.

The purpose of this regulation is to establish criteria for review and evaluation of the comprehensive plans of Graduate Medical Education Programs to reduce reliance on alien physicians, as required by the Immigration and Nationality Act Amendments of 1981, Pub. L. 97-116, for the waiver of certain requirements for exchange visitors who are coming to the United States to participate in programs of graduate medical education or training.

§ 51.2 Application.

Materials covering procedures for applying for substantial disruption waivers (including the comprehensive plan) may be obtained from the Educational Commission for Foreign Medical Graduates, 3624 Market Street, Philadelphia, Pennsylvania 19104.

Explanatory note.—The Department of State entered into an agreement with the Educational Commission for Foreign Medical Graduates in 1971 whereby the latter was designated the authority to administer the issuance of the Form IAP–66 in all cases involving the admission, certification, transfer or extension of stay for foreign physicians in exchange visitor status who are receiving graduate medical education or training. The Commission was further designated the authority **Federal Register**, Volume 44, No. 59, March 26, 1979), to process waiver requests under the "substantial disruption" provision of Pub. L. 94–484, as amended, within criteria to be provided by the United States Information Agency on advice from the Department of Health and Human Services (formerly Department of Health, Education, and Welfare).

§ 51.3 Who is eligible to apply?

Sponsors which had alien physicians in their exchange visitor programs on January 10, 1978, are eligible to apply. For purposes of this regulation, the term "program" relates to a graduate medical education program having an exchange visitor program for physicians participating in graduate medical education or training. An "exchange visitor program" is a program of a sponsor, designed to promote interchange of persons, knowledge and skills, and the interchange of developments in the field of education, the arts and sciences, and is concerned with one or more categories of participants to promote mutual understanding between the people of the United States and the people of other countries.

§ 51.4 How will the plans be evaluated?

After consultation with the Federal Substantial Disruption Waiver Board (seven Federal representatives charged with the responsibility of reviewing substantial disruption waiver applications), the Secretary of Health and Human Services will make recommendations to the Director, United States Information Agency, for the purpose of granting waivers. The Secretary will consider the following factors in determining whether or not a plan is satisfactory:

(a) The extent of the specific problems that the program or institution anticipates without a waiver, including, for example,

(1) Curtailment of services currently provided,

(2) Downgrading of medical care currently being provided,

(3) Reduction in the number of inpatients and outpatients receiving care,

(4) Inadequate medical coverage for population served, or

(5) Inadequate supervision of junior residents.

(b) The adequacy of the alternative resources and methods (including use of physician assistants (as defined in 42 CFR 57.802), nurse practitioners (as defined in 42 CFR 57.2402), and other non-physician providers) that have been considered and have been and will be applied to reduce such disruption in the delivery of health services, especially in primary medical care manpower shortage areas, as established under Section 332 of the Public Health Service Act, and for medicaid patients. This may include, for example:

(1) Greater reliance on fully licensed physicians, and on physician assistants, nurse practitioners and other non-physician personnel in an expanded role in the delivery of health care, such as admission patient histories, making patient rounds, recording patient progress notes, doing the initial and follow-up evaluation of patients, performing routine laboratory and related studies, or

(2) Utilization of the team approach to health care delivery (individuals functioning as an integral part of an interprofessional team of health personnel organized under the leadership of a physician working toward more efficient and/or more effective delivery of health services).

(c) The extent to which changes (including improvement of educational and medical services) have been considered and which have been or will be applied to make the program more attractive to graduates of medical schools who are citizens of the United States, as demonstrated, for example, by:

(1) Adding additional services to the existing programs to provide a broader educational experience for residents,

(2) Expanding affiliations with other residency programs to offer a broader experience for residents,

(3) Expanding undergraduate clerkships to provide a broader educational experience,

(4) Creating or modifying administrative units which will provide broader clinical experiences, or

(5) Initiating research projects.

(d) The adequacy of the recruitment efforts which have been and will be undertaken to attract graduates of medical schools who are citizens of the United States, as demonstrated, for example, by:

(1) Broad-based advertisement of the program and of the institution through notices in journals, contacts with medical schools, etc.

(2) Forming committees for the purpose of recruiting U.S. citizens.

(3) Working with national organizations which are involved with medical students and U.S. graduate medical trainees, e.g., the American Medical Student Association and the Physician National House Staff Association, to attract U.S. citizens.

(e) The extent to which the program on a year-by-year basis has phased down its dependence upon aliens who are graduates of foreign medical schools so that the program will not be dependent upon the admission to the program of any additional such aliens after December 31, 1983.

[FR Doc. 83-1539 Filed 1-19-83; 8:45 am]
BILLING CODE 4160-16-M

Office of Child Support Enforcement

45 CFR Part 302

Elimination of Double Support Payments

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Interim rule.

SUMMARY: Section 173 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, amends section 454(5) of the Social Security Act to require a State to pay directly to a family any child support payments for any month following the first month in which the amount collected is sufficient to cause ineligibility for Aid to Families with Dependent Children (AFDC). This will eliminate the situation which existed prior to the enactment of section 173 of Pub. L. 97–248 in which a family would receive, during the first month of ineligibility, both the support payment which caused AFDC ineligibility and the support payment collected during the first month of ineligibility. To implement section 173, these regulations amend 45 CFR 302.32 to require the State to use the support payment used to determine a family ineligible for AFDC to reimburse itself and the Federal government, in accordance with 45 CFR 302.51, for assistance payments made to the family.

DATES: Effective upon publication, except where the Secretary determines that State legislation is required in order to conform the State plan to these

requirements. In such an event, the State plan shall not be regarded as failing to comply with these requirements solely by reason of its failure to meet the requirements prior to the end of the first session (whether regular, special, budget or other session) of the State legislature which begins after October 1, 1982 or which began prior to October 1, 1982, and remained in session until at least October 26, 1982. This is in accordance with section 176 of Pub. L. 97-248. Requests for extension of the effective date must be sent to the Regional Representative of the appropriate OCSE Regional Office and a copy of the request to the Secretary, Department of Health and Human Services. Consideration will be given to comments received by March 21, 1983. Response to comments and changes made to the regulation as a result of comments received will be published in the **Federal Register.**

ADDRESSES: Address comments to Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's office at the address above.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Background

Prior to enactment of section 173 of Pub. L. 97-248, section 454(5) of the Social Security Act (the Act) required IV-D agencies to pay directly to the family the full amount of the child support which was collected and used to determine the family's ineligibility for an assistance payment under the AFDC program. This amount was paid to the family in the first month the familly was ineligible for an AFDC payment. In addition, the family is entitled to receive any current support which is paid during the first month of ineligibility.

The following example illustrates a typical situation occurring under the old section 454(5). The IV-A agency makes the January assistance payment to the family. On January 15 the IV-D agency collects a payment equal to the current support obligation for January. The IV-D agency notifies the IV-A agency of the amount of this collection on February 14. The IV-A agency uses the amount of the January support collection to redetermine the family's eligibility for AFDC, and on March 7 determines that the amount collected is sufficient to cause ineligibility. The IV-A agency then notifies the family and the IV-D agency that assistance terminates effective March 31. The IV-D agency pays the family the January support collection in April, the first month of ineligibility for AFDC. The IV-D agency also forwards any April support collection to the family as soon as it is received. The family thus receives two child support payments in the first month of ineligibility for AFDC and the State and Federal governments are not reimbursed for the January assistance payment. Another way to describe this situation is that the family receives both the AFDC payment and the child support collection for January.

Statutory Provision

Section 173 of Pub. L. 97-248 amends section 454(5) of the Act to require States to pay directly to the family any support payments for any month following the first month in which the amount collected is sufficient to make the family ineligible for assistance. The effect of this amendment is that the State will use the support payment which caused AFDC ineligibility to reimburse itself and the Federal government for any AFDC payment made to the family. The effective date of this amendment is October 1, 1982.

Regulatory Provisions

These regulations revise 45 CFR 302.32 (a) and (b) to implement section 454(5) of the Act as amended by Pub. L. 97-248. Current regulations at § 302.32(b) require the IV-D agency to pay directly to the family any child support payment which was sufficient to make the family ineligible for AFDC. These regulations amend § 302.32(b) by deleting the requirement that the IV-D agency must pay the support which caused ineligibility directly to the family. Instead, they require the IV-D agency to distribute the amount collected pursuant to 45 CFR 302.51. Therefore, the IV-D agency will use the child support which makes the family ineligible to reimburse the State and Federal governments for any assistance payment made to the family. Thus, the family would no longer receive two support payments in the first month of ineligibility; the first being the collection which caused the ineligibility and the second being the support collected during the first month of ineligibility. We are making a technical change to § 302.32(a) to conform with the revised § 302.32(b).

The changes made by these regulations would have the following effect on the example described earlier under **Background.** The IV-A agency terminates assistance effective March 31 based on a support payment collected by the IV-D agency in January and reported to the IV-A agency in February. The State uses the January support collection which caused AFDC ineligibility to reimburse itself and the Federal government for assistance paid to the family and forwards the April (the first month of ineligibility) support collection to the family as soon as it is received. It is essential that the IV-D agency forward the support payment collected during the first month of ineligibility to the family as quickly as possible. Since AFDC will have been terminated, the family may be totally dependent on the support payment to meet its needs. Therefore, we urge States to forward that support payment to the family within 2 days of its receipt, if possible, to insure continued self-sufficiency and to avoid a return to the public assistance rolls.

Waiver of Proposed Rulemaking

Section 173 of Pub. L. 97-248 was effective October 1, 1982. Since the legislation was not signed into law until September 3, 1982, it was not feasible to issue these regulations under a Notice of Proposed Rulemaking, as this would have delayed the issuance of final regulations until early 1983. Since the amendments made by Pub. L. 97-248 will require changes in State agency procedures, States must have some reasonable assurance that new Federal regulations under which these changes are to be implemented will not change in "mid-stream." The only way to assure States that significant changes in Federal policy will not be made after they have begun to implement the provisions of the new statute is to issue interim final regulations.

In addition, Congress clearly intended that the statutory provisions affecting savings under the AFDC program go into effect on October 1, 1982, unless the Secretary determines that State legislation is required for implementation. Accordingly, we believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed regulations would be impracticable and contrary to the public interest. While Notice of Proposed Rulemaking is being waived, we are interested in comments and advice regarding changes which should be made to these regulations. We will review any comments on these regulations which we receive within 60 days of the publication date of this rule and publish in the **Federal Register** response to comments and changes made to the regulation as a result of comments received.

Paperwork Reduction Act

This regulation contains no information collection requirements which require Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 45 CFR Part 302

Child welfare, Grant programs/social programs.

PART 302—[AMENDED]

45 CFR Part 302.32 is amended by revising the introductory text and paragraphs (a) and (b) as follows:

§ 302.32 Child support payments to the IV–D agency.

The State plan shall provide that:

(a) In any case in which child support payments are collected for a recipient of aid under the State's title IV–A plan with respect to whom an assignment under § 232.11 is effective, such payments shall be made to the IV–D agency and shall not be paid directly to the family.

(b) As soon as possible but not later than 30 days after the end of a month, the IV–D agency will inform the agency administering the State's title IV–A plan of the amount of the collection which represents payment on the required support obligation for that month as determined in § 302.51(a). Upon being informed of this amount, the IV–A agency will determine if such amount is sufficient to make the family ineligible for an assistance payment pursuant to the State's IV–A plan (See § 232.20 of Chapter II of this title). If such amount is sufficient to make the family ineligible for an assistance payment, the IV–A agency will notify the IV–D agency and the IV–D agency will distribute the amount collected pursuant to § 302.51 of this part. The IV–D agency will notify the family if it will continue to collect and distribute current support payments pursuant to § 302.51(e)(1) of this part.

* * * * *

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section I of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302 and section 454(5) of the Social Security Act (42 U.S.C. 654(5))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement program)

Dated: October 21, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-1499 Filed 1-19-83; 8:45 am]

BILLING CODE 4190-11-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201 and 1241

[No. 38559]

Railroad Classification Index

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is adopting a new railroad classification methodology. This methodology will continue to base carrier classification on gross operating revenues. However, this methodology will use the Price Index for Railroad Freight, developed by the Bureau of Labor Statistics, to deflate revenues for comparison with established revenue thresholds. The use of a price deflator in revenue classification will prevent unwarranted upward reclassification on the basis of revenue increases due solely to inflation.

The Commission has also concluded that a carrier should not be reclassified upward until it exceeds the upward revenue threshold for three consecutive years instead of one year as currently prescribed. This revision will make the upward and downward reclassification rules uniform.

The Commission is also adopting a Carrier Classification Index Survey Form for carriers not filing Annual Report Form R–1 with the Commission. Any carrier whose calculation based on the deflator results in a different revenue level than its current classification shall notify the Commission.

DATES: Effective for the reporting year beginning January 1, 1982.

ADDRESSES: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423; (202) 289–4357, D.C. Metropolitan Area; (800) 424–5403, toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275–7448.

SUPPLEMENTARY INFORMATION:

Background

By Notice of Proposed Rulemaking (NPR) served in Docket No. 38559 on August 5, 1981, and published in the **Federal Register** on August 6, 1981 (46 FR 40060), the Commission announced its intent to revise the method of classifying railroads for accounting and reporting purposes. The new methodology would continue to classify carriers based on operating revenues. However, a price deflator formula was proposed to assess whether a carrier's revenue increases were caused by inflation or a real expansion in the carrier's business. All interested parties were given the opportunity to submit their views and comments in writing by September 21, 1981.

Review of Responses

Three respondents submitted comments to the NPR. These respondents requested that the Commission reconsider certain aspects of the classification rules.

Particularly, the American Short Line Railroad Association (ASLRA) requested that the Commission withdraw the proposed use of a price deflator formula to reclassify railroads. The ASLRA believes that adoption of this proposal would result in unnecessary work for both the Commission and smaller railroads. The ASLRA asserted that the Commission would be required to review the submissions of numerous railroads, calculate the deflator and then notify those affected carriers that their classification had changed. Further, they observed that under the proposed classification methodology, railroads would be unaware of what revenue standards apply.

While concurring with the proposal to give recognition to the impact of inflation on the revenue used to determine the classification of railroads, the Association of American Railroads suggests a voluntary system be adopted for non-reporting carriers. This alternative would require the Commission to notify the industry of revised revenue limits for the current year and request any carrier exceeding the revenue threshold for the next higher classification (or falling below the applicable threshold) to notify the Commission.

The Association of American Railroads and the Consolidated Rail Corporation requested certain classification rules be revised. These respondents maintain that the three year "phase-in" criteria for determining reclassification to a lower class should

be the same for reclassification to a higher class.

Discussion and Conclusions

The Commission currently classifies railroads based on operating revenues for accounting and reporting purposes. The general inflation level of the economy has caused increases in operating revenues without increases in operations. As a result, some carriers have been reclassified and unnecessarily subjected to detailed accounting and reporting regulations of a higher class.

To alleviate this problem, the Commission has in the past updated the revenue levels to reflect changes due to inflation. With each reclassification, some carrriers were dropped to a lower class, while others were placed in a higher class. The reclassification, however, affected the continuity of the Commission's data base and made it difficult to perform time series analysis and forecasting. In order to avoid the need to increase the classification levels every few years, we intend to use an annual price deflator formula to determine railroad classifications.

In initiating this proceeding our intention was to: (a) Provide stability in revenue classification standards so that the continuity of the Commission's data base would be maintained and to (b) avoid escalating a carrier's classification on the basis of revenue increases due to inflation. In order to eliminate the effects of inflation on carrier classification, we will implement the following methodology.

(1) Rail revenue thresholds will remain as:

Class I—$50 million or more
Class II—$10 million to less than $50 million
Class III—Less than $10 million

These revenue thresholds will be fixed, and the dollar amounts designated as 1978 year-end dollars (42 FR 35016, dated 7–7–77).

(2) In order to avoid the need to increase these classification levels every few years, we will use a price deflator formula to determine a railroad's classification. The Price Index for Railroad Freight is a well prepared index and is generally considered satisfactory by the Commission and railroads. This index will be used in the price deflator formula. The conversion formula is:

19XX Revenues in constant dollars = 19XX Revenues in nominal dollars × 1978 year-end index / current year's average index

(3) Upward or downward reclassification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(4) All carriers will annually review their classification. Class II and Class III railroads are currently exempted from filing any financial reports with the Commission. Section 217(b) of the Staggers Rail Act of 1980 (Pub. L. 96–448) requires the Commission to classify all rail carriers. The Carrier Classification Index Survey Form will provide a means for carrier participation in the classification process with little reporting burden.

The Carrier Classification Index Survey Form, Appendix A, will be distributed to carriers not filing Annual Report Form R–1 by January 30. Based upon the revised classification rules in 49 CFR Part 1210, any carrier whose calculation based on the deflator results in a different revenue level than its current classification shall notify the Commission.

For those carriers filing Annual Report Form R–1, the Commission will apply the deflator to carrier operating revenues reported in the Schedule of Results of Operations. The index used in the Commission's price deflator formula will be published by the ICC in the **Federal Register.**

We believe the adoption of the aforementioned revisions will provide stability in carrier classification, minimize the problems associated with the implementation of the uniform system of accounts and reports, and eliminate any delay in carrier reclassification.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities. In this proceeding, we are implementing a new classification methodology which will prevent railroads from being subjected to unnecessary accounting and reporting regulations as a result of inflation. This rule will not impose any additional reporting burden on Class I railroads. Class II and III railroads will notify the Commission only if the calculation results in a different revenue level than its current classification. Therefore the burden imposed by this form will not be significant or effect a large number of small entities.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Parts 1201

Railroads, Uniform system of accounts.

49 CFR Parts 1241

Railroads, Reporting and recordkeeping requirements.

The classification rules in Part 1240, Classes of Carriers, have not been revised in this proceeding. The Commission has recently initiated a proceeding to eliminate Part 1240 and include all classification rules in the appropriate sections of the uniform system of accounts.

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

We adopt the Classification Index Survey Form set forth in Appendix A and the changes to 49 CFR Parts 1201 and 1241 set forth in Appendix B to this final rule.

Decided: January 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

Appendix A

Calendar Year Ended December 31, 19—

Check appropriate box
☐ Line Haul
☐ Switching/Terminal

CLASSIFICATION INDEX SURVEY FORM FOR RAILROAD COMPANIES THAT DO NOT FILE AN ANNUAL REPORT WITH THE INTERSTATE COMMERCE COMMISSION

Attach address label here	Carrier name and address, if different than shown

Carrier operating revenues are to be adjusted by using the deflator derived from the average 1978 and average current year Railroad Freight Price Index. The Rail Index Deflator (column C) equals the 1978 year-end Railroad Freight Price Index divided by the current year's average Railroad Freight Price Index.

Carrier Operating Revenues include the following revenues: Freight, passenger, passenger-related, switching, water transfers, demurrage, incidental, joint facility (debit and credit), transfers from government authorities for current operations and amortization of deferred transfers from government authorities.

Carrier Operating Revenues do not include the following: Income from

property used in other than carrier operations, miscellaneous rent income, profit from separately operated properties, dividend income, interest income, income from sinking and other funds, release of premiums of funded debt, contributions from other companies, income from affiliates and miscellaneous nonoperating income.

Instructions:

(1) Using the guidelines listed above, carriers should enter their carrier operating revenues for the calendar years 19—, 19— and 19— in column (b).

(2) Multiply Column (b) by Column (c) and enter adjusted revenues in column (d).

Year	Carrier operating revenues in nominal dollars (thousands)	Rail index deflator	Adjusted revenues in constant dollars (thousands)
(a)	(b)	(c)	(d)
19		XX	
19		XX	
19		XX	

(3)(a) If a carrier's adjusted revenues do not exceed $10 million for each of the three years it will be classified as a Class III carrier for 1983.

(b) If a carrier's adjusted revenues exceeds $10 million for each of the three years it will be classified as a Class II carrier for 1983.

(c) If a carrier's adjusted revenues exceed $50 million for each of the three years it will be classified as a Class I carrier for 1984.

(d) If there is any change in a carrier's classification, the Commission shall be notified by filing a copy of this form with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

(e) Newly organized carriers shall be classified on the basis of their adjusted annual carrier operating revenues for the first year of operations.

Questions concerning this form should be addressed to the Bureau of Accounts or telephone (202) 275–7448.

Certification

I hereby certify that this form was prepared by me or under my supervision, that I have examined it, and that the carrier operating revenues reported are correctly shown on the basis of my knowledge and belief.

Name and title	Date
Address (Street address, city, state and zip code)	Telephone number (Including area code)

Appendix B

We amend Title 49 CFR as follows:

PART 1201—RAILROAD COMPANIES

1. In General Instruction 1–1 revise paragraphs (a), (b) and (c) to read as follows:

1–1 *Classification of carriers.* (a) For purposes of accounting and reporting carriers are grouped into the following three classes:

Class I: Carriers having annual carrier operating revenue of $50 million or more after applying the railroad revenue deflator formula shown in Note A.

Class II: Carriers having annual carrier operating revenues of less than $50 million but in excess of $10 million after applying the railroad revenue deflator formula shown in Note A.

Class III: Carriers having annual carrier operating revenues of $10 million or less after applying the railroad revenue deflator formula shown in Note A.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after the railroad revenue deflator adjustment. Upward and downward reclassification will be effected as of January 1 in the year immediately following the third consecutive year of revenue qualification.

(2) If Class II or Class III carrier's classification is changed based on three years adjusted revenues, the carrier shall complete and file the Classification Index Survey Form with the Commission by March 31.

(3) Newly organized carrriers shall be classified on the basis of their annual carrier operating revenues after railroad revenue deflator adjustment for the latest period of such operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year, (after railroad revenue deflator adjustment).

(4) When a business combination occurs, such as merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred (after railroad revenue deflator adjustment).

(5) In unusual circumstances, such as partial liquidation, and the curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(c) Class I carriers shall keep all of the accounts of this system which are applicable to their operations. Class II and III carriers are not required to maintain the accounts of this system.

* * * * *

2. In General Instruction 1–1 add the following Notes to follow paragraph (d):

* * * * *

(d) * * *

Note A.—The classification of railroads is based on the Railroad Freight Price Index developed by the Bureau of Labor Statistics. The formula is as follows:

$$\text{Current Year's Revenues} \times \frac{\text{1978 average index}}{\text{current year's average index}}$$

Note B.—See related Regulations 49 CFR 1241.13, "Railroad classification index survey form."

* * * * *

PART 1241—ANNUAL, SPECIAL OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

3. Add § 1241.15 to read as follows:

§ 1241.15 Railroad classification survey form.

Commencing with the year ending December 31, 1982, and thereafter, until further order, all railroad companies not required to file an Annual Report (Form R–1) shall compute their adjusted revenues using the railroad revenue deflator formula. If there is a change in a carrier's classification the survey form shall be filed with the Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423, on or before March 31.

[FR Doc. 83-1537 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 30113-09]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule related notice; inseason adjustment.

SUMMARY: This document announces the apportionment of amounts of Alaska groundfish that were eligible in August 1982 for apportionment to the total allowable level of foreign fishing and to the domestic annual harvest, under provisions of the fishery management plans (FMPs) for Groundfish of the Bering Sea and Aleutian Islands Area and for the Groundfish of the Gulf of Alaska. Apportionment is prescribed by regulations implementing those FMPs. The intended effect of this action is to assure optimum use of groundfish resources.

DATES: Effective through December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, 907-586-7221.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OY) for various groundfish species are established by the fishery management plan (FMP) for the Groundfish of the Bering Sea and Aleutian Islands Area and by the FMP for the Groundfish of the Gulf of Alaska. The FMPs, developed under the Magnuson Fishery Conservation and Management Act, are implemented by rules appearing at 50 CFR 611.92 and 611.93 and 50 CFR Parts 672 and 675. The OYs are apportioned initially to domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of the three components of DAH (DAP—domestic processed fish, DNP—fish retained for bait or consumption, and JVP—joint venture (foreign) processed fish) may be apportioned to TALFF during the fishing year under those same regulations. It is under these authorities that the adjustments described below are made.

Apportionments scheduled for February, April, and June were published on February 22, 1982 (47 FR 7674), June 28, 1982 (47 FR 27862), and September 7, 1982 (47 FR 39186), respectively. This notice announces disposition of reserve amounts eligible for apportionment in August and surplus amounts of DAH.

1. *Bering Sea and Aleutian Islands Area.* U.S. fisheries in this area have continued to expand at an unprecedented rate. Expansion of shoreside and floating processing capacity were expected to facilitate processing of most DAP amounts. The execution of all planned joint ventures and the initiation of new ones were anticipated to result in harvests of the entire JVP amounts. All DNP amounts were expected to be taken.

DAP. U.S. fishermen delivering to U.S. processors were expected to harvest fully the DAP amounts of pollock in the Bering Sea, Pacific cod, Pacific ocean perch, yellowfin sole, "other flatfishes" and "other species". None of these amounts was apportioned to TALFF. U.S. fishermen were not expected to harvest the entire DAP amounts of sablefish, turbots, and rockfish. The amounts not expected to be harvested were reapportioned to TALFF (see Summary Table of Apportionments to TALFF).

DNP. U.S. fishermen were expected to harvest all of the DNP amounts of pollock in the Bering Sea, yellowfin sole, "other flatfishes", Pacific cod, and "other species." None of these amounts was apportioned to TALFF.

JVP. U.S. fishermen delivering to joint venture processors were expected to harvest fully the JVP amounts of pollock in the Bering Sea, Pacific ocean perch, Atka mackerel, Pacific cod, turbots, "other flatfishes", "other species", and squid. None of these amounts was apportioned to TALFF.

Those U.S. fishermen, however, were not expected to harvest some of the JVP apportionments of sablefish in the Bering Sea and Aleutian Islands Area yellowfin sole, and rockfish. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen engaged in joint ventures were expected to harvest large amounts of pollock in the Bering Sea, Atka mackerel, and "other flatfishes". Previous JVP amounts for these three species were insufficient. Therefore, all remaining reserves for these species were apportioned to JVP (see Summary Table of Apportionments to DAH). Remaining reserves for all other species categories were apportioned to TALFF (see Summary Table of Apportionments to TALFF)

2. *Gulf of Alaska.*1 U.S. fishermen had harvested large amounts of some species in the Gulf of Alaska, mostly in the Western and Central Regulatory Areas. Additional activity by joint ventures and floating processors was expected. Apportionment of reserves and DAH components are addressed by individual regulatory areas.

Western Regulatory Area

DAP. U.S. fishermen had harvested all the available Pacific cod and were expected to fully harvest the DAP amounts of pollock, flounders, Pacific ocean perch, Atka mackerel, and sablefish. No DAP amounts were apportioned to TALFF.

DNP. U.S. fishermen were expected to fully harvest the DNP amounts of Pacific cod. No surplus existed for apportionment to TALFF.

JVP. A jount-venture fishery was scheduled to begin harvesting Pacific cod late in 1982. All JVP amounts of Pacific cod, flounders, and sablefish were expected to be harvested fully in this joint venture. No JVP amounts of these species were apportioned to TALFF.

However, those parts of the JVP amounts of pollock, Pacific ocean perch, and Atka mackerel that U.S. fishermen were not expected to harvest were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen were not expected to harvest any of the remaining reserves of pollock, flounders, Pacific ocean perch, Atka mackerel, and sablefish. The remaining reserves of these species, therefore, were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Central Regulatory Area

DAP. U.S. fishermen had harvested fully all the DAP amounts of pollock. No surplus existed for apportionment to TALFF. U.S. fishermen were not expected to harvest fully the DAP amounts of Pacific cod, flounders, Pacific ocean perch, and sablefish. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments of TALFF).

DNP. U.S. fishermen were expected to harvest fully the DNP amounts of Pacific cod. No surplus existed for apportionment to TALFF.

JVP. Although U.S. fishing effort in joint ventures was significant earlier in the year and large amounts of fish (mostly pollock), were harvested, recent effort was expected to remain low for

the rest of the year, U.S. fishermen had harvested fully the JVP amounts of pollock. No surplus existed for apportionment to TALFF. U.S. fishermen were not expected to harvest some of the JVP amounts of Pacific cod, flounders, Pacific ocean perch, Atka mackerel, and sablefish. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen had harvested fully the pollock reserve. None was available for apportionment to TALFF. U.S. fishermen were not expected to harvest any of the remaining reserves of Pacific cod, flounders, Pacific ocean perch, Atka mackerel, and sablefish. Thus the remaining reserves for these species were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Eastern Regulatory Area

DAP. U.S. fishermen were expected to harvest fully the DAP amounts of sablefish. No surplus existed for apportionment to TALFF. U.S. fishermen were not expected to harvest fully the DAP amounts of pollock, Pacific cod, flounders, and Pacific ocean perch. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

DNP. U.S. fishermen were not expected to harvest the Pacific cod DNP amounts. The entire DNP was apportioned to TALFF (see Summary Table of Apportionments to TALFF).

JVP. Following the closure of the directed sablefish fishery in the Southeast Outside District, U.S. fishermen had directed significant effort on stocks in the Yakutat District. In addition to harvesting fully the DAP amounts of sablefish, U.S. fishermen were likely to harvest an additional amount equal to the JVP. The JVP amount of sablefish would not be harvested in joint-venture operations, but it was retained to supplement DAP.

U.S. fishermen were not expected to harvest the JVP amounts of pollock, Pacific cod, flounders, Pacific ocean perch, and Atka mackerel. These amounts were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen were not expected to harvest any of the remaining reserves of pollock, Pacific cod, flounders, Pacific ocean perch, sablefish, and Atka mackerel. These amounts were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

3. *Gulf of Alaska-wide. DAP.* U.S. fishermen were expected to harvest the DAP amount of thornyhead rockfish; none was available for apportionment to TALFF. U.S. fishermen were not expected to harvest fully the DAP amounts of "other rockfish" and "other species." The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

DNP. U.S. fishermen were not expected to harvest fully the DNP amounts of "other species." The amount not expected to be harvested was apportioned to TALFF (see Summary Table of Apportionments to TALFF.

JVP. U.S. fishermen were expected to harvest fully the JVP amounts of "other species." None was apportioned to TALFF. However, U.S. fishermen were not expected to harvest fully the JVP amounts of "other rockfish" and squid. Amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen were not expected to harvest the reserve amounts of "other rockfish, thornyhead rockfish, squid, and other species." These amounts were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

4. *Summary Table of Apportionments to TALFF (metric tons).*

	Reserves	Source			TALFF as adjusted
		DAP	DNP	JVP	
Bering Sea and Aleutians					
Pacific ocean perch					
Bering Sea	40				1,870
Aleutians	94				6,120
Sablefish					
Bering Sea	88	400		100	3,300
Aleutians	38	400		100	1,300
Yellowfin sole	5,650			7,000	97,800
Pacific cod	984				35,435
Turbots	1,125	500			89,425
Other species	928				72,249
Squid	125				9,950
Other rockfish	125	1,000		400	7,577
Gulf of Alaska					
Pollock					
Western	6,840			4,500	55,725
Eastern	864	600		1,520	16,505
Pacific cod					
Central	1,342	2,000		1,000	30,490
Eastern	397	210	1,200	590	9,830
Flounders					
Western	416				9,700
Central	588	200		700	14,480
Eastern	336	800		460	8,300
Pacific ocean perch					
Western	108			200	2,555
Central	316	200		900	7,745
Eastern	35	200		200	775
Atka mackerel					
Western	187			200	4,568
Central	833			1,000	20,756
Eastern	127			700	3,166
Sablefish					
Western	170				[1]1,630
Central	152	270		200	3,050
Eastern	852				2,110
Other rockfish	304	400		100	7,200
Squid	200			100	4,950
Other species	648	100	800		[1]15,380
Thornyhead rockfish	150				3,744

[1] Correction to TALFF amount as printed in § 611.20, Appendix 1 at 47 FR 39186 on September 7, 1982.

5. *Summary Table of Apportionments to DAH (metric tons) Bering Sea.*

	Reserve amount apportioned	DAH as adjusted	JVP as adjusted
Pollock (Bering Sea)	25,000	44,550	34,050
Other flatfishes	3,050	7,250	6,050
Atka mackerel	1,240	1,340	1,340
Total	29,290	53,140	414,440

Comments and Responses

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), recent aggregated reports were made available for public inspection regarding the level of catch and effort by U.S. vessels fishing for Alaska groundfish and the U.S.-harvested groundfish processed by U.S. processors or foreign vessels. In addition, those provisions afforded the public an opportunity to submit timely comments on the extent to which U.S. vessels will harvest the Alaska groundfish reserves or DAH amounts and to which U.S. fish processors will process these amounts. One comment was received during the comment period provided.

Comment: Reserves and DAH of Pacific cod, sablefish, and turbots are excess to the needs of domestic fishermen and should be apportioned to TALFF.

Response: All remaining reserves of sablefish, turbots, and Pacific cod in the Bering Sea and Aleutians, and sablefish and Pacific cod in the Gulf of Alaska were apportioned to TALFF. Certain surplus DAH amounts of sablefish and turbots in the Bering Sea and Aleutians, and sablefish and Pacific cod in the Gulf of Alaska were also apportioned to TALFF. U.S. fishermen were expected to harvest fully all the Pacific cod DAH in the Bering Sea; therefore, none was apportioned to TALFF.

Classification

The apportionment to TALFF of reserve and initial DAH amounts of groundfish is announced in this notice without amendment to the "TALFF table," which was formerly codified as Appendix 1 to 50 CFR 611.20, but which was removed by a rule appearing at 47 FR 44264 (October 7, 1982). The apportionment of groundfish reserves to DAH is announced in this document without amendment to 50 CFR 675.20, Table 1, because that table specifies initial rather than current DAH, DAP, JVP, DNP, reserve, and TALFF specifications (as of January 1 for the relevant fishing year).

This action is taken under the authority of 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), and is taken in compliance with Executive Order 12291.

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

Dated: January 17, 1983.

Carmen Blondin,

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

[FR Doc. 83-1594 Filed 1-17-83; 5:00 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

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 21

[Docket No. 12553; Notice No. SC-82-7-CE]

Special Conditions; Piper PA-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed amendment to special conditions.

SUMMARY: This notice proposes to amend Special Conditions No. 23-48-WE-15 to permit their application to Piper Aircraft Corporation (Piper) Models PA-60-601P, PA-60-602P, and PA-60-700P airplanes as well as future derivative PA-60 pressurized airplanes. The FAA has determined that these Special Conditions, originally developed for pressurized Aerostar Model 600/601 airplanes when the Type Certificate (TC) was held by Ted Smith Associates, are also applicable to the aforementioned airplanes as well as future derivative PA-60 airplanes. The amendment will allow future PA-60 derivative airplanes to be added to the TC without revising the Special Condition document.

DATES: Comments must be received by February 22, 1983.

ADDRESSES: Comments on this amendment may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, ATTN: Rules Docket Clerk, Docket No. 12553, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 12553. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these Special Conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on this proposal. The proposals contained in this Notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons both before and after the closing date.

Type Certification Basis

The certification basis for the Piper Model PA-60-601P airplane is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965 through Amendment 23-6, effective August 1, 1967; Amendment 23-7 § 23.1091, effective August 13, 1969; Amendment 23-14 §§ 23.929 and 23.1419, effective November 19, 1973; Amendment 23-18 §§ 23.1093 and 23.1193, effective March 17, 1977; Amendment 23-23 § 23.1416, effective December 1, 1978; Part 36 of the FAR, effective December 1, 1969 through Amendment 36-9; Special Federal Aviation Regulations (SFAR) 27, effective February 1, 1974; and Special Conditions No. 23-48-WE-15.

The certification basis for the Piper Model PA-60-602P airplane includes all applicable requirements of the Model PA-60-601P airplane and the following: Amendment 23-7 §.23.1041, effective August 13, 1969 and Amendment 23-21 § 23.1043, effective January 6, 1978.

The certification basis for the Piper Model PA-60-700P airplane includes all applicable airworthiness requirements of the Model PA-60-602P airplane and the following: Amendment 23-7 §§ 23.207, 23.909, and 23.1527, effective August 13, 1969; Amendment 23-14 §§ 23.201, 23.203, 23.205 and 23.435, effective November 19, 1973; Amendment 23-17 § 23.1143, effective February 1, 1977; Amendment 23-18 § 23.901, effective March 17, 1977; Amendment 23-20 §§ 23.1301 and 23.1351, effective September 1, 1977; Amendment 23-21 § 23.1047, effective January 6, 1978; Part 36 of the FAR effective December 1, 1969 through Amendment 36-12; and any other Special Conditions that may result from this proposed action.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special Conditions, as appropriate, are issued in accordance with §§ 21.16 and 21.101(b)(2) of the FAR and become part of the type certification basis in accordance with § 21.17(a)(2) of the FAR.

Background

On November 5, 1980, the Piper Aircraft Corporation's Vero Beach Division, P.O. Box 1328, Vero Beach, Florida 32960, submitted an application to amend TC No. A17WE to add a new Model PA-60-700P airplane in the normal category. This new airplane, like its predecessor pressurized models, PA-60-601P and PA-60-602P, is a high-performance, turbocharged, twin-engine mid-wing aircraft with seats for six occupants. The Model PA-60-700P differs from the PA-60-601P and PA-60-602P models in that engine power has been increased from 290 to 350 horsepower and maximum gross weight has been increased from 6000 to 6200 pounds.

TC No. A17WE, originally issued to Ted Smith Associates for the Aerostar Model 600, has been amended to include growth models and was eventually transferred to the Piper Vero Beach Division. In the development process, pressurization was added and Special Conditions were developed for the novel or unusual design features associated with an outward opening external cabin door. These Special Conditions, No. 23-48-WE-15, which were issued on February 7, 1973, provide a level of safety equivalent to that required by Part 23 of the FAR and were necessary because the applicable airworthiness regulations did not contain adequate or appropriate safety standards for such an

outward opening cabin door on a pressurized airplane. The Special Conditions for type certification of the Piper PA-60-601P airplane are applicable to Piper Models PA-60-602P and PA-60-700P airplanes and other PA-60 series airplanes for the same novel or unusual features for which these Special Conditions were developed. Accordingly, this amendment proposes to extend the applicability status of Special Conditions No. 23-48-WE-15 to all pressurized Piper PA-60 series airplanes, as appropriate, to Type Certificate No. A17WE without revising the Special Condition document. This does not preclude the application of later amendments under the provisions of § 21.101(b)(1) of the FAR or the issuance of Special Conditions that may be necessary under the provisions of § 21.101(b)(2) of the FAR for future PA-60 series airplanes.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation and safety.

The Proposed Special Condition Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend Special Conditions No. 23-48-WE-15 which were isued on February 7, 1973 to Ted Smith Associates for type certification of the Aerostar Model 601P airplane under Type Certificate No. A17WE to read as follows:

Special Conditions for the type certification of Piper PA-60 series airplanes under Type Certificate No. A17WE.

(Sec. 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)); §§ 11.28 and 11.29(b) of th Federal Aviation Regulations (14 CFR 11.28 and 11.29(b))

Issued in Kansas City, Missouri, January 12, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-1512 Filed 1-19-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 82-ASO-55]

Proposed Establishment of Temporary Restricted Areas, Camp LeJeune, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This action corrects a proposed rule to designate temporary restricted areas in the vicinity of Camp LeJeune, NC, as published in **Federal Register** Document 82-34385 appearing in the **Federal Register** of December 20, 1982 (47 FR 56656). This correction is necessary to include additional lateral and vertical limits to the proposed areas which were inadvertently omitted from the proposal.

DATES: Comments must be received on or before February 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Manager, Air Traffic Division, Docket No. 82-ASO-55, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

Send comments on environmental aspects to: Captain C. M. Zucker, USN, CINCLANT N37, Norfolk, VA 23511. Telephone: Autovon—690-6575.

Send comments on land use aspects to: Mr. Roy S. Futrell or Mr. C. M. Wash, Maneuver Real Estate Office, Army Corps of Engineers, P.O. Box 99, Cory, NC 27511. Telephone: Commercial—(919) 755-4071.

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

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

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8777.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASO-55." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

Correction to the Proposal

In **Federal Register** Document 82-34385 appearing in the **Federal Register** of December 20, 1982 (47 FR 56656), the altitudes for proposed temporary restricted areas R-5505E and R-5505F were incorrectly stated as "6,000 feet MSL up to and including 14,000 feet" and "10,000 feet MSL up to and including 14,000 feet MSL" respectively. The corrected altitude for R-5505E is "6,000 feet MSL to but not including FL 180" and for R-5505F is "10,000 feet MSL to but not including FL 180." Additionally, R-5505D boundaries are corrected to reflect the airspace necessary to contain the exercise activities.

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety.

Correction to the Proposed Amendment

Accordingly, pursuant to the authority

delegated to me, **Federal Register** Document 82-34385 appearing at page 56656 in the **Federal Register** of December 20, 1982, is corrected as follows:

1. On page 56658, column 2, § 73.53, R-5505D boundaries is corrected to read:

"Boundaries. Beginning at lat. 35°05'30" N., long. 77°17'00" W.; to lat. 35°43'50" N., long. 76°35'30" W.; thence counterclockwise along the boundaries of R-5314J-B to lat. 35°34'40" N., long. 75°48'20" W.; to lat. 35°27'00" N., long. 75°48'20" W.; to lat. 35°27'00" N., long. 75°25'10" W.; thence southwest along the boundary of W-122A to lat. 35°00'30" N., long. 76°01'00" W.; to lat. 35°18'15" N., long. 76°16'40" W.; to lat. 35°23'15" N., long. 76°34'40" W.; thence counterclockwise along the boundary of R-5306A to lat. 34°46'45" N., long. 76°24'45" W.; to lat. 34°43'30" N., long. 76°22'00" W.; thence southwest along the boundary of W-122D to lat. 34°38'45" N., long. 76°43'00" W.; to lat. 34°57'00" N., long. 77°02'30" W.; to point of beginning."

2. On page 56658, column 3, § 73.53, R-5505E designated altitudes is corrected to read:

"Designated altitudes. 6,000 feet MSL to but not including FL 180."

3. On Page 56658, column 3, § 73.53, R-5505F designated altitudes is corrected to read:

"Designated altitudes. 10,000 feet MSL to but not including FL 180."

(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 Transporation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Washington, D.C., on January 14, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-1557 Filed 1-19-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 82-18]

National Bridge Inspection Standards; Frequency of Inspections and Inventory

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed revisions to its regulation on the National Bridge Inspection Standards (NBIS). The revised regulation would permit States to increase the maximum time interval between the inspections for certain types or groups of bridges, as opposed to retaining the mandatory 2-year interval as required under the regulation currently in effect. The proposed revision would require that inventory data on newly completed or modified structures be entered in a State's record within 6 months as opposed to 90 days under the existing regulation. The proposed revision would provide State highway agencies greater flexibility with which to utilize available inspection resources in a cost-effective manner. It is intended that the proposed revision would encourage the efficient utilization of resources without compromising the safety of the travelling public.

DATE: Comments must be received on or before March 21, 1983.

ADDRESS: Submit written comments preferably in triplicate, to FHWA Docket No. 82-18, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Ahlskog, Chief, Design and Inspection Branch, Bridge Division, Office of Engineering and Operations, (202) 472-7697, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 am. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The National Bridge Inspection Standards for bridges on all public roads are set forth in 23 CFR Part 650, Subpart C. Section 650.305 currently requires each bridge to be inspected at regular intervals not to exceed 2 years. Section 650.311 currently requires inventory data on newly completed or modified structures to be entered in the State's records within 90 days. These two provisions are the subjects of this notice of proposed rulemaking.

Each State highway department is required to maintain a bridge inspection organization capable of performing inspections, preparing reports and determining ratings in accordance with the provisions of 23 CFR Part 650, Subpart C. Prior to the enactment of the Surface Transportation Act of 1978 (Pub. L. 95-599), the inspection standards only applied to bridges on the federal-aid system. Section 124 of the Act required that all bridges located on public roads be inventoried and thus subject to the bridge inspection standards. By regulation published on May 1, 1979 (44 FR 25434), the National Bridge Inspection Standards were amended to reflect the legislative change. In effect the number of bridges that became subject to inspection standards increased by approximately 100 percent Consequently, the scope and costs of the inspection program also increased. Available inspection resources, including equipment, manpower and funds, have been extended in order to meet the increased inspection work load. This impact on resources results in possible diversion of funds and personnel from the primary objective of the program, which is to replace or rehabilitate bridges. For this reason, the FHWA decided to review the 2-year inspection requirement in order to explore possible changes which would result in the maximum utilization of inspection resources without compromising the safety of the travelling public, which is the paramount concern.

Using National Bridge Inventory data, which does not necessarily encompass all factors which may be relevant to such determinations, the FHWA has made the tentative determination that the inspection interval can be increased for some categories of bridges with only a minimal or negligible increase in risk to the public. Any funds saved by this action could cost-effectively be applied toward the removal from service of additional deficient bridges.

Based on inventory data which has been compiled from inspections conducted on all Federal-aid bridges and the majority of off-system bridges, the FHWA proposes to permit variations in the mandatory 2-year interval between inspections under certain approved conditions. The physical data and experience derived from continuous

inspections since 1968 have identified certain groups or categories of bridges where a longer inspection interval may be warranted. One category might include modern, recently completed structures for which the initial 2-year inspection indicates no change from the condition of the bridge as constructed. Inspection experience and records of similar older bridges would be useful to to States in making these determinations Culverts are another example of a bridge category where an increased interval of inspection might be warranted. Most of the approximately 78,000 bridge length culverts are under a landfull. Even if a failure occured, the result would only be a dip in the roadway over the culvert.

Although a maximum time interval between inspections is not specified in this proposal, an FHWA review of National Bridge Inventory data and management review of the bridge program indicate that a 4-year maximum time interval may be appropriate in some uses. With the 2-year interval retention for some bridges, inspection of others at multiples of the 2-year interval would seem appropriate for efficient utilization of resources and planning purposes.

If a State proposes to inspect a group or category of bridges at intervals of greater then 2 years, the proposed revision would require that State to submit for approval by the Federal Highway Administration a documented analysis with supporting data justifying the increased time interval. Relevant factors to be considered would include:

1. *Past experience.* Records of past inspections for individual or groups of bridges would provide valuable documentation for establishing trends in deterioration of structures.

2. *Age.* Tables derived from National Bridge Inventory data show that general deterioration increases with age.

3. *Condition of bridges.* The known condition of bridges, such as deteriorated structural members of reduced load capacities would be an important part of any decision to lengthen the time between inspections.

4. *Type and frequency of traffic volume.* Bridges with a high total volume of traffic, or a high percentage of truck traffic, particularly when the truck weight approaches the bridge capacity, deserve special consideration in determining appropriate frequencies of inspection.

5. *Other relevant factors.* Factors unique to individual States or localities should be considered in evaluating individual proposals. The resulting study of relevant factors would need to demonstrate that safety would not be compromised.

Culverts and modern, recently completed structures noted earlier are two categories which might be considered for review and possible lengthening of the interval between inspections. The listed factors are not all inclusive. It is anticipated that individual States will, of necessity, modify and add to this list factors or items which are of special concern. In order to better identify additional national common categories and factors, comments are specifically requested concerning appropriate candidate bridge groups and factors which should be included in the evaluation of safe intervals between inspections.

The proposed revision would provide State highway agencies greater flexibility with which to utilize available inspection resources in a cost-effective manner. It is intended that the proposed revision would encourage the efficient utilization of resources without compromising the safety of the travelling public.

In addition to the proposed revision to the mandatory 2-year interval between inspections, the FHWA is proposing to make changes to § 650.311(b). The first sentence in this section requires the bridges that are subject to the standards be inventoried by December 31, 1980, as required by the Surface Transportation Act of 1978. This sentence would be deleted since the inventory is essentially completed. The second sentence in this section would be revised to allow 6 months before inventory data on newly completed or modified structures must be entered in the State's record. This proposed revision allows for a more realistic time frame without any adverse impacts placed on the overall bridge program.

It is anticipated that the proposed revisions would have a positive economic impact on State highway agencies. If for example, 30 percent of the Nation's bridges could be inspected at a 4-year frequency rather than the 2-year frequency, it is estimated that $8.4 million of annual inspection costs could be saved.

Due to the fact that States would be under no obligation to propose greater inspection time intervals, it is not anticipated that this proposal will have a significant economic effect. Accordingly a full regulatory evaluation is not required at this time. For the foregoing reasons, it is certified that this proposal under the criteria of the Regulatory Flexibility Act, will not have a significant economic impact on a substantial number of small entities.

Comments are requested on the proposed revisions from all interested parties. The comments should specifically address the effects of the proposed revisions on the national bridge inspection program in the States and the requirement that States submit a detailed proposal and supporting data to justify a longer inspection time interval.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federallly assisted programs and projects apply to this program.)

List of Subjects in 23 CFR Part 650

Grants programs—transportation, Bridges, Highways and roads.

Issued on: January 6, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 650—[AMENDED]

In consideration of the foregoing, and under the authority of 23 U.S.C. 116(d), 144, 315 and 49 CFR 1.48(b), the FHWA proposes to revise Part 650, Subpart C of Title 23, Code of Federal Regulations, as set forth below.

The FHWA proposes to amend 23 CFR Part 650, Subpart C as follows:

Subpart C—National Bridge Inspection Standards

1. Section 650.305 is amended by adding paragraph (c) to read as follows:

§ 650.305 Frequency of inspections.

* * * * *

(c) The maximum inspection interval may be increased for certain types or groups of bridges where past inspection reports and favorable experience and analysis justifies the increased interval of inspection. If a State proposes to inspect some bridges at greater than the specified 2-year interval, the State shall submit a detailed proposal and supporting data to the Federal Highway Administrator for approval.

2. Section 650.311 is amended by revising paragraph (b) to read as follows:

§ 650.311 Inventory.

* * * * *

(b) Newly completed structures or any modification of existing structures which would alter previously recorded

data on the inventory forms shall be entered in the State's records within 6 months.

[FR Doc. 83-1438 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-217-81]

Oil From a Stripper Well Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under sections 4991 and 4994(g) dealing with the definition of oil from a stripper well property for purposes of tier 2 oil and for the exemption from the windfall profit tax for exempt stripper well oil. Changes to the applicable law were made by the Crude Oil Windfall Profits Tax Act of 1980 and the Economic Recovery Tax Act of 1981. These regulations would provide the public with the guidance needed to comply with the law as amended by that Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 21, 1983. The amendments under section 4991 would be effective for periods after February 29, 1980, and the amendments under section 4994(g) would be effective for crude oil removed from the premises after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attn: CC:LR:T (LR-217-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attn: CC:LR:T) (202-566-3829).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 51) under sections 4991 and 4994(g) of the Internal Revenue Code of 1954. Generally, these amendments are proposed to conform the Excise Tax Regulations to section 101(a)(1) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230) and to section 603(b) of the Economic Recovery Tax Act of 1981 (95 Stat. 338) and are to be issued under the authority contained in section 4997(b) and 7805 of the Internal Revenue Code (94 Stat. 250, 26 U.S.C. 4997(b); 68A Stat. 917, 26 U.S.C. 7805).

Stripper Well Property

Sections 4991(d)(1)(A) and 4994(g)(1)(B) state that stripper well property is defined in accordance with the June 1979 energy regulations. However, under section 4997(b), the Secretary of the Treasury is authorized to change the application of the energy regulations to carry out the purposes of the windfall profit tax. Thus, the definition of stripper well property provided in the proposed regulations generally follows the definition of stripper well property as contained in the energy regulations. In general, a stripper well property is a property where the average daily production of crude oil per oil-producing well was 10 barrels or less per day during any 12 consecutive month measuring period beginning after December 31, 1972. As under the energy regulations, in order to prevent a producer from artificially manipulating production to qualify for the exemption, the proposed regulations provide that production during the measuring period must be at the maximum feasible rate consistent with sound conservation practices.

The proposed regulations also adopt the rule in the energy regulations that in calculating average daily production, crude oil produced in non-associated production is to be disregarded. However, the proposed regulations distinguish between associated (oil well) production and non-associated (gas well) production by use of a gas-oil ration test which was not applied under the energy regulations. Under this test a well is treated as an oil-producing well if some crude oil is produced through that well and the gas-oil ratio for the well is not more than 50,000 cu-ft of gas per barrel of crude oil produced. This rule applies for taxable periods beginning on or after March 21, 1983. For taxable periods beginning before the aforementioned effective date, the proposed regulation distinguish between associated and non-associated production in accordance with certain published DOE rulings. Furthermore, consistent with the DOE regulation, "oil-producing well" is defined so as not to include an injection well, a disposal well, a dry well, a shut-in well, a spent well, an observation well, or a plugged and abandoned well.

In order to conform the newly discovered oil definition to the stripper well oil definition, the proposed regulations provide a rule to deal with the application of the average daily production standard to a property on which a new reservoir is put into production after the property has qualified as a stripper well property. In such cases, the proposed regulations provide that if no new property election is made for the new reservoir, the property's status for future periods much be redetermined. In other words, the property must again qualify under the average daily production standard when the new reservoir is put into production. Failure to adopt such a rule will permit producers to transform newly discovered oil into stripper well oil. A redetermination of stripper well property status for the previously developed reservoir may be avoided if an election is made to treat the new reservoir as a separate property. This rule will be effective for taxable periods beginning on or after March 21, 1983. This rule will not affect taxable periods beginning before the effective date.

Tier 2 Stripper Well Oil

Section 4991(d) defines tier 2 oil so as to include oil from a stripper property within the meaning of the June 1979 energy regulations. Therefore, the definition of stripper well property is to be used for the purposes of tier 2 oil as well as for determining qualification for the stripper well exemption.

Exemption for Independent Producers

Beginning on January 1, 1983, section 4994(g) of the Code exempts qualifying independent producer stripper well oil from the windfall profit tax. In order to qualify for the exemption, the producer of the oil must be an independent producer (as defined in section 4992(b)(1)). Second, the oil must be produced from a stripper well property. Third, the oil must be attributable to the independent producer's working interest in the stripper well property. The proposed regulations define working interest in accordance with section 4992(d)(2). Finally, the oil may not be attributable to an interest in any property which at any time after July 22, 1981, was owned by a person other than an independent producer. The proposed regulations make it clear that there is no requirement that exempt stripper well oil be classified as tier 2 stripper well oil but for the exemption. In other words, if the oil meets all of the tests in section 4994(g) for exempt stripper well oil, it is immaterial that the oil would otherwise be classified, for example, as tier 3 oil. Also the classification of oil as exempt stripper well oil with respect to an independent producer holding a working interest in such oil will have no effect on

the classification of such oil to a nonqualifying producer such as, for example, a producer holding a royalty interest in such oil.

Exemption Certificate

The proposed regulations also provide rules relating to an exemption certificate for exempt stripper well oil. The certification requirement can currently be satisfied by furnishing a completed Form 6458 to the operator, purchaser, partnership, or other disburser and by filing a completed Form 6458 with the Internal Revenue Service Center, Austin, Texas.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 7 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that the proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analyses is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is John G. Schmalz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 51 are as follows:

PART 51—[AMENDED]

Paragraph 1. Section 51.4991–1 is amended by revising paragraph (b) to read as set forth below:

§ 51.4991–1 Taxable crude oil; tiers of oil.

* * * * *

(b) *Tiers of oil*—(1) *In general.* Section 4991 defines the tiers of taxable crude oil. Tier 1 oil is any taxable crude oil other than tier 2 oil and tier 3 oil. Tier 2 oil is any oil other than exempt oil which is produced from a stripper well property (as defined in paragraph (b)(3) of this section) and any oil from an economic interest in a national Petroleum Reserve held by the United States. However, the term "tier 2 oil" does not include tier 3 oil. Tier 3 oil is newly discovered oil, heavy oil, and incremental tertiary oil. For the definition of incremental tertiary oil, see § 51.4993–1.

(2) *Heavy oil.* The term "heavy oil" means all crude oil which is produced from a property if crude oil produced and sold from that property during either the last month before July 1979 in which crude oil was produced and sold from that property, or the taxable period, had a weighted average gravity of 16.0 degrees API or less (corrected to 60 degrees Fahrenheit).

(3) *Stripper well property*—(i) *In general.* Stripper well property means a property within the meaning of § 51.4996–1(i)) whose average daily production of crude oil (as defined in § 51.4996–1(1)) from oil-producing wells (as defined in paragraph (b)(4) of this section) was 10 barrels per day or less per oil-producing well during any preceding consecutive 12-month measuring period beginning after the applicable date in paragraph (b)(5) of this section.

(ii) *Average daily production.* The term "average daily production of crude oil per oil-producing well," as used in paragraph (b)(3)(i) of this section, means the maximum total production of crude oil from all oil-producing wells on that property during the 12-month measuring period divided by the product of the number of days in the measuring period times the number of oil-producing wells on the property and can be expressed by the following formula:

$$A = \frac{Q}{DxW}$$

Where:

A = Average daily production of crude oil.
Q = Qualified maximum total production of crude oil from all oil-producing wells on the property during the measuring period.
D = Number of days in the measuring 12-month period.
W = Number of "oil-producing wells" on the property.

To qualify as maximum total production, each oil-producing well on the property must have been maintained for the full 12-month period at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production, or the insertion of devices that restriclt the flow of production from the well. Whether the maximum feasible requirement in the preceding sentence is met is to be determined from all the facts and circumstances. The facts and circumstances to be taken into consideration include: The rate at which crude oil in the reservoir flows to the well; the allowable production levels established by state regulatory bodies, if any; and production levels occurring before and after the measuring period for the property. The average daily production calculation for any well that does not meet the maximum production requirement provided by this paragraph (b)(3)(ii) must be adjusted to reflect the extent to which the production during the 12-month period was not at the maximum feasible level. An adjustment is also required in the case of a producing well converted during the 12-month period to an injection well or in the case of any well that begins production after the beginning of the 12-month period, such as, for example, a newly-drilled well.

(iii) *Examples.* The provisions of paragraph (b)(3) of this section are illustrated by the following examples:

Example (1). Assume that X operated 4 oil-producing wells at the maximum feasible rate of production on property A during a 12-month measuring period and produced 14,000 barrels of qualifying crude oil. Under these facts, the average daily production from property A is 9.59 barrels per day per well (14,000 barrels/365 days x 4 wells). Since the average daily production per well is less than 10 barrels, property A qualifies as stripper well property.

Example (2). Assume that X operated 4 oil-producing wells on property B which also

produced 14,000 barrels of crude oil during the 12-month measuring period, but that 2 of the 4 wells did not not begin to produce crude oil until one-half of the measuring period expired. Under these facts, X would compute the average daily production from property B as follows:

$$A = \frac{14{,}000 \text{ barrels}}{365 \text{ days} \times (2 \text{ wells} + \frac{1}{2} \text{ well} + \frac{1}{2} \text{ well})}$$

A = 12.79 barrels per day per well

Since the average daily production per well is greater than 10 barrels, property B does not qualify as stripper well property.

Example (3). Assume that X operates 5 wells on property C which produces 14,000 barrels of crude oil during the 12-month measuring period, but that 2 of the 5 wells were used for the entire measuring period as injection wells in order to aid in the production of crude oil from the three oil-producing wells. Under these facts, the average daily production from property D is 12.79 per day per well (14,000 barrels/365 days x 3 wells). Since the average daily production per oil-producing well on property D is greater than 10 barrels, property D does not qualify as stripper well property.

(4) *Oil-producing well*—(i) *In general.* The term "oil-producing well", as used in paragraph (b)(3)(i) of this section, means any well through the bore of which some crude oil is produced, and the gas-oil ratio of which is not more than 50,000 cu-ft of gas per barrel of crude oil. Gas-oil ratio means the number of cubic feet of gas produced per barrel of crude oil produced. For purposes of this subdivision, gas means a mixture of hydrocarbons that at a pressure of 14.7 psia and a temperature of 60°F will exist in a gaseous state. The gas-oil ratio test for determining whether a well is an oil-producing well or not will be made by using production data during the measuring period used by the taxpayer to determine average daily production under paragraph (b)(3)(ii) of this section. This computation will be made by dividing the well's production of oil in barrels by the well's production of gas in cubic feet.

(ii) *Special rule for taxable periods beginning before March 21, 1983.* (A) *In general.* For taxable periods beginning before March 21, 1983, the term "oil-producing well", as used in paragraph (b)(3)(i) of this section, means any well that produces crude oil other than condensate recovered in non-associated production (within the meaning of paragraph (b)(4)(ii)(B) of this section) from a reservoir through that well during the 12-month measuring period.

(B) *Condensate recovered in non-associated production.* For purposes of his subdivision, the term "condensate recovered from non-associated production" means condensate produced from a well only in association with gas. Non-associated production occurs when both liquid and gaseous hydrocarbons are jointly produced from a reservoir in which they exist in the reservoir only in a gaseous state. On the other hand, a reservoir in which gas occurs in solution with crude oil would produce crude oil and gas in associated production. Generally, the state of the hydrocarbon mixture in the reservoir can be determined by an analysis of the hydrocarbon stream produced from the reservoir and how the stream is brought to the surface. The presence of the following facts would tend to indicate that the joint production of oil and gas from a reservoir is non-asssociated: A phase test which determines that under production conditions of pressure reduction at reservoir temperature, the hydrocarbon stream exhibits a dewpoint; production at the surface in a single stream having a gravity of 45° API or lighter; and the use of a production method whereby the hydrocarbon stream rises to the surface under its own underground pressure. On the other hand the existence of any of the following facts would tend to indicate that the joint production of oil and gas from a reservoir is associated: A phase test that finds that as the hydrocarbon stream rises from the reservoir to the surface a bubble point occurs (that is, the entrained dissolved gas separates from the liquid into bubbles); a production method whereby the hydrocarbon stream is raised to the surface by a pump; and production at the surface consisting of two streams, one having a gravity heavier than 45° API and the other 45° API or lighter.

(iii) *Exclusion of injection wells, etc.* For purposes of this paragraph (b)(4), the term "oil-producing well" does not include an injection well (*i.e.*, a well through which water, air, gas, steam, or other materials are injected into a reservoir in order to produce crude oil through another well), nor does it include a disposal well, a dry well, a shut-in well, a spent well, an observation well, or a plugged and abandoned well.

(5) *Applicable date.* Except as otherwise provided in this paragraph (b)(5), the applicable date for purposes of the stripper well property determination under paragraph (b)(3) of this section is December 31, 1972. However, for taxable periods beginning on or after March 21, 1983 if a new reservoir was discovered on a property after December 31, 1972, and not treated as a separate property (see § 51.4996–1(i) for rules concerning the election to treat a new reservoir as a separate property), the applicable date with respect to production from such property occurring after the new reservoir is put into production is the last day of the month in which production from the new reservoir commences. As a result, for taxable periods beginning on or after March 21, 1983 absent an election to treat a new reservoir as a separate property, a property's qualification as stripper well property must be redetermined when production commences from a new reservoir on the property.

Par. 2. Section 51.4994–1 is revised to read as follows:

§ 51.4994–1 Definitions relating to exemptions.

(a) *In general.* Section 4991 (b) provides that the term "exempt oil" (oil not subject to the windfall profit tax) means—

(1) Any crude oil from a qualified governmental interest,

(2) Any crude oil from a qualified charitable interest,

(3) Any exempt Indian oil,

(4) Any exempt Alaskan oil,

(5) Any exempt front-end oil,

(6) Any exempt royalty oil, and

(7) Any exempt stripper well oil.

(b) *Qualified governmental interest.* [Reserved]

(c) *Qualified charitable interest.* [Reserved]

(d) *Exempt Indian oil.* [Reserved]

(e) *Exempt Alaskan oil.* [Reserved]

(f) *Exempt royalty oil.* [Reserved]

(g) *Exempt stripper well oil*—(1) *General rule.* The term "exempt stripper well oil" means any crude oil (as defined in § 51.4996–1(l))—

(i) The producer of which is an independent producer (within the meaning of § 51.4492–1(b)),

(ii) Which is produced from a stripper well property (within the meaning of § 51.4991–1(b)(3)),

(iii) Which is attributable to the independent producer's working interest (as defined in § 51.4992–1(d)(2)) in the stripper well property,

(iv) Which is not attributable to an interest in any property which at any time after July 22, 1981, was owned by a person other than an independent producer (within the meaning of § 51.4992–1(b)), and

(v) Which is removed from the premises after December 31, 1982.

(2) *Classification of oil.* With respect to a qualifying independent producer holding a working interest, any oil attributable to such interst which meets the requirements in paragraph (g)(1) of this section will be considered to be

exempt stripper well oil regardless of how that oil might otherwise be classified. For example, with respect to a qualifying independent producer holding a working interest in oil that would qualify as tier 3 oil if it were taxable and that also meets the requirements for exempt oil in paragraph (g)(1) of this section, such oil will be considered exempt stripper well oil even though it also qualifies as tier 3 oil. In addition, the classification of such oil as exempt stripper well oil with respect to a qualifying independent producer holding a working interest will have no effect on the classification of such oil with respect to a nonqualifying producer (such as, for example, a producer holding only a royalty interest in such oil).

Par. 3. Section 51.4995–2 is amended by revising the first sentence of paragraph (a) and by revising paragraph (b)(1) to read as follows:

§ 51.4995–2 Producer's certificate.

(a) *In general.* A producer of "exempt Indian oil" (as defined in section 4994(d)), "exempt royalty oil" (as defined in section 4994(f)), exempt stripper well oil (as defined in section 4994(g)), or the holder of any interest in crude oil that is a "qualified governmental interest" (as defined in section 4994(a)) or is a "qualified charitable interest" (as defined in section 4994(b)), generally may execute an exemption certificate with respect to such oil. * * *

(b) *Exemption certificate*—(1) *In general.* For purposes of this section, an exemption certificate is a written statement certifying that the producer's oil is exempt from the tax imposed by section 4986 because the crude oil constitutes exempt Indian oil, exempt royalty oil, exempt stripper well oil or the oil is from a qualified governmental enterest or a qualified charitable interest. Any producer who furnishes an exemption certificate (other than an exempt royalty owner's certificate) to an operator, purchaser, partnership, or other disburser shall also file an exemption certificate with the Internal Revenue Service Center, Austin, Texas. Only one such certificate need be filed even though the producer may furnish certificates to more than one operator, purchaser, partnership, or other disburser. In the case of exempt stripper well oil, an exemption certificate must be filed even though a qualified producer has previously certified its status as an independent producer and the propery was certified as being stripper well property.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 83–1500 Filed 1–19–83; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule.

SUMMARY: On December 17, 1982, the State of Iowa submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of this State Plan.

DATE: Written comments on the Plan must be received on or before 5:00 p.m., February 22, 1983.

ADDRESSES: Copies of the full text of the proposed Iowa Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Missouri Field Office, 818 Grand Avenue, Kansas City, Missouri 64106

Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319

Office of Surface Mining Reclamation and Enforcement, Administrative Record, 1100 L Street, NW., Rm. 5315, Washington, D.C. 20240

Written comments must be mailed or hand carried to: Director, Missouri Field Office listed above. Comments received after 5:00 p.m. February 22, 1983, will not be considered or included in the administrative record for this rulemaking.

The Administrative Record will be available in two locations for public review at the OSM Offices above, on Monday through Friday, 8:00 a.m. to 4:30 p.m. excluding holidays.

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke, Director, Office of Surface Mining, Missouri Field Office, 818 Grand Avenue, Kansas City, Missouri 64106. Telephone (816) 374–5527.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State of Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisons of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the approved program.

On December 17, 1982, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Iowa. The purpose of this submission is to demonstrate both the State's intent and capability to assume responsiblity for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (FR) of June 30, 1982, FR 28593–28604.

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13. Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Final Rules (47 FR 28574–28593 (1978)).

The receipt of the Iowa Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in the State of Iowa.

By submitting a proposed Plan, Iowa has indicated that it wishes to be primarily responsible for the reclamation of abandoned mine lands in that State. If the program is disapproved and the State does not choose to revise the Plan, a Federal AML program will be implemented and OSM will have

primary responsibility for these activities.

The Field Director has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controversies. Therefore, a public hearing will not be held.

Representatives of the Field Director's Office will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. in the Field Director's office at the request of members of the public to receive their advice and recommendations concerning the proposed Iowa Reclamation Plan and Program.

Persons wishing to meet with representatives of the Field Director's Office during this time period may place such request with Floyd Klaveter, telephone (816) 374–3920, at the Field Director's Office.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reasons for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable cost, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Iowa Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Iowa Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Iowa Reclamation Plan for Abandoned Mine Land Reclamation can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all requirements of the OSM, AMLR Program Provisions.

5. The State has an approved Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the Iowa Reclamation Plan submission: The Iowa Department of Soil Conservation has been designated by the Governor of the State of Iowa to implement and enforce the Abandoned Mine Land Reclamation program in accordance with SMCRA. The Department has developed State regulations to carry out the State mandate. Contents of the State Plan submission include:

(a) Designation of authorized State Agency to administer the Program;

(b) State's chief legal officer's opinion on the authority of the designated agency to conduct the program in accordance with Title IV of the SMCA;

(c) Description of the policies and procedures to be followed in conducting the Program including:

(1) Goals and objectives;

(2) Project ranking and selection procedures;

(3) Coordination with other reclamation projects;

(4) Land acquisition, management and disposal;

(5) Reclamation on private land;

(6) Rights of entry; and

(7) Public participation in the Program.

(d) Description of the administrative and management structure to be used in the Program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the Program;

(2) Personnel staffing policies;

(3) Purchasing and procurement systems and policies; and

(4) Description of the accounting system including specific procedures for operation of the reclamation fund;

(e) Description of the public's participation in the preparation of the Plan;

(f) A general description of activities to be conducted under the Plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including a map;

(2) General description of the problems identified and how the Plan proposes to deal with them;

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses;

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the Plan;

(5) General description of the social, economic, and environmental conditions in the different grographic areas where reclamation is planned, including:

(i) The economic base;

(ii) Sociologic and demographic characteristics;

(iii) Significant aesthetic, historic or cultural, and recreational values;

(iv) Hydrology, including water quality and quantity problems associated with past mining;

(v) Flora and fauna, including endangered and threatened species and their habitat;

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

List of Subjects in CFR Part 915

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

Dated: January 11, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: January 13, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

[FR Doc. 83-1556 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1207

[Docket No. 38837]

Revision to Accounting Rules for Class I and II Common and Contract Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise the Uniform System of Accounts for Class I and II Common and Contract Motor Carriers of Property (USOA) to make the Uniform System of Accounts more responsive to the Commission's data requirements. The proposed revision would: (1) make the USOA a single-class system, generally based on the present requirements for Class II carriers; (2) eliminate recognition of gains on trade-ins of operating equipment; (3) eliminate the requirement for household goods carrier principals to obtain financial reports from their carrier agents; and (4) make miscellaneous technical changes to clarify the regulations.

DATES: Written responses should be filed on or before March 7, 1983. The effective date of the proposed revision, if adopted, will be January 1, 1983.

ADDRESS: An original and 15 copies of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Copies of this Notice may be purchased from: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 289-4357, D.C. Metropolitan Area, (800) 424-5403, toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Thomas Carter (202) 275-7448.

SUPPLEMENTARY INFORMATION: In a notice issued on May 25, 1982 in Docket No. 38837, Revision to Motor Carrier of Property Accounting Rules (47 FR 22569), the Commission announced that it was reviewing its uniform system of accounts for Class I and II common and contract motor carriers of property (49 CFR Part 1207) and requested comments on what changes are necessary. Generally, the comments we received stated that the present rules are adequate and that major changes are not necessary. While one household goods carrier suggested restructuring carrier and non-carrier operating revenue and expense accounts to eliminate the distinction between carrier and non-carrier operating activities, such changes do not appear to be warranted at this time. While the request has some merit, we elected not to propose it because: (1) No other household goods carrier expressed a desire to change from the present accounting structure; and (2) because the present regulatory environment leaves some doubt as to the future role of prescribed accounting systems; we do not want to propose an expensive and time-consuming change at this time and then determine that a detailed prescribed system is not needed.

The revisions we propose would correct some technical errors, clarify several of the instructions and adjust the accounting requirements to reflect the Commission's present data reporting requirements. The proposed revisions are:

1. *Adopt a single-class system:* (a) The USOA presently has less detailed accounting requirements for Class II carriers than for Class I carriers. The proposed revision would reduce the requirements for balance sheet accounts to those presently required for Class II carriers and combine the present seven prepayment accounts into one account (refer to Appendix A for the proposed balance sheet accounts). This revision would eliminate 50 accounts for Class I carriers and 12 accounts for Class II carriers.

(b) The income statement accounts proposed for other than Instruction 28B carriers (see Appendix B) would be those now required for Class II carriers except that all carriers would have to maintain accounts 5370, Amortization Expense-Improvements to Leasehold Property, and 5380, Depreciation Expense-Undistributed Property. This revision would eliminate 109 accounts for Class I carriers while adding six accounts for Class II carriers.

(c) The income statement accounts proposed for Instruction 28B carriers (see Appendix C) would be those now required for class II carriers thereby eliminating 222 accounts for class I carriers.

2. *Accounting for Gains from Trade-Ins:* The Commission would adopt the provision of APB Opinion No. 29, Accounting for Nonmonetary Transactions, regarding gains on property traded in for similar property. Our present rules require that when operating equipment is traded in for similar property, the gain (loss) is credited (charged) to operating expense. Under a rule based on Opinion No. 29, carriers would not recognize a gain but would record the new property at an amount equal to monetary consideration paid plus the recorded value of the property traded in. In effect, carriers would record the gain as an offset to the property account. By adopting this change, the Commission would eliminate a major difference between its rules and generally accepted accounting principles.

3. *Elimination of Agent Reporting:* We would eliminate Instruction 2(f) in 49 CFR Part 1207. Instruction 2(f) requires household goods carrier principals to obtain a balance sheet and detailed schedule of operating revenues and expenses from their agents by May 15 of each year. On May 24, 1982, the Commission, Accounting and Valuation Board, voted to relieve principals from this requirement. The Board granted the relief because Instruction 2(f) was based on 49 CFR 1056.19, Required Filings Relating to Agency Agreements, which the Commission revised in Ex Parte MC-19(9a) served July 7, 1978. That revision deleted the requirement in Part 1056 for principals to keep evidence of the financial condition of agents.

4. *Miscellaneous Revisions:* The following miscellaneous revisions would be made: (a) When the Commission adopted special accounting for carriers of liquid petroleum products in tank trucks, some instructions were not amended to refer to Instruction 28C carriers. These references would be added to Definition 2 and Instructions 1, 22, 23, 27, 29 and 33.

(b) Definition 21, Depreciation and depreciation methods, would be revised to show that the term "vehicles" in paragraph 21(b) includes revenue and service vehicles.

(c) Definition 26, Methods of depreciation, would be deleted and reserved because its only purpose is to refer to Definition 21.

(d) Definition 29, Nominally issued, would be deleted and reserved, related account 2621, Nominally Issued Securities, would be deleted, and Instruction 16, Capital Stock, would be revised to delete references to account 2621. These changes would be made because when carriers nominally issue stock they should make a memorandum entry rather than an accounting entry. Therefore, an account for this stock does not belong in the balance sheet.

(e) Instruction 1, Classification of carriers, would be revised to eliminate paragraph (b)(3) because the

Commission no longer uses the Carrier Classification Form.

(f) Instruction 8, Accounting changes, would be revised to clarify that carriers need not seek approval of their accounting for accounting changes if the changes are the result of a Commission order or directive (accounting series circular, audit findings, etc.).

(g) Account 1140, Prepayments (as amended to include accounts 1141 through 1147), would be revised to clarify that carriers must choose to use either the prepaid or the direct charge method for accounting for tires and tubes. Both methods cannot be used at the same time.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. In this proceeding we are reducing the requirements for all Class I carriers (operating revenues exceed $5 million) and proposing an insignificant increase on Class II carriers ($1–5 million in operating revenues) due to adoption of a single-class system. However, the proposed accounting procedures will achieve uniformity without significant alteration from the current procedures.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1207

Uniform system of accounts.

(49 U.S.C. 11142 and 5 U.S.C. 553)

Decided: January 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

Appendix A—etc. Proposed Balance Sheet

Assets

Current Assets

1010 Cash and Working Funds
1020 Special Deposits
1030 Temporary Cash Investments
1033 Allowance for Net Unrealized Loss on Current Marketable Equity Securities
1111 Notes Receivable; Officers, Stockholders and Employees
1112 Notes Receivable; Others
1121 Loans and Notes Receivable from Affiliated Companies
1122 Interest and Dividends Receivable from Affiliated Companies
1123 Accounts Receivable from Affiliated Companies
1131 Accounts Receivable; Customers and Interline
1133 Accounts Receivable; Officers, Stockholders and Employees
1135 Accounts Receivable; Other
1138 Allowance for Uncollectible Accounts
1140 Prepayments
1151 Materials and Supplies
1160 Other Current Assets
1170 Deferred Income Tax Charges

Tangible Property

1211 Land
1213 Structures
1214 Accumulated Depreciation—Structures
1221 Revenue Equipment
1222 Accumulated Depreciation—Revenue Equipment
1223 Service Cars and Equipment
1224 Accumulated Depreciation—Service Cars and Equipment
1233 Shop and Garage Equipment
1234 Accumulated Depreciation—Shop and Garage Equipment
1235 Furniture and Office Equipment
1236 Accumulated Depreciation—Furniture and Office Equipment
1237 Miscellaneous Equipment
1238 Accumulated Depreciation—Miscellaneous Equipment
1241 Improvements to Leasehold Property
1242 Accumulated Amortization—Improvements to Leasehold Property
1243 Undistributed Property
1244 Accumulated Depreciation—Undistributed Property
1245 Unfinished Construction
1251 Carrier Operating Property Leased to Others
1252 Accumulated Depreciation—Carrier Operating Property Leased to Others
1261 Property Used in Other Than Carrier Operations
1262 Accumulated Depreciation and Amortization—Property Used in Other Than Carrier Operations

Intangible Property

1310 Organization, Franchises and Permits
1312 Accumulated Amortization—Organization, Franchises and Permits
1341 Other Intangible Property
1342 Accumulated Amortization—Other Intangible Property

Investment Securities and Advances

1410 Investments and Advances—Affiliated Companies
1428 Adjustments—Investments and Advances, Affiliated Companies
1430 Other Investments and Advances
1448 Adjustments—Other Investments and Advances
1449 Allowance for Net Unrealized Loss on Noncurrent Marketable Equity Securities
1451 Special Funds

Deferred Charges

1512 Deferred Debits
1520 Accumulated Deferred Income Charges
1551 Clearing Accounts

Liabilities

Current Liabilities

2011 Notes—Payable
2012 Matured Long-term Obligations
2021 Loans and Notes Payable to Affiliated Companies
2022 Interest and Dividends Payable to Affiliated Companies
2023 Accounts Payable to Affiliated Companies
2031 Accounts Payable; Officers, Stockholders, and Employees
2032 Accounts Payable; Interline
2033 Accounts Payable: Employee Withholding
2034 Accounts Payable; Other
2041 Salaries and Wages Payable
2051 C.O.D.'s Unremitted
2110 Accrued Operating Taxes and Licenses
2121 Accrued Federal Income Taxes
2122 Accrued State Income Taxes
2123 Accrued Other Income Taxes
2130 Other Current and Accrued Liabilities
2161 Current Equipment Obligations and Other Debt
2161 Other Current Liabilities

Long Term Debt

2310 Advances Payable—Affiliated Companies
2320 Other Advances Payable
2331 Equipment Obligations
2332 Bonds and Debentures
2333 Capitalized Lease Obligations
2334 Other Long-Term Obligations
2338 Unamortized Discount on Debt
2339 Unamortized Premium on Debt
2341 Reacquired Long-Term Obligations

Deferred Credits and Estimated Liabilities

2412 Deferred Credits
2420 Accumulated Deferred Income Tax Credits
2511 Estimated Liabilities

Owners' Equity

Capital Stock

2611 Capital Stock—Preferred
2612 Capital Stock—Common

2613 Subscribed Capital Stock

Additional Capital

2631 Premiums and Assessments on Capital Stock
2632 Discount on Capital Stock
2633 Commission and Expense on Capital Stock
2641 Other Capital in Excess of Par or Stated Value

Retained Earnings—Corporate

2651 Retained Earnings—Appropriated
2652 Retained Earnings—Unappropriated
2655 Net Unrealized Loss on Noncurrent Marketable Equity Securities
2661 Treasury Stock

Sole Proprietors' Equity

2711 Sole Proprietorship Capital
2721 Drawings
2731 Profit and Loss

Partnership Equity

2811 Partnership Capital
2821 Drawings
2831 Profit and Loss

Retained Earnings—Corporate; Closed Annually

2911 Credit Balance Transferred from Income
2921 Other Credits to Retained Earnings
2931 Debit Balance Transferred from Income
2941 Dividend Appropriations
2951 Other Appropriations of Retained Earnings
2961 Other Debits to Retained Earnings

APPENDIX B.—CLASS I AND II MOTOR CARRIERS, CHART OF ACCOUNTS MATRIX OF OPERATING EXPENSES FOR INSTRUCTION 27 AND 28A CARRIERS

Natural Classification	Control	Line haul	Pick-up and delivery	Billing and collecting	Platform	Terminal	Maintenance	Traffic and sales	Insurance and safety	General and administrative
	0	1	2	3	4	5	6	7	8	9
410 Salaries—Officers and Supervisors	4100	X	X	X	X	X	X	X	X	X
420 Salaries and Wages	4200									
1 Clerical and Administrative	4210	X	X	X	X	X	X	X	X	X
2 Drivers and Helpers	4220	X	X							
3 Cargo Handlers	4230				X	X				
4 Vehicle Repair and Service	4240	X	X			X	X	X	X	X
5 Owner-operator Drivers	4250	X	X							
9 Other Labor	4290	X	X	X	X	X	X	X	X	X
430 Miscellaneous Paid Time Off	4300									
1 Clerical and Administrative	4310	X	X	X	X	X	X	X	X	X
2 Drivers and Helpers	4320	X	X							
3 Cargo Handlers	4330				X	X				
4 Vehicle Repair and Service	4340	X	X				X			
5 Owner-Operator Drivers	4350	X	X							
9 Other Labor	4390	X	X	X	X	X	X	X	X	X
440 Other Fringes	4400									
1 Federal Payroll Taxes	4410	X	X	X	X	X	X	X	X	X
2 State Payroll Taxes	4420	X	X	X	X	X	X	X	X	X
3 Workmen's Compensation	4430	X	X	X	X	X	X	X	X	X
9 Other Fringes	4490	X	X	X	X	X	X	X	X	X
450 Operating Supplies and Expenses	4500									
1 Fuel, Oil, Lubricants and Coolants for Motor Carriers.	4510	X	X			X	X			
2 Vehicle Parts/Outside Vehicle Maintenance.	4520	X	X			X	X	X	X	X
3 Tires and Tubes	4530	X	X			X	X	X	X	X
9 Other Operating Supplies and Expenses.	4590	X	X		X	X	X			
460 General Supplies and Expenses	4600									
1 Office Supplies	4610	X	X	X	X	X	X	X	X	X
2 Tariffs, Schedules and Advertising.	4620							X		
3 Commissions and Outside Fees.	4630		X	X	X	X		X		
9 Other General Supplies and Expenses.	4690	X	X	X	X	X	X	X	X	X
470 Operating Taxes and Licenses	4700									
1 Gas, Diesel Fuel and Oil Taxes (Federal).	4710	X	X			X	X			
3 Vehicle License and Registration Fees—Usage (Federal).	4730	X	X							
4 Other Taxes (Federal)	4740									X
5 Real Estate and Personal Property Taxes.	4750	X	X	X	X	X	X	X	X	X
6 Gas, Diesel Fuel and Oil Taxes (State and Other).	4760	X	X			X	X			
7 Vehicle License and Registration Fees—(State and Other).	4770	X	X			X	X	X	X	X
9 Other Taxes (State and Other).	4790									X
480 Insurance	4800									
1 PL and PD	4810	X	X						X	
2 Cargo Loss and Damage	4820	X	X		X	X				
3 Fire, Theft and Collision	4830	X	X						X	
4 Building and Structure	4840	X	X	X	X	X	X			X
9 Other Insurance	4890								X	
510 Communication and Utilities	5100	X	X	X	X	X	X	X	X	X
530 Depreciation and Amortization	5300									
1 Buildings and Structures	5310	X	X	X	X	X	X			X
2 Revenue Equipment	5320	X	X							
3 Service Cars and Equipment	5330					X	X	X	X	X
4 Shop and Garage Office Equipment.	5340						X			
5 Furniture and Office Equipment.	5350	X	X	X	X	X	X			X

APPENDIX B.—CLASS I AND II MOTOR CARRIERS, CHART OF ACCOUNTS MATRIX OF OPERATING EXPENSES FOR INSTRUCTION 27 AND 28A CARRIERS—Continued

Natural Classification	Control	Line haul	Pick-up and delivery	Billing and collecting	Platform	Terminal	Maintenance	Traffic and sales	Insurance and safety	General and administrative
	0	1	2	3	4	5	6	7	8	9
6 Miscellaneous Equipment	5360	X	X	X	X	X	X	X	X	X
7 Improvements to Household Property.	5370	X	X	X	X	X	X			X
8 Undistributed Property	5380									X
9 Amortization	5390									X
540 Revenue Equipment Rents and Purchased Transportation.	5400									
1 Vehicle Rents with Driver	5410	X	X							
2 Vehicle Rents with Driver—Vehicle Only.	5420	X	X							
3 Vehicle Rents Without Driver	5430	X	X							
4 Other Purchased Transportation—Motor Carriers.	5440	X	X							
5 Other Purchased Transportation—Railroads.	5450	X								
6 Other Purchased Transportation—Water Carriers.	5460	X								
7 Other Purchased Transportation—Airlines and Other.	5470	X	X							
8 Allowances to Shippers	5480		X							
9 Equipment Rents—Credit	5490	X	X							
550 Building and Office Equipment Rents.	5500	X	X	X	X	X	X	X	X	X
570 Gain or Loss on Disposition of Operating Assets.	5700									
1 Gains on Disposition of Operating Assets.	5710									X
2 Losses on Disposition of Operating Assets.	5720									X
590 Miscellaneous Expenses	5900									
1 Joint-Facility Expense—Net	5910					X	X			X
3 Professional Services—Net	5930									X
5 Uncollectible Revenue	5950									X

APPENDIX C.—CLASSIFICATION OF OPERATING REVENUES AND EXPENSES CLASS I AND II CARRIERS OF HOUSEHOLD GOODS

Revenue classification	Carrier								Noncarrier	
	Control	Interstate	Intrastate	Local	Indirect operating	General and administrative	Packing and crating	Warehousing	Overseas import and export	Indirect operating
	0	1	2	3	4	5	6	7	8	9
310 Moving Revenue—Intercity common carrier, own rights.	3100									
1 Company driver	3110	X	X							
2 Owner operator	3120	X	X							
3 Agent	3130	X	X							
4 Overseas import and export—company driver.	3140	X	X							
5 Overseas import and export—owner operator.	3150	X	X							
6 Overseas import and export—agents.	3160	X	X							
320 Moving Revenue—Intercity contract carrier, own rights.	3200	X	X							
1 Overseas import and export	3210	X	X							
330 Moving revenue—local	3300			X						
1 Overseas import and export	3310			X						
340 Moving revenue—intercity transportation for other motor carriers.	3400									
1 Company driver	3410	X	X							
2 Owner operator	3420	X	X							
3 Overseas import and export—company driver.	3430	X	X							
4 Overseas import and export—owner operator.	3440	X	X							
350 Containers, packing and unpacking services.	3500									
1 Packing only—interstate	3510						X			
2 Unpacking only—interstate	3530						X			
3 Packing and unpacking—intrastate.	3530						X			
7 Thru-container packing and loading.	3570								X	
9 Other packing and crating service revenue.	3590						X		X	
360 Supplementary transportation service.	3600	X	X							
370 Warehousing revenue	3700									
1 Storage household goods—SIT intrastate.	3710							X		
2 Warehouse handling In/Out SIT interstate.	3720							X		

APPENDIX C.—CLASSIFICATION OF OPERATING REVENUES AND EXPENSES CLASS I AND II CARRIERS OF HOUSEHOLD GOODS—Continued

Revenue classification		Carrier								Noncarrier	
		Control	Interstate	Intrastate	Local	Indirect operating	General and administrative	Packing and crating	Warehousing	Overseas import and export	Indirect operating
		0	1	2	3	4	5	6	7	8	9
3	Storage household goods—SIT interstate.	3730							X		
4	Warehouse handling In/Out—SIT Intrastate.	3740							X		
5	Storage—other than carrier shipments.	3750							X		
6	Warehouse handling In/Out—other than carrier shipments.	3760							X		
380	Commission revenue	3800									
1	Booking commissions	3810	X	X							
2	Origin commissions	3820	X	X							
3	Packing commissions	3830						X			X
390	Other operating revenue	3900				X					X
	Expense Classification										
410	Salaries	4100	X	X	X	X	X	X	X	X	X
420	Operating wages-transportation only	4200									
1	Intercity drivers	4210	X	X							
2	Intercity helpers	4220	X	X							
3	Driver-helper—local moving only.	4230			X						
4	Drivers-Drayage labor—overseas containers.	4240			X						
430	Packer wages	4300									
1	Interstate moves	4310						X			
2	Intrastate moves	4320						X			
3	Overseas shipments	4330								X	
440	Warehouse labor	4400									
1	Household goods	4410							X		
2	SIT interstate	4420							X		
3	SIT intrastate	4430							X		
460	Repair wages	4600									
1	Transportation equipment only	4610	X	X	X	X	X				
2	Other repair wages	4620						X	X	X	X
470	Commission agent fees	4700				X					X
490	Other wages	4900	X	X	X	X	X	X	X	X	X
500	Fringe benefits	5000									
1	Contributions to union welfare funds and employees' group insurance.	5010	X	X	X	X	X	X	X	X	X
3	Workmen's compensation	5030	X	X	X	X	X	X	X	X	X
4	Pension and retirement plans	5040	X	X	X	X	X	X	X	X	X
7	Miscellaneous paid time off	5070	X	X	X	X	X	X	X	X	X
9	Other employee benefits	5090	X	X	X	X	X	X	X	X	X
610	Gasoline and diesel fuel	6100	X	X	X	X	X	X	X	X	X
620	Tires and tubes	6200	X	X	X	X		X	X		X
630	Other vehicle supplies	6300	X	X	X	X		X	X		X
640	Vehicle repair parts	6400	X	X	X	X	X	X	X		X
650	Repair materials (other than vehicle)	6500				X	X	X	X	X	X
660	Printing and office supplies	6600	X	X	X	X	X	X	X	X	X
670	Packing and crating materials and supplies.	6700						X	X	X	
680	Miscellaneous supplies	6800	X	X	X	X	X	X	X	X	X
690	Purchased transportation—overseas import and export.	6900									
2	Tractor rents with driver-agents.	6920	X	X	X						
3	Owner operators	6930	X	X	X						
4	Tractor—trailer-agents	6940	X	X	X						
5	Tractor—trailer-owner operators.	6950	X	X	X						
8	Other transportation	6980	X	X							
710	Outside services—vehicle repairs and maintenance.	7100	X	X	X	X	X	X	X		X
720	Outside services—repairs (other than vehicles).	7200				X	X	X	X	X	X
730	Other outside services	7300									
1	Janitorial, alarm and watch services.	7310				X	X	X	X	X	X
3	Professional services	7330				X	X				X
6	Advertising	7360				X					X
740	Utilities	7400				X	X		X	X	X
750	Communications services	7500				X	X			X	X
760	Purchased labor and transportation	7600									
1	Equipment rents without drivers.	7610	X	X	X			X			
2	Tractor rents with driver from agent.	7620	X	X							
3	Tractor rents with driver from owner operator.	7630	X	X	X						
4	Tractor-trailer rents with driver from agent.	7640	X	X							
5	Tractor-trailer rents with driver from owner operator.	7650	X	X	X						
6	Purchased labor-temporary help.	7660	X	X	X			X			
8	Purchased transportation—other transportation modes.	7680	X	X							

APPENDIX C.—CLASSIFICATION OF OPERATING REVENUES AND EXPENSES CLASS I AND II CARRIERS OF HOUSEHOLD GOODS—Continued

Revenue classification		Carrier								Noncarrier	
		Control	Interstate	Intrastate	Local	Indirect operating	General and administrative	Packing and crating	Warehousing	Overseas import and export	Indirect operating
		0	1	2	3	4	5	6	7	8	9
9	Equipment rents—credit	7690	X	X							
770	Travel expenses-company drivers and other operating employees.	7700	X	X	X	X		X	X	X	X
780	Travel and entertainment—sales, office and management personnel.	7800	X	X	X	X	X	X	X	X	X
790	General expenses	7900	X	X	X	X	X	X	X	X	X
810	Depreciation	8100									
1	Revenue equipment	8110	X	X	X			X			
2	Shop and garage equipment	8120				X					X
3	Service cars and equipment	8130				X	X	X	X	X	X
4	Buildings and structures	8140			X		X	X	X	X	X
5	Furniture and office equipment.	8150				X	X	X	X	X	X
7	Undistributed property	8170					X				X
9	Miscellaneous equipment	8190	X	X	X	X	X	X	X	X	X
820	Amortization expense	8200									
1	Leasehold improvements	8210					X		X	X	X
2	Other	8220					X				X
830	Rent—other than revenue equipment.	8300				X	X	X	X	X	X
840	Taxes and licenses	8400									
1	Real estate and personal property taxes.	8410	X	X	X	X	X		X	X	X
2	Vehicle license and registration fees.	8420	X	X	X	X	X	X			X
4	Gas, diesel fuel and oil taxes—state and local.	8440	X	X	X	X		X			
5	Gas, diesel fuel and oil taxes—federal.	8450	X	X	X	X		X			
8	Other taxes—federal	8480				X	X				X
9	Other taxes—state and local	8490				X	X				X
860	Insurance	8600									
1	Cargo loss and damage—premiums.	8610	X	X	X			X	X	X	X
2	Public liability and property damage—premiums.	8620	X	X	X	X		X			X
3	Public liability and property damage—collections from haulers (credit).	8630	X	X	X						
4	Fire, theft and collision—premiums and collections from haulers.	8640	X	X	X			X			X
6	Buildings and structures	8660					X	X	X		X
9	Other	8690					X		X		X
870	Provision for claims	8700	X	X	X	X		X	X	X	X
880	Uncollectible revenue	8800					X				X
890	Gains and losses on disposition of operating assets.	8900									
1	Gains	8910					X				X
2	Losses	8920					X				X

[FR Doc. 83-1452 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Listing of 17 Species of Foreign Reptiles as Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that 17 species of foreign reptiles be listed as Endangered or Threatened species as provided for by the Endangered Species Act of 1973, as amended. The threats that are believed to be causing the declines of these species are habitat destruction, the introduction of non-native predators, exploitation as a source of human food mainly by local people, vandalism, and overcollection; these threats are briefly discussed in the text for each species. If made final, this rule would provide additional protection to wild populations of these species and allow cooperative research programs to be undertaken on their behalf.

DATE: Comments from the public and from the governments of the countries where these species occur must be received by March 21, 1983. Public hearing requests must be received by March 7, 1983.

ADDRESSES: Submit comments to Director, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1980, the Service published a notice of review in the **Federal Register** (45 FR 54685-54686) to the effect that a review of the status of 18 species of foreign reptiles would be conducted to determine whether enough

information existed to list them as Endangered or Threatened species under provisions of the Endangered Species Act of 1973, as amended. The Service received seven comments in response to the notice, most of which supported listing, especially of the land iguanas (*Cyclura* sp.) and Central American river turtle (*Dermatemys mawii*). However, there were a number of comments on the Asiatic box turtle (*Cuora trifasciata*) and Chinese big-headed turtle (*Platysternon megacephalum*) which noted that these species are more widely distributed at this time. The Service agrees; more data will be necessary to document the status of these species throughout their ranges before a determination can be made as to whether they qualify for listing under the definitions of the Act.

However, the Service will continue to review the status of these turtles, as there is at least circumstantial evidence which leads scientists to believe they might be declining.

Gray's monitor lizard, *Varanus grayi*, was also included in the notice of review. Based on the preliminary work of Dr. Walter Auffenberg (Auffenberg, 1976b, 1979a, b), this large lizard was believed to be threatened through habitat destruction and killing by local people for food. In 1981, the Service funded (in part) additional research and surveys on the lizard to develop a management plan. The Service has received a final report (Auffenberg, 1982b) in which Dr. Auffenberg states that while Philippine protection is necessary, listing under provisions of U.S. Federal law is not warranted at this time. Hence, this species is not included in this proposed rule.

One additional species from the notice, the Hierro giant lizard (*Gallotia simonyi*), is not included in this proposal, since it is now believed extinct (R. Honegger, pers. comm.). The Service has reviewed additional literature references and believes that sufficient data exist to propose the Round Island skink, *Leiolopisma telfairii*, as a Threatened species even though it was not originally included in the notice. Finally, the notice treated the iguana *Cyclura nubila* as a single species; in the proposal, the subspecies are treated individually because of different degrees of threats to them.

The species included in this proposed rule, their proposed status and their IUCN status are as follows:

Common name	Scientific name	Proposed status	IUCN
Serpent Island gecko	*Cyrtodactylus serpensinsula*	Threatened	Rare.
Ackins ground iguana	*Cyclura nileyi nuchalis*	Threatened	Rare.
Allen's Cay iguana	*Cyclura cychlura inornata*	Threatened	Rare.
Andros Island ground iguana	*Cyclura cychlura cychlura*	Threatened	Rare.
Cayman Brac ground iguana	*Cyclura nubila caymanensis*	Threatened	Vulnerable.
Cuban ground iguana	*Cyclura nubila nubila*	Threatened	Vulnerable.
Exuma Island iguana	*Cyclura cychlura figginsi*	Threatened	Rare.
Grand Cayman ground iguana	*Cyclura nubila lewisi*	Endangered	Vulnerable.
Jamaican iguana	*Cyclura collei*	Endangered	
Mayaguana iguana	*Cyclura carinata bartschi*	Threatened	Rare.
Turks and Caicos iguana	*Cyclura carinata carinata*	Threatened	Rare.
Watling Island ground iguana	*Cyclura nileyi nileyi*	Endangered	Endangered.
White Cay ground iguana	*Cyclura nileyi cristata*	Threatened	Rare.
Round Island skink	*Leiolopisma telfairii*	Threatened	Rare.
Central American river turtle	*Dermatemys mawii*	Endangered	Vulnerable.
Aruba Island rattlesnake	*Crotalus unicolor*	Threatened	Rare.
Lar Valley viper	*Vipera latifii*	Endangered	Endangered.

A brief description of these species and applicable threats is as follows:

Serpent Island gecko—This lizard is restricted to Round Island (151 hectares) where it is rare and Serpent Island (20 hectares) where it is considered very rare; both islands are near Mauritius. Predation from feral animals and habitat destruction are the chief causes of its decline (Honegger, 1979). There are estimated to be between 3,600 and 4,500 lizards remaining. The overall problems of the Round Island ecosystem and its resident herpetofauna have been presented in detail (Bullock, 1977). Round Island is presently a nature reserve and endemic lizards cannot, by law, be captured or exported from Mauritius. The lizards have also been discussed by Vinson and Vinson (1969) and Temple (1977).

Bahame species of Cyclura—All these species are listed in the International Union for the Conservation of Nature and Natural Resources (IUCN) Red Date Book as being of concern (Honegger, 1979). The main threats to their continued survival include habitat destruction for resort development and the introduction of feral animals, particularly mongooses, cats, and dogs which prey upon the iguanas, especially the young and juveniles, and destroy nests (Iverson, 1978). Introduced goats may compete for food (these species are vegetarian) and humans kill them for food or malicious "sport." Nearly all these iguanas have very small ranges; many are limited to a single island. Discussions of the threats to these species are contained in Honegger (1979), Carey (1966, 1975), Iverson and Auffenberg (1979), Iverson (1978), Auffenberg (1975, 1976a, 1982), and Gicca (1980). While legal protection is afforded these iguanas in the Bahamas, the law is not enforced (Honegger, 1979). The Service has funded research on *C. r. rileyi* to study a potentially serious fungal disease.

Cuban and Cayman Islands iguanas—There are three subspecies of *Cyclura nubila* inhabiting Cuba (mainland and Isla de Pinos) and the Cayman Islands. These are: *C. n. caymenensis* (one colony on Cayman Brac), *C. m. lewisi* (no less then 50 individuals on Grand Cayman Island, and *C. n. nubila* (Cuba and adjacent islands and cays). The threats to these iguanas are similar to those of the Bahamas *Cyclura* (Honegger, 1979) and Townson (1981) has noted additional potential threats from habitat destruction. *C. n. nubila* is protected in Cuba.

Turks and Caicos iguana—The same threats which apply to the Bahama *Cyclura* also apparently apply to this species (Honegger, 1979). It is found on most of the islands in the Turks and Caicos group. No specific protection laws have been enacted and although several cays where this species occurs are supposed to be reserves, protection is nil (Honegger, 1979).

Jamaican iguana—The following is taken from Woodley (1980) who has reviewed the history and status of this species:

"For a hundred years, they were only known to survive on the Goat Islands but, after the introduction of the mongoose and the interference consequent to the Second World War, that population became extinct in about 1948. But iguanas had, after all, survived on the mainland; in the Hellshire Hills.

Hog-hunters have been catching occasional specimens up to 1978 and one of these, killed in 1969, was obtained by the author and positively identified. It is unlikely that the Jamaican iguana, already very rare, will survive the proposed development of the Hellshire Hills."

Round Island skink—This species is presently confined to Round Island off the coast of Mauritius. It was once found on Flat Island and Gunner's Quoin until exterminated by rats. In 1974, the population was thought to be between 4,000–5,000 but declining. Those factors contributing to the decline of other species on Round Island (Bullock, 1977) are also thought to be contributing to the decline of this species (Honegger, 1979; also, see Temple, 1977, and Vinson and Vinson, 1969).

Aruba Island rattlesnake—According to Honegger (1979), the habitat of this rattlesnake is shrinking as a result of increasing human activity. Collection may also be contributing to its decline.

Lar Valley viper—Andren and Nilson (1979) have reviewed the biology of this species and state:

"*Vipera latifii* Mertens, Darevsky and Klemmer, a recently described viper from northern Iran, is in severe need of conservation. Its range is restricted to unique, alpine Lar Valley, which in a few years will be used as a huge water reservoir. Observations on the biology of *Vipera latiffii* are given. Sympatric amphibians and reptiles show ecotypic adaptations."

Central American river turtle—This large river turtle is found only in the coastal lowlands of southern Mexico, northern Guatemala, and Belize. It is hunted extensively for its meat and has been seriously depleted throughout much of its range. According to Alvarez del Toro *et al.* (1979), this exploitation could lead to its extinction. Additional information on its biology is contained in Smith and Smith (1979) and Iverson and Mittermeier (1980). The Service will follow Iverson and Mittermeier (1980) in the spelling of the specific epithet (i.e., *mawii*).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) states that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. This authority has been delegated to the Assistant Secretary for Fish and Wildlife and Parks. These factors are as follows:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence."

The reptiles proposed for listing as Endangered and Threatened species relate to these factors as follows (numbers refer to factors above):

Serpent Island gecko—(A) Rabbits and goats were introduced onto Round Island in 1840 and these animals have destroyed the island's vegetation so that severe erosion has resulted. The loss of this vegetative cover is thought to have resulted in the loss of available habitat for this species. (C) Since there are no palms on Serpent Island, the scarcity of this species on Round Island has also been attributed to predation.

Acklins ground iguana—(A) This species is found only on Fortune Island and Guana Cay in Acklin's Bight. There are probably less than 1,000 individuals remaining. Increased human settlement in the Bahamas has resulted in the loss of available habitat for this species. (C) Predation by people who use this species for food is thought to have decreased its numbers. (D) While legally protected in the Bahamas, the law is not enforced.

Allen's Cay iguana—(A) This species is found in the Allen Cay group at the northern end of the Exuma Island chain. Like other species of Bahamian iguanas, this species has lost habitat because of human encroachment. There are 75–100 individuals remaining on each island of the group. (C) This subspecies is threatened by being needlessly slaughtered by tourist fishermen for "sport" and is sometimes hunted by local people for food. (D) This iguana is legally protected by the Bahamas, but the law is not enforced.

Andros Island ground iguana—(A) This species is primarily found along the western two-thirds of the Andros group. This iguana is losing habitat to agricultural and commercial development and from lumbering. (B) According to Honegger (1979), there is extensive commercial exploitation. (C) This species is used for food by local people who hunt it with dogs. Hog predation on its eggs is also a problem. (D) This iguana is legally protected by the Bahamas, but the law is not enforced.

Cayman Brac ground iguana—(C) This iguana is known only from Cayman Brac and Little Cayman Islands although introduced onto Grand cayman. The population has been reduced by predation from feral pigs, cats, and dogs. Humans also hunt the ground iguana.

Cuban ground iguana—(C) This iguana is known from Cuba, Isla de Pinos, and a number of offshore islands and cays. All populations are probably suffering from predation by feral pigs, cats, and dogs. Humans also occasionally hunt the ground iguanas.

Exuma Island iguana—(A) This iguana is found on Bitter Guana Cay, Guana Cay, Prickley Pear Cay, and Allen Cay in the Exuma group. This subspecies is threatened by the development of its remaining habitat primarily for commercial and residential purposes. (B) Honegger (1979) states that commercial trade is a threat to this subspecies. (C) Hunting of the iguanas for food and shooting them for "sport" by tourists are threats to this iguana. (D) While this iguana is protected by Bahamian law, the law is not enforced.

Grand Cayman ground iguana—(C) This iguana is known only for Grand Cayman; there is believed to be a population of not less than 50 individuals remaining. Threats to the population are mainly thought to be predation from feral pigs, cats, and dogs. Humans also hunt the ground iguanas in the Cayman Islands.

Jamaican iguana—(A) Until recently, this species was thought extinct. However, it survives probably is very low numbers in the Hellshire Hills. This area is proposed to be developed. If this occurs, the remaining small population will become extinct. (C) Dogs and people are known to kill these iguanas. Any such loss to the population is a threat to its continued existence.

Mayaguana iguana—(A) This subspecies is known only from Bobby Cay east of Mayaguana. According to Honegger (1979), there has been some loss of habitat due to human activities. (C) This species is hunted by local people for food. (D) While legally protected by Bahamian law, the law is not enforced.

Turks and Caicos ground iguana—(A) This iguana is found throughout the Turks and Caicos group. According to Honegger (1979), it is declining because of the loss of suitable habitat through housing development and agriculture. (C) Like other ground iguanas, this species is subject to predation from humans and feral dogs and cats. (D) While some of the islands on which this

species occurs have been designated as reserves, enforcement is nil.

Watling Island (San Salvador) ground iguana—(C) This species is known only from Green Key, Man Head Key, Pidgeon Key, Low Key, and Goulding Key. Though previously reported from White Key and a number of adjacent keys, Gicca (1980) and Auffenberg (1982) note that none were found on these keys during surveys in 1974 and 1981, respectively. There may be a small remnant on San Salvador in the interior of the island. Causes for extirpation and decline include predation by humans for food and the introduction of feral predators. In addition, a serious fungal disease has in the past affected this subspecies; its cause and long term effects are unknown but many iguanas have been scarred by it.

White Cay ground iguana—(A) This iguana is known only from White Cay in the Bahamas where there are believed to be less than 1,000 individuals. The main threat to this species is from the loss of habitat from an encroaching human population. (B) According to Honegger (1979), the live animal trade could be having an adverse effect on this species. (C) Humans are predators on this species for food.

Round Island skink—(A) This species is now restricted to Round Island. Rabbits and goats were introduced onto Round Island in 1840 and these animals have destroyed the island's vegetation so that severe erosion has resulted. The loss of this cover is though to have resulted in the loss of available habitat for this species. (C) Rats are known predators and are thought to have eliminated this species on Flat Island and Gunner's Quoin.

Central American River turtle: (B) This large river turtle is found only in the coastal lowlands of southern Mexico, northern Guatemala, and Belize. It is hunted extensively for food and has been seriously depleted throughout its range. If this intensive exploitation continues, not only will the turtle disappear, but the local inhabitants will lose an important part of their diet. Turtle meat labeled as from *Dermatemys* has occasionally been imported into the United States. However, as shown in a recent law enforcement case, this meat was actually from sea turtles. The extent of possible international commercial trade in meat from this turtle is impossible to gauge, but could be significant as there have been numerous inquiries from soup companies as to its legality for trade.

Aruba Island rattlesnake—(A) According to Honegger (1979), the habitat of this rattlesnake is shrinking as a result of increasing human activity. (B) The extent of this problem is unknown, although overcollecting may be a problem for this species. However, captive propagation, such as undertaken at the Houston Zoo (Carl *et al.*, in press) should be able to provide needed specimens for education and zoological display.

Lar Valley viper—(A) This species is confined to the alpine Lar Valley in Iran. According to Andrew and Nilson (1979), there is the threat of construction of a dam for a water reservior which would eliminate its habitat.

Effects of the Proposal if Published as Final Rule

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50, and are summarized below.

With respect to the 17 species of reptiles in this proposed rule, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 and 17.31 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered and Threatened species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, and 17.23, and 17.32. Such permits are available for scientific purposes, the enhancement or propagation or survival of the species, and economic hardship.

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Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of these Endangered and Threatened species. Therefore, any comments or suggestions from the public, other

concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

1. Biological and other relevant data concerning any threat (or lack thereof) to these species, and

2. Additional information concerning the range and distribution of the species.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Final promulgation of the regulations on these foreign reptiles will take into consideration the comments and any additional information received by the Service, and such communications may lead it to adopt a final rule that differs from this proposal.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours (7:45–4:15pm). A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Author

The primary author of this proposed rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed that Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations be amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*)

2. It is proposed to amend § 17.11(h) by adding, in alphabetical order, the following to the list under reptiles:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Gecko, Serpent Island	*Cyrtodactylus serpensinsula*	Mauritius	Entire	T		N/A	N/A
Iguana, Acklins ground	*Cyclura rileyi nuchalis*	Bahamas	Entire	T		N/A	N/A
Iguana, Allen's Cay	*Cyclura cychlura inornata*	Bahamas	Entire	T		N/A	N/A
Iguana, Andros Island ground	*Cyclura cychlura cychlura*	Bahamas	Entire	T		N/A	N/A
Iguana, Cayman Brac ground	*Cyclura nubila caymanensis*	Cayman Islands	Entire	T		N/A	N/A
Iguana, Cuban ground	*Cyclura nubila nubila*	Cuba	Entire	T		N/A	N/A
Iguana, Exuma Island	*Cyclura Cychlura figginsi*	Bahamas	Entire	T		N/A	N/A
Iguana, Grand Cayman ground	*Cyclura nubila lewisi*	Cayman Islands	Entire	E		N/A	N/A
Iguana, Jamaican	*Cyclura collei*	Jamaica	Entire	E		N/A	N/A
Iguana, Mayaguana	*Cyclura carinata bartschi*	Bahamas	Entire	T		N/A	N/A
Iguana, Turks and Caicos	*Cyclura carinata carinata*	Turks and Caicos Islands.	Entire	T		N/A	N/A
Iguana, Watling Island ground	*Cyclura rileyi rileyi*	Bahamas	Entire	E		N/A	N/A
Iguana, White Cay ground	*Cyclura rileyi cristata*	Bahamas	Entire	T		N/A	N/A
Skink, Round Island	*Leiolopisma telfairii*	Mauritius	Entire	T		N/A	N/A
Turtle, Cental American river	*Dermatemys mawii*	Mexico, Belize, Guatemala.	Entire	E		N/A	N/A
Rattlesnake, Aruba Island	*Crotalus unicolor*	Aruba Island (Netherlands Antilles).	Entire	T		N/A	N/A
Viper, Lar Valley	*Vipera latifii*	Iran	Entire	E		N/A	N/A

Dated: December 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-1454 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Fremont National Forest Grazing Advisory Board; Meeting

The Fremont National Forest Grazing Advisory Board will meet at 10:00 A.M. on Friday, March 4, 1983 at the Forest Supervisor's Office, 34 North D Street, Lakeview, Oregon 97630. The purpose of this meeting is:

1. Discuss use of range betterment funds.
2. Review range allotment management planning.

The meeting will be opened to the public. Persons who wish to attend should notify Ralph B. Roberts, 34 North D Street, Lakeview, Oregon 97630, phone 947–2151. Written statements may be filed with the Board before or after the meeting.

The committee has established the following rules for public participation:

1. Must have prenotice and placed on agenda.
2. Time limit will be announced at meeting.
3. May be oral or written.
4. General public.

a. Open input on agenda items permitted.

b. May present topics or concerns if prearranged.

Dated: January 10, 1983.

Orville D. Grossarth,

Forest Supervisor.

[FR Doc. 83–1572 Filed 1–19–83; 8:45 am]

BILLING CODE 3410–11–M

Inyo National Forest Grazing Advisory Board; Meeting

The Inyo National Forest Grazing Advisory Board will meet at 10 a.m. on February 22, 1983 in the Inyo National Forest conference room in Bishop, California. The purpose of the meeting is:

Review proposed FY 83–84 range improvement projects and advise Forest Supervisor on use of range betterment funds.
Discuss development of allotment management plans.
Receive Grazing Advisory Board recommendations.
Establish subcommittees.
Establish next meeting date.

The meeting will be open to the public. Persons who wish to attend may notify Inyo National Forest by calling (619) 873–5841. Written statements may be filed with the committee before or after the meeting. Members of the public wishing to speak at the meeting will be recognized by the committee chairman at the appropriate time.

Dated: January 12, 1983.

James L. Cooper,

Acting Forest Supervisor.

[FR Doc. 83–1563 Filed 1–19–83; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Docket 41218; Order 83–1–36]

Order Granting Blanket Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of January 1983.

In the matter of a blanket exemption to indirect air carriers serving as Air Ambulance Operators under section 416(b) of the Federal Aviation Act of 1958, as amended.

Section 401 of the Federal Aviation Act requires air carriers to obtain a certificate of public convenience and necessity from the Board in order to conduct air transportation operations. Under section 416(b) of the Act the Board has granted exemptions from these requirements to allow indirect air carriers to hold out, arrange, and coordinate air ambulance services of direct air carriers. In granting these exemptions to indirect air carriers, we have concluded that, since these operators offer the public a unique service, it is in the public interest to permit them to develop and coordinate the air ambulance capabilities of air carriers throughout the country and make it possible for persons requiring these services to secure them in a systematic and expedited manner.[1] Over 30 carriers have been granted exemptions from Title IV of the Act[2] as indirect air carriers to provide air ambulance services. We have conditioned the exemptions on the requirement that the air ambulance operator use only the services of carriers holding appropriate Board and FAA authority to engage in such operations.

We have during the past two years received eight applications for exemptions to perform air ambulance services. Without exception, all of these applications have been granted, subject only to the condition mentioned above.

In acting on these recent applications, we have not performed any fitness evaluation of the applicant *per se*. Rather, we have concentrated our attention on the direct air carriers that the operators intended to use in their services, conditioning such exemptions on the requirement noted above.[3] We have now decided that we can accomplish the same purpose by granting a blanket exemption from Title IV of the Act to any person desiring to conduct air ambulance services as an indirect air carrier. This exemption will, as in the past, be conditioned upon the air ambulance operator using only Board and FAA authorized air carriers. In addition, we will require the air ambulance operator itself to obtain any safety authorization that may be required by the FAA to conduct this service.

The grant of this exemption will eliminate the need for proposed operators to file and prosecute individual applications for such authority and is in line with our continuing efforts to eliminate regulatory controls which no longer appear necessary. For these reasons, we find that the proposed exemption from Title IV is in the public interest.

Accordingly,

1. We grant a blanket exemption from the provisions of Title IV of the Act to persons proposing to operate as indirect

[1] See, e. g., *Application of Air Medic*, Docket 25135, Order 73–3–62, March 19, 1973.

[2] Except for the obligation under section 404(a) of the Act to provide safe and adequate service.

[3] Most of the direct air carriers that air ambulance operators use for their services are air taxi operators which are required by the Board to register and maintain minimum insurance coverage and to hold an air carrier operating certificate and operations specifications from the FAA.

air carriers to the extent necessary to permit them to hold out, arrange and coordinate the operation of air ambulance services; *Provided* that this relief does not exempt the indirect air carriers from their obligations under section 404(a) to provide safe and adequate service, equipment, and facilities in the conduct of the operations; and *Provided further*, that:

(i) They will utilize only those air carriers that hold appropriate Board and FAA authorization to engage in such air transportation operations; and

(ii) They will themselves obtain any safety authority that may be required by the FAA to conduct such operations.

2. We reserve the right to amend, modify, or revoke this order at any time in our discretion without hearing; and

3. We will publish a copy of this order in the **Federal Register**.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1574 Filed 1-19-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41221]

California-Alberta Service Case; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., January 17, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-1573 Filed 1-19-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-1-40; Docket 41221]

California-Alberta Service Case; Order Instituting Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board is instituting the *California-Alberta Service Case* to select primary and back-up carriers to provide schedule service between Los Angeles/San Francisco, California and Calgary and Edmonton, Alberta, Canada (U.S. Routes F.2 and F.3 of the U.S.-Canada Air Transport Services Agreement). The proceeding will also consider whether Republic Airlines' certificate authority for these routes should be deleted under section 401(g) of the Act. The complete text of Order 83-1-40 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested persons, and petitions for reconsideration shall be filed by January 31, 1983. Answers shall be filed by February 10, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41221, *California-Alberta Service Case.*

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 83-1-40 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 83-1-40 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 12, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1575 Filed 1-19-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Final Affirmative Countervailing Duty Determination; Cabron Steel Plate From Brazil

AGENCY: International Trade Administration.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits that constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate. The estimated net subsidy is 11.75 percent *ad valorem*. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. We continued the investigation at the request of the petitioners. If the final determination by the ITC is negative, the suspension agreement shall have no force or effect. If the final determination by the ITC is affirmative , the suspension agreement shall remain in force.

EFFECTIVE DATE: January 20, 1983.

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, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate. The following programs are found to confer subsidies:

- Industrialized Products Tax (IPI) export credit premium.
- IPI rebates for capital investment.
- Preferential working capital financing for exports: Resolution 674.
- Industrial Development Council program.

We determine the estimated net subsidy on carbon steel plate from Brazil to be 11.75 percent *ad valorem*.

The Department and the government of Brazil have entered into a suspension agreement. If the ITC makes a final affirmative determination, the agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

Case History

On January 11, 1982, the Department received petitions from United States Steel Corporation, and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation (the Five), filed on behalf of the U.S. industry producing carbon steel plate. The petitions alleged that certain benefits that constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to manufacturers, producers, or exporters in Brazil of carbon steel plate. Counsel for the Five alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate a countervailing duty investigation and on February 1, 1982, we initiated a countervailing duty investigation (47 FR 5751).

We stated that we expected to issue a preliminary determination by April 6,

1982. We subsequently determined that the investigation was "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until June 10, 1982 (47 FR 11738).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On February 26, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 9087).

On February 18, 1982, we presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On April 22, 1982, we received the response to the questionnaire. A supplemental response was received on June 7, 1982.

On June 10, 1982, we issued our preliminary determination in this investigation (47 FR 26310). We stated in our preliminary determination that the government of Brazil was providing its manufacturers, producers, or exporters of carbon steel plate with benefits that constitute subsidies. The programs preliminarily determined to bestow subsidies were:

- IPI export credit premium.
- IPI rebates for capital investment.
- Preferential working capital financing for exports: Resolution 674.

On August 24, 1982, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the **Federal Register** on September 7, 1982 (47 FR 39394). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of carbon steel plate to the United States. The petitioners are challenging this agreement in the Court of International Trade in the case of *United States Steel Corp. v. United States*, Court No. 82-10-01361.

By letters of September 21, 22 and 27, 1982, counsel for the Five, United States Steel and counsel for Bethlehem Steel, respectively, requested that the investigation be continued under section 704(g) of the Act. Therefore, we are required to complete the investigation and issue a final determination.

United States Steel submitted new allegations too late to offer the Department a reasonable opportunity to investigate prior to August 24, 1982. Following petitioners' request to continue the investigation, the Department presented a supplemental questionnaire on October 29, 1982 to the government of Brazil, which addressed these late allegations. The supplemental questionnaire addressed the following new programs:

- Non-indexation of overdue accounts payable.
- FINAME loans to producers of steel-making equipment.
- Partial relief from payment of retirement benefits to employees.
- Charcoal used in steel production.
- Ferrovia do Aco, the "Steel Railway".

We received a response to that questionnaire on November 26, 1982.

Scope of Investigation

The product covered by this investigation is hot-rolled carbon steel plate manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615 or 607.94 of the *Tariff Schedules of the United States Annotated (TSUSA);* and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the TSUSA. Semi-finished products of solid rectanglar cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

Companhia Siderurgica Paulista (COSIPA) and Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS) are the only known exporters in Brazil of carbon steel plate to the United States. The period for which we are measuring subsidization is calendar year 1981. COSIPA's and USIMINAS' fiscal years coincide with the calendar year.

Analysis of Programs

In its responses, the government of Brazil provided data for the applicable periods. Throughout this notice, general principles and conclusions of law applied by the Department of Commerce to the facts of this investigation are described in detail in Appendices 2 and 4, which appeared with the notice of "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium" (47 FR 39304).

I. Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs described below to manufacturers, producers, or exporters in Brazil of carbon steel plate.

A. Industrialized Products Tax (IPI) Export Credit Premium. The IPI export credit premium has been found to be a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Exporters of carbon steel plate are eligible for the maximum IPI export credit premium. During the applicable period, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction. Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates, or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid. Since the companies involved in this investigation import large quantities of slab, they received substantially less than a 15 percent benefit on the gross value of many shipments.

Our preliminary determination on this program was based on IPI credits received from July 1, 1981 to December 31, 1981, divided by the value of exports for the same period. We noted at the time two concerns: (1) That the subsidy may have been understated, and (2) that the import of slab may have been a temporary phenomenon.

At verification, the first concern proved correct. The companies record IPI credits when received, which are based on shipments that may have taken place two to three months before. The export figures we used as the denominator in the preliminary

determination bore little relation to the IPI credits received during the same period.

We stated in our preliminary determination that we would ascertain whether the use of imported slab, a major factor in reducing the level of subsidy from this program, was a temporary situation. At verification, we examined imports of slab and determined that COSIPA, which was responsible for 80 percent of the exports of carbon steel plate from Brazil, was still importing substantial quantities of slab which, having entered under duty drawback, must be further manufactured and exported.

To calculate the value of the IPI credits, we sampled COSIPA's and USIMINAS' receipts of IPI credits and traced each to the appropriate shipment. We established that a substantial portion of plate shipments are made with imported slab which enters subject to duty drawback, the value of which is deducted from the value of the shipment before the IPI is calculated. For each shipment, we calculated the value of the IPI credits as a percentage of the gross value of the shipment. We made this calculation as of the date of shipment rather than the date of receipt and did not take into account the devaluation of the cruzeiro between the date of shipment and the date of receipt in accordance with section 771(6)(B) of the Act.

Instead of the 5.40 percent *ad valorem* subsidy reported in our preliminary determination, we calculated a subsidy value during 1981 of 11.05 percent. This rate is premised on an IPI export credit premium of 15 percent.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent on September 30, 1982 to 11 percent. Accordingly, we have made a proportional reduction in our calculation above. On this basis, we calculated a current *ad valorem* export subsidy of 8.10 percent.

B. IPI Rebates for Capital Investment. Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax due in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital.

COSIPA and USIMINAS received benefits under this program from 1977 to 1981. With the enactment of Decree Law 1843 (December 1980), COSIPA and USIMINAS must now pay the IPI tax to the government which in turn rebates 95 percent to SIDERBAS, the government holding company to which COSIPA and USIMINAS belong, to increase its capital.

We consider the amount rebated each year as an untied capital grant received in that year. As such, we have allocated the grants over 15 years, the estimated average life of capital assets in integrated steel mills (based on Internal Revenue Service studies of actual experience in integrated mills in the United States).

In making the calculation for our preliminary determination, we took the amount of the rebate received in each year, converted the cruzeiro value to dollars by using the average exchange rate for the year, and used as the discount rate for each year the average LIBOR (London Interbank Offered Rate) plus the prevailing spread over LIBOR in Brazil in that year. The grants were amortized over 15 years and the total benefit for 1981 was divided by the total value of sales, converted into dollars using the average exchange rate for 1981.

We chose the above method for our preliminary determination because at that time we did not have sufficient information to employ the indexing procedure that establishes the rate of return on long-term cruzeiro debt instruments in Brazil. At verification we learned that government bonds and long-term cruzeiro loans are fully indexed to the inflation rate in Brazil and have fixed real interest rates. The index used is the ratio established for the Readjustable Bonds of the National Treasury (ORTN). In the case of a loan, the cruzeiro value is converted to an ORTN value by using the ORTN index rate in the month of receipt. The stream of principal and interest payments over the life of the loan is then calculated in ORTN and when a payment is made, the ORTN value due is converted into cruzeiros at the ORTN index rate in the month of payment.

Based on this information, we have recalculated the benefit from these grants in accordance with Appendix 2. We have taken the amount of the rebate received in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in the month of receipt, added the monthly ORTN amounts to determine the amount of the grant in each year, and used as the discount rate for each year the interest rate of 4% on ORTN-indexed government debt. The total benefit in ORTN for 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for 1981. The *ad valorem* benefit of this subsidy is 0.67 percent.

C. Preferential Working Capital Financing for Exports: Resolution 674. Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. We have determined that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports.

To determine the value of loans in existence under this program during the 1981 fiscal year, we prorated under this program during the 1981 fiscal year, we prorated any loans that straddled other fiscal years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted. We then divided the total value of these loans by the total value of exports of the two companies under investigation to calculate the amount of preferential financing they received.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that,

within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the annual rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 1.73 percent.

D. Industrial Development Council (CDI) Program. This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI. Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. The government of Brazil stated in its response that neither COSIPA nor USIMINAS received such benefits during 1981. Consequently, we preliminarily determined that this program was not used.

During verification we discovered that benefits had been received in 1981 under this program. We consider this subsidy a savings on current expenses and have allocated the entire benefit to the year received. For equipment puchased during 1981, we added the savings in import duties and in IPI taxes and divided the benefit received by the total sales of the companies under investigation. We calculated the *ad valorem* benefit of this subsidy to be 1.25 percent.

II. Programs Determined Not to Confer Subsidies

We have determined that subsidies are not being provided under the following programs described below to manufacturers, producers, or exporters in Brazil of carbon steel plate.

A. Government Purchase of Equity. The government of Brazil has owned a portion of the equity in USIMINAS and COSIPA since they were established in the 1950's and 1960's respectively. This ownership takes several institutional forms but consists chiefly of shares owned by SIDERBRAS and the National Bank for Economic Development (BNDE). Currently, COSIPA is 99.9 percent owned by government entities (81.5 percent SIDERBRAS, 12.4 percent BNDE, 6.0 percent others) and USIMINAS is 80.7 percent owned by them (34.3 percent SIDERBRAS, 46.4 percent BNDE). Nippon Steel has owned shares in USIMINAS since it was established and currently holds 17.3 percent of the equity. Neither company's stock is freely traded.

Between the years 1977–81, COSIPA made a profit in only one year, 1978. USIMINAS has made a profit in all but one of these years, 1979, which was a difficult year financially for COSIPA, USIMINAS and any other company with substantial foreign currency debt, because of a 30 percent devaluation of the cruzeiro in December 1979.

In the 1977–81 period, both companies experienced significant growth financed largely through debt, but also by government equity infusions. COSIPA's growth has been more substantial, and it has been the greater beneficiary of the government equity purchases. Most of this equity funding has come from government purchases of SIDERBRAS' equity, which in turn has purchased equity in its subsidiaries.

The petitioners alleged that these equity infusions are capital grants which constitute subsidies, in that they are investments in unprofitable companies without expectations of a reasonable return. They further alleged that prudent investors would not invest in COSIPA and USIMINAS, that government investment is "on terms inconsistent with commercial considerations," and that the government purchase of equity is "the grant of funds * * * to cover operating losses." As set forth in Appendix 2, where such allegations were made we looked to see whether the companies concerned appeared to present sound investment opportunities when an investment was made.

USIMINAS has a history of being profitable. For the one year in the recent past when it was not, 1979, that failure was largely attributable to the cruzeiro devaluation.

For COSIPA, the losses have been frequent in recent years, but the government of Brazil stated that this was largely because of the strain placed on the company's resources by expansion. To support its claim that COSIPA is a commercially sound investment, the Brazilian government cited a 1975 feasibility study prepared by the World Bank regarding COSIPA's Phase III expansion project, which included a financial and commercial analysis of the project. Some of the conclusions of that analysis were as follows: (1) "the project provides a * * * rate of return (after taxes) of 10.7 percent in constant terms;" (2) "the company's financial position is expected to allow reaonable dividends after project completion;" and (3) "by 1982, the first full year of Stage III production, net profits * * * as a percentage of average equity * * * would be about 12 percent." In the context of its analysis, the World Bank report noted the substantial increase in steel consumption in Brazil during the previous two decades, particularly for flat products. In addition, COSIPA has been able to attract loans from numerous foreign private banks from the 1970's to the present.

Because of USIMINAS' record of profits in recent years and the returns reasonably expected by the government of Brazil when COSIPA's expansion project began, we have determined that the purchase of equity in these companies by the government is not "inconsistent with commercial considerations."

B. Long-Term Loans. We stated in our preliminary determination that we required addditional information on long-term loans to COSIPA and USIMINAS before making a determination on the allegation that such loans confer subsidies. At verification, we examined several foreign currency loans, both guaranteed and unguaranteed by the government, and found that guarantees apparently made no difference in the terms of the loans and that such loans are granted with interest rates of LIBOR plus a spread that approximates the average spread available on such LIBOR loans in Brazil. We further verified that loans from BNDE and FINAME, a program of BNDE for the purchase of capital equipment manufactured in Brazil, are fully indexed and are made at fixed real interest rates ranging from 5 to 11 percent, depending on the time and the program under which the loan was granted. FINAME loans are granted through commercial banks rather then directly from BNDE and carry higher real interest rates than BNDE loans.

Because long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions such as BNDE, we do not have a benchmark in Brazil for fixed interest rate long-term loans to compare with the interest rates on these loans. However, since these loans are indexed by ORTN, the interest rates are real interest rates. This allows us to constuct a benchmark based on the real interest

rates of the only private long-term loans commercially available in Brazil—the foreign currency loans mentioned above. The comparison of that constructed benchmark and the interest rates on these loans, as described below, suggests that they are not made at preferential rates.

Since LIBOR loans are continually readjusted at the prevailing interest rates, we constructed the benchmark by calculating the average real interest component of LIBOR-plus-spread on long-term loans to Brazil for the period 1977–81 during which these BNDE and FINAME loans were made. We then compared that average real interest rate-plus-spread to the rates at which the long-term BNDE and FINAME loans were made. Our comparison showed that all the BNDE and FINAME loans to COSIPA and USIMINAS were made at rates above the benchmark, which indicates that they were not made at preferential rates. We will monitor loans made by BNDE and FINAME to COSIPA and USIMINAS in future section 751 administrative reviews in order to evaluate whether such loans were made at preferential rates.

C. Investment Credit to the Corporate Income Tax. Brazilian tax law allows any corporation that owes corporate income taxes to elect to apply up to 51 percent of its corporate income taxes owed to the government to specified investment funds. The investment funds generally are for the economic development of certain regions, industries or national interests (e.g., the Amazon, the Northeast, fisheries, tourism and reforestation). The steel industry is not among the targeted sectors. If a corporation elects to direct the taxes it owes to the government into one or more of the specified investment funds, it receives stock for its investment in those funds. Upon receipt of the stock, which must be held at least five years, the investment is included in the equity holdings of the corporation.

COSIPA and USIMINAS have taken part in this program, but not during the applicable period. We have determined that election to participate in this program does not constitute a subsidy to carbon steel plate, however, since all corporations which pay corporate income taxes are eligible to participate in the program on equal terms.

D. Export Financing Under Communication 331. Communication 331 is a set of rules and regulations established by the Brazilian government to govern foreign exchange contracts for export transactions. Beyond establishing these rules, the government has not further involvement. Banks that act as intermediaries in export transactions operate under these rules but are free to choose whether they will discount an account receivable denominated in foreign currency, the type of transaction at issue in this program.

The government of Brazil has stated that it provides no resources to banks to enable them to perform these operations nor does it establish the discount rates. The rate of discount reflects commercial considerations such as the bank's relationship with its customer, its own circumstances, and market rates of interest, which generally track LIBOR rates. As such, we have determined that the discounting of foreign exchange accounts receivable under these conditions is not a subsidy.

E. Purchase of Inputs from a Related Company. Companhia Siderurgica Nacional (CSN) is a member of the SIDERBRAS group and both COSIPA and USIMINAS have purchased slab from CSN. The petitioners alleged that CSN received the same types of subsidies from the government as COSIPA and USIMINAS and that subsidies to CSN are consequently indirect subsidies to COSIPA and USIMINAS.

The government of Brazil stated that COSIPA's and USIMINAS' purchases the slab from CSN have ended and this slab was not used in producing carbon steel plate. We have verified information that this situation was temporary and that the last purchase of CSN slab by COSIPA was in August 1981 and by USIMINAS in June 1981.

F. Transportation Subsidies. The Brazilian government stated that COSIPA and USIMINAS receive no preferential rates when using railroads and ports. At verification, we found no evidence that any programs exist which give preferential freight or insurance rates to steel exporters.

G. Income Tax Deductions for Employee Training and Meals. COSIPA and USIMINAS have tax deductible training programs for which they may take special deductions for training costs, and COSIPA also has a program for which it may take special deductions for employee meals. The maximum deduction for training costs is 10 percent of taxes owed, and for meals 5 percent of taxes owed, although the combined deduction may not exeed 10 percent of taxes owed. Neither company received any benefits under these programs during the applicable period.

The government of Brazil stated that under applicable tax law any manufacturer, without sectoral or regional preference, may take above deductions for training and meal expenditures for employees. Consequently, we have determined that the benefits conferred under this program are not countervailable because they are generally available on equal terms.

H. Non-Indexation of Overdue Accounts Payable. U.S. Steel alleged that public sector companies, such as COSIPA and USIMINAS, have substantial overdue debts with private suppliers, and that these companies are not required to index the value of late payments to private sector companies while such a requirement exists for late payments by the private sector to public sector companies. U.S. Steel argues that such preferential treatment confers a subsidy to state-owned companies.

The government of Brazil stated that no standard accounting principle exists for indexing accounts payable nor is there a special provision which provides preferential treatment for late payments by public sector companies. The terms for payment and adjustments for inflation are negotiated with individual suppliers and are specifically indicated in contracts with suppliers. The government of Brazil provided several examples of such contracts entered into by COSIPA, some of which provided for indexing from the date of sale and others which required indexing only if payment was late. Based on this information, we have determined that the provisions for indexing accounts payable in Brazil do not confer a subsidy to state-owned steel companies.

I. FINAME Loans to Producers of Steel-Making Equipment. U.S. Steel alleged that long-term FINAME loans to producers of steel-making equipment are made at preferential rates and that these subsidized loans provide indirect subsidies to producers of carbon steel plate.

We have determined that long-term FINAME loans to COSIPA and USIMINAS are not made at preferential rates (see discussion on *Long-Term Loans*). The government of Brazil has stated that FINAME loans to producers of steel-making equipment are made according to the same criteria and at approximately the same rates as to all other sectors. Therefore, we have determined that there is no indirect subsidy to producers of carbon steel plate from FINAME loans granted to producers of steel-making equipment.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by manufacturers, producers,

or exporters in Brazil of carbon steel plate.

A. Income Tax Exemption for Export Earnings. Exporters of carbon steel plate are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax statements to determine if any benefit was received in fiscal year 1981. Since neither COSIPA nor USIMINAS had a taxable profit in fiscal year 1980, neither company was eligible to receive benefits under this program.

B. The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIEX). BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: A reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil has stated that the steel industry in Brazil has been developed primarily to supply the domestic market. Since manufacturers of carbon steel plate export only a small portion of their production, they are not in a position to make the required export commitment. In addition, because COSIPA and USIMINAS have large trade deficits, they are effectively ineligible for this program and did not receive any benefits in 1981.

C. Preferential Financing for the Storage of Merchandise Destined for Export: Resolution 330. This program provides financing for up to 80 percent of the value of merchandise placed in a warehouse and destined for export. Interest rates for such loans are 40 percent per annum, with interest payable semiannually. Neither COSIPA nor USIMINAS used this program because both companies' exports are manufactured to order and there is no need to warehouse their merchandise.

D. Accelerated Depreciation for Capital Goods Manufactured in Brazil. This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. Since neither COSIPA nor USIMINAS used the accelerated depreciation provisions to reduce its tax liabilities in its fiscal year 1980 income tax statement, no benefit was received in fiscal year 1981.

E. Export Financing Under Resolution 68. This program provides financing for the export of Brazilian goods for a minimum period of 181 days. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of the f.o.b. invoice price of the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. Neither COSIPA nor USIMINAS used Resolution 68 to finance exports of carbon steel plate to the United States in 1981.

F. Partial Relief from Payment of Retirement Benefits to Employees. Two major pension funds exist in Brazil to provide retirement benefits for employees: PIS for private sector employees and PASEP for public sector employees. PIS is funded through employer contributions and PASEP through an earmarked portion (1 percent) of the state value-added (ICM) tax. U.S. Steel alleged that employees of state-owned companies such as COSIPA and USIMINAS are members of PASEP, and that these companies receive a subsidy because they can partially finance their contributions for employees by using a portion of the ICM tax they have collected on sales while private sector companies, whose employees are members of PIS, must fully finance contributions for employees from their own resources.

The government of Brazil stated that employees of COSIPA and USIMINAS are not participants in the PASEP program. This program is mainly for municipal, state and federal employees, and COSIPA and USIMINAS are treated as private enterprises in this regard, and as such are participants in the PIS program. Therefore, we have determined that no subsidy is conferred to manufacturers, producers or exporters of carbon steel plate under this program.

G. Charcoal Used in Steel Production. U.S. Steel alleged that government incentives for reforestation and the expansion of charcoal production for use as a fuel in the steel industry confer indirect subsidies to the production of carbon steel plate. The government of Brazil stated that neither COSIPA nor USIMINAS use wood charcoal to produce steel. Thus, we have determined that no benefit to carbon steel plate is conferred under this program.

H. Ferrovia do Aco, the "Steel Railway". U.S. Steel alleged that construction of a steel railway by the government, solely to benefit steel companies, constitutes a subsidy. They claim that the railway was designed to reduce the reliance on trucking and thus reduce transportation costs.

The government of Brazil stated that no section of this railway is in operation. Since no companies, steel or otherwise, have yet used this railway, we have determined that no benefit was received by manufacturers, producers or exporters of carbon steel plate.

IV. Program Determined To Be No Longer in Existence

We have determined that the following program which was listed in the notice of "Initiation of Countervailing Duty Investigation" is no longer in existence.

Merchandise Circulation Tax (ICM) Export Credit Premium. This program, which provided Brazilian companies an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01-79, published January 12, 1979.

Petitioners' Comments

In addition to comments made at the hearing, in pre- and post-hearing briefs, and with respect to the suspension agreement, U.S. Steel submitted further comments (after their request for a continuation of the investigation) on October 29 and November 19, 1982. Counsel for Bethlehem Steel submitted additional comments on November 23, 1982. All comments applicable to this final determination are addressed below.

Comment 1

The petitioners state that the absence of private investment in COSIPA and USIMINAS in recent years is a stong indication that government investment is inconsistent with commercial considerations and therefore

countervailable. In addition, petitioners argue that in measuring the reasonableness of an investment, the standard should be whether the government could have obtained a higher return at comparable risk, while the Five claim that the Department's preliminary determination of this issue was inconsistent with its own standards as set forth in Appendix B to the notice of "Preliminary Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium" (47 FR 26300).

DOC Position

The Department is required to determine whether government equity purchases are inconsistent with commercial considerations at the time made. The presence or absence of private investment is not dispositive of the issue. The Department remains consistent with the standards set forth in Appendix 2. These standards on equity did not change substantially from the position the Department set forth in Appendix B. If a company has a record of profitability, as does USIMINAS, we do not normally consider government purchase of equity based on that record to be inconsistent with commercial considerations. In the case of COSIPA, there is a recent history of losses. Accordingly, we examined whether government purchase of equity was inconsistent with commercial considerations.

As noted in our preliminary determinations, there is evidence on the record (a 1975 World Bank appraisal of COSIPA's Phase III expansion) that COSIPA would achieve a respectable level of profitability once the expansion project was completed. On this basis, we preliminarily determined that the government's purchase of equity in COSIPA was not inconsistent with commercial considerations. Because we did not consider government purchase of equity in COSIPA and USIMINAS a subsidy, we did not make a comparison with the average rate of return on equity investment in Brazil. We use this standard as a measure of the amount of a subsidy after we have determined that the government purchased equity is on terms inconsistent with commercial considerations, *not* as the criterion for determining *whether* government equity purchases constitute a subsidy.

Petitioners have noted press reports of 1976 and 1977 World Bank analyses that were critical of COSIPA's expansion project, and they claim that the 1975 World Bank report relied on by the Department is no longer valid. These analyses are discussed in some detail in an April 1981 draft World Bank project audit report of COSIPA's Phase II expansion project, which also includes a financial analysis of the Phase III expansion project. Apparently these reports strongly criticized COSIPA's management in handling the Phase II expansion project, which led to financial difficulties for the company. The 1981 draft World Bank report states that these management problems were expeditiously corrected and that COSIPA's financial picture has improved. While the effects of these financial problems are still being felt, and COSIPA in 1981 was a riskier investment than in 1975, the World Bank in its appraisal of Phase III indicates that the Phase III expansion was a viable commercial venture from 1975 to 1981 and it continues to expect that the ongoing Phase III expansion project will bring a respectable return once fully operational. We will monitor the financial performance of COSIPA in future section 751 administrative reviews in order to evaluate whether equity purchases made in the future are inconsistent with commercial considerations.

Comment 2

U.S. Steel claims that private Brazilian investors are, as a rule, willing to provide loans to a company but are almost never willing to provide equity capital. Consequently, the Department must follow its practice of examining the provision of capital and loans in the context of the capital market of the country of the recipients and make a determination that, in Brazil, the provision of equity capital to COSIPA and USIMINAS is "on terms inconsistent with commercial considerations."

DOC Position

Both the provision of loans and the purchase of equity involve risk-taking for which there should be a commensurate rate of return. Generally, purchasing equity is riskier than making a loan and the provider of the capital expects a higher rate of return on an equity purchase. If it is expected that an equity purchase will provide an adequate return, then the purchase of that equity is not "on terms inconsistent with commercial considerations."

A company's choice of how to raise capital or the factors influencing a provider of that capital either to purchase equity or make a loan are not at issue. There may well be a host of institutional or legal factors which influence where and in what form capital is provided to various companies in a particular country. The relevant question is whether, given the relative riskiness of purchasing equity, the expected return was sufficient to warrant the risk.

In Brazil, the capital market consists of three main actors: the government, private Brazilian investors and foreign investors. The relative strength of these actors and the Brazilian government's definition of its national interests have influenced where capital is invested and by whom. The Department cannot rule on these circumstances; it can only examine whether in a particular case there have been benefits provided that constitute subsidies. With respect to the government purchase of equity in COSIPA and USIMINAS, we have determined that no subsidy was conferred.

Comment 3

U.S. Steel alleges that the government of Brazil has been providing loss coverage through its equity purchases in COSIPA, since the company has experienced frequent losses in recent years while receiving equity from the government. U.S. Steel argues that, under the Act, funds provided for loss coverage constitute a countervailable subsidy regardless of whether the terms of the equity purchases were consistent with commercial considerations.

DOC Position

Since funds for loss coverage are noted separately under the Act, it is necessary to examine this potential subsidy on its own rather than simply considering the equity purchases. This does not mean, however, that equity purchases in a company experiencing losses necessarily constitute funds to cover those losses rather than a sound commercial investment. In this regard, the losses experienced by COSIPA were moderate and it was reasonable to assume at the time of the government purchases of equity that the company could provide a fair return on the investment. Further, COSIPA was making investments at the time that far exceeded the amount of the equity purchases, while the amount of the losses was much less than the amount of the government equity purchases. Strong evidence to the contrary would be needed to alter a conclusion that the equity purchases represented an investment and did not involve the coverage of the losses incurred.

Comment 4

U.S. Steel and the Five state that artificially low rates of depreciation prior to 1981 understate COSIPA's losses, creating a distortion which COSIPA itself belatedly recognized in

its 1981 financial statements. Further, the petitioners suggest that such depreciation methods have overstated the profits of USIMINAS.

DOC Position

In its 1975 financial statements, COSIPA notes that it adopted the system of depreciation, criticized by the Five, based on "criteria approved by an independent consulting engineering company." The Department will not second-guess the validity of this depreciation method, which is legally permissible in Brazil. In its 1981 financial statement, COSIPA noted a change in its depreciation method based on a standardization of accounting practices within the SIDERBRAS group. Without commenting on the accuracy of the prior practice, it noted that the new system sought "to conform the estimated economic useful lives with the international parameters adopted in similar companies." As a result of this change, COSIPA experienced a considerable depreciation cost in 1981 with a significant negative effect on its profitability.

USIMINAS notes in its 1981 financial statements that the change in depreciation methods established by SIDERBRAS in 1981 represented a shift from an 8-year to a 15-year estimate of the useful life of mill assets. Thus, the shorter depreciation schedule used by USIMINAS prior to 1981 led to higher depreciation costs and lower profits in those years.

Comment 5

U.S. Steel contends that the government's true rate of return on its equity purchases can be measured only if all other government subsidies to COSIPA and USIMINAS are subtracted out. Further, U.S. Steel states that, when relying on the 1975 World Bank report concerning COSIPA, the Department must consider the extent to which World Bank predictions of COSIPA's future profitability depended on the existence of such government subsidies.

DOC Position

To subtract out all government assistance from a company's income statement before determing whether government purchases of equity constitute a subsidy would be to judge the government's investment behavior by a different standard than that used for private investors. The purchase of equity by the government of Brazil is not a subsidy *per se*. In order to determine whether government equity purchases are on terms consistent with commercial considerations, it is necessary to look at the reasonableness of an investment from the viewpoint of the private investor. One assumes that a private investor, when assessing the prospects of a reasonable return on an investment, would consider any government subsidies an important factor in his investment decision. Those government subsidies may be separately countervailable, but the investment made with those subsidies taken into account may itself be reasonable.

The World Bank, in its 1975 report on COSIPA's Phase III expansion project, did not address the question of government subsidies in its evaluation of the financial merits of the project. Primarily, the World Bank discussed the growing market for steel in Brazil, COSIPA's capabilities for handling a project that was designed to help meet that demand, and the anticipated rate of return which justified the World Bank's investment in the project.

Comment 6

U.S. Steel and the Five assert that in calculating the net subsidy under Resolution 674 financing, the Department used an incorrect benchmark. They state that the rate for discounting accounts receivable is not a proper benchmark because that market is "illiquid" and the Department must factor in the resulting high compensating balances (although illegal in Brazil) to determine an effective interest rate; that the Department has not used its own standard of a national average commercial rate as a benchmark; that the Department should follow the standards of Paragraph (k) of Annex A of the Subsidies Code when determining such a benchmark, or use as a basis of comparison the rate for borrowing in international financial markets.

DOC Position

The Department believes from evidence available to it that there is no meaningful commercial market for short-term working capital loans in Brazil. Instead, most firms meet their needs for working capital through the sale of accounts receivable. Therefore, the Department has determined that the discounting of accounts receivable provides the most appropriate basis for comparison.

In determining a national benchmark, the Department chose the Banco do Brasil rate because prior case precedent and statements of the government of Brazil suggested that this was the appropriate standard. As the largest single banking entity in Brazil (representing 35–40% of all banking assets), the Banco do Brasil acts as a price leader from which the rates of other banks vary. Documents received at verification support our preliminary determination in several respects. First, the annual Banco do Brasil discount rate is 59.6 percent, as claimed; numerous banks, both state-owned and private, discount receivables at rates near (both above and below) the rate set by the Banco do Brasil. Second, as it applies to COSIPA and USIMINAS, the market is not "illiquid". During the period of investigation both companies discounted a significant percentage of their domestic accounts receivable with a wide variety of banks, and used this facility as the chief method of raising working capital. During verification, we found no evidence of compensating balances in company records; the amount received by the company after discounting a receivable was the value of the receivable minus the discount rate, the tax on financial transactions (IOF) and a small commission. Third, Paragraph (k) does not apply in this analysis. It is concerned with official export credits for medium- and long-term loans. Resolution 674 financing is not comparable to such export financing. Lastly, in our preliminary determination we addressed the issue of comparability between cruzeiro and foreign currency sources for working capital. Our analysis has not changed since that time.

Comment 7

Counsel for Bethlehem Steel contends that the investment subsidy from credit to the corporate income tax program is countervailable, even though generally available.

DOC Position

We have determined that this program is not countervailable because it is generally available on equal terms to all industries in Brazil. For our position on generally available programs see Appendix 4.

Comment 8

U.S. Steel and counsel for Bethlehem Steel argue that, without the availability of long-term cruzeiro loans from BNDE and FINAME, firms would have to borrow short-term. In particular, they claim that a short-term line of credit can be transformed into a longer-term arrangement because short-term financing is often rolled over, effectively turning it into long-term, variable-rate financing. Therefore, in the absence of a benchmark for long-term cruzeiro loans, the Department should use as a benchmark the interest rate on short-term cruzeiro loans, which serve as a measure of long-term interest rates.

DOC Position

We do not consider short-term interest rates and long-term interest rates comparable because they reflect different types of borrower needs and different degrees of risk on the part of the lender.

A short-term line of credit, even if constantly renewed over a long period of time, is still short-term financing. It provides working capital on an ongoing basis, and the borrower's need, the lender's risk and the rate of interest are subject to constant re-evaluation which may lead to readjustments. Such is not the case with a long-term loan. At the outset, need and risk must be determined. Generally, funds from a long-term loan are disbursed early on to finance major expenditures, such as capital equipment with a long useful life, and a borrower cannot meet these needs through short-term credit lines.

Further, short-term interest rates may be very volatile, reflecting ongoing changes in the credit markets and government monetary policy. Long-term interest rates change more gradually and, as one would expect, the rise in interest rates for short-term borrowing in Brazil since early 1981 has also led to a notable, through less dramatic, rise in the real interest rate on long-term loans.

Comment 9

U.S. Steel and counsel for Bethlehem Steel allege that explicit and implicit guarantees from the Brazilian government with regard to loans obtained from non-governmental sources by COSIPA and USIMINAS constitute countervailable benefits.

DOC Position

Government ownership of a firm does not implicitly guarantee the debt of the firm, and thus does not confer *per se* a subsidy. An explicit loan guarantee by the government, however, bestows a benefit to the extent that the recipient of the guaranteed loan pays less for the debt than it would have absent the guarantee. In the cases of COSIPA and USIMINAS, we found that, while some of the long-term loans to the two companies obtained in foreign currency were explicitly guaranteed by the Brazilian government, others were guaranteed by the companies' own assets. Loans explicitly guaranteed by the Brazilian government carried terms no more favorable than loans guaranteed by company assets. Therefore, we determine that the guarantee of COSIPA's and USIMINAS' loans by the Brazilian government does not provide a countervailable benefit.

Comment 10

U.S. Steel contends that the benefits received by COSIPA and USIMINAS since at least 1975 on imported machinery under the CDI program reduce the cost of capital equipment and therefore are capital subsidies. Thus, the Department should follow its standard practice and allocate such benefits over several years.

DOC Position

The benefits under this program are a reduction of taxes. It is the Department's policy to expense tax-based benefits in a single year rather than carry them forward.

Comment 11

Counsel for Bethlehem Steel has noted that with the decline in imports of steel into Brazil in 1982, it is unlikely that the import content of exports of carbon steel plate, in 1982, has exceeded the 25 percent level that would lead to a reduction in the value of the IPI export credit premium on these exports. Accordingly, counsel urged that we use the nominal rate of the IPI export credit premium, verified by the Department to be received by carbon steel plate manufacturers in 1982, in determining the benefits bestowed under this program.

DOC Position

General statistics of imports of steel into Brazil are not a relevant indicator of the import content of carbon steel plate exports. The average import content of total exports does not determine the amount of the IPI export credit premium received on exports of a product. The deduction for imported slab in the calculation of the amount of the IPI export credit premium received is done on a *shipment-by-shipment* basis. The amount of the benefit received under this program is the sum of the IPI credits earned on all shipments divided by the total value of those shipments.

Further, we cannot take into account conjecture about what may have occurred with respect to the import content of a company's carbon steel plate exports in 1982. Whatever the situation, it will be addressed during a section 751 administrative review.

Respondent's Comments

Comment 1

The respondent claims that IPI rebates for capital investment under Decree Law 1547 are not countervailable for the following three reasons. First, as a result of a revamping of legislation concerning the IPI tax that began in 1979, the IPI tax is currently applicable to only fourteen product sectors and exemption from the tax is the rule while the obligation to pay is the exception. Thus, the elimination of the tax is the generally available situation and the reduction of the tax on any of the remaining sectors subject to it does not constitute a subsidy. Second, since the IPI tax is paid by the Brazilian steel producers, the funds for the rebates do not originate from the government of Brazil. Thus, the rebates do not constitute subsidies. Third, the rebates are generated solely by domestic, not export, sales and it is not within the purview of the U.S. countervailing duty law to countervail benefits received on production not destined for the United States.

DOC Position

The IPI tax is an indirect tax and as such is passed forward to the consumer. A steel company collects this tax on sales as the agent for the government; the company does not, itself, pay the tax. Decree Law 1547 is a mechanism by which a steel company is permitted to collect funds due the government and then receive a 95 percent rebate of the taxes due. The program does not involve the rebate of payments made from the company's own funds.

Not all steel companies receive this rebate. Although the same level of IPI tax is applicable to all steel products, only companies producing certain priority products, with approved expansion projects, can receive the rebate. Fabricators of steel products, such as pipe and tube manufacturers who purchase coil, are not eligible for the rebate. Even COSIPA and USIMINAS have not been eligible for the rebates since December 1980, when Decree Law 1843 directed that rebates of the IPI tax collected on sales by state-owned steel companies go to SIDERBRAS. Thus, the rebates are not generally available within the steel sector and represent a selective benefit to priority producers.

These rebates, when received, are applied to capital investment projects. The IPI tax is collected on domestic sales and the rebate is simply a mechanism to raise capital for the companies that receive them. That the rebates are generated only by domestic sales does not alter the fact that they benefit all production, including exports.

Comment 2

The respondent claims that the IPI rebates, which are capital contributions that eventually become equity shares, are one method of fulfilling the government's capital commitments to the Phase II and Phase III expansion

programs of COSIPA and USIMINAS. They further claim that these funds were invested for the same purposes and under the same assumptions concerning the viability of COSIPA and USIMINAS as the government purchases of equity which the Department has determined do not constitute subsidies.

DOC Position

The Department has determned that government purchases of equity in COSIPA and USIMINAS were not made "on terms inconsistent with commercial considerations." We made this determination based upon an analysis of the government's investment in each of these companies in which it, through SIDERBRAS, acted as an individual investor expecting a reasonable return on its investment. Although funds derived from the IPI rebates for capital investment also become equity, and in the case of COSIPA and USIMINAS most of the equity shares go to the government, we have determined that government equity shares derived from this program are grants and are countervailable.

Decree Law 1547 established a mechanism for generating capital funds to expand the steel sector and meet certain priority needs. Under this program, the government gives grants to both privately-owned and state-owned steel companies. When issued, equity shares derived from these funds are distributed proportionately to current shareholders in accordance with their ownership of the company's outstanding shares. Accordingly, the government receives no equity in privately-owned companies that receive these grants.

Further, these grants are earned through domestic sales performance, not disbursed based upon separate investment decisions as to the amount, the need and the appropriate timing of equity purchases. That state-owned steel companies received grants and the government received equity in this manner does not make it any less a subsidy. The subsidy nature of a program to aid the steel sector does not change depending upon who owns the steel companies.

An indication that the government of Brazil has sought to give greater direction to the use of these funds going to state-owned companies can be seen in Decree Law 1843. With this law, COSIPA, USIMINAS and other state-owned steel companies no longer receive these rebates; instead, the rebates earned by their sales go to fund the investments of SIDEBRAS, the government steel holding company. SIDEBRAS may use these funds where it chooses, investing in a particular company more or less than the amount it has generated, or none at all. Our determination that the government purchase of equity was not countervailable concerned the purchases of equity by SIDEBRAS; it was not a general determination concerning government equity acquired by whatever means.

Comment 3

The respondent claims that, absent a showing of immediate competitive advantage by the Department, we must allocate in equal installments the *face* value of the grants received from the IPI rebates for capital investment over the full useful life of the assets purchased, as required by the legislative history and the Court of International Trade in *Michelin Tire Corporation v. United States*, 2 C.I.T. 143 (1981). Respondent further alleges that the use of the present value methodology for the calculation of grant benefits violates Article 4(2) of the Subsidies Code in that the U.S. government will collect countervailing duties in excess of the face value of a grant.

DOC Position

We have allocated these grants over the full useful life of the assets purchased in accordance with *Michelin Tire Corporation v. United States*, Slip Op. 82–115 (December 15, 1982). In this case, the Court did not rule how the Department should allocate the benefit from a grant over the useful life of the asset. The Court did, however, suggest that a method which recognizes the time value of money be "an acceptable and recognizable means of analyzing financial benefit" from a grant. The present value concept is such a recognized principle of financial analysis and its use is fully consistent with the Subsidies Code and U.S. countervailing duty law. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, the amount countervailed will not exceed the total net subsidy.

Comment 4

The respondent claims that the government of Brazil has the right to exempt loans received under Resolution 674 from the IOF tax because it is the exemption of an indirect tax on the financing of products for export. Therefore, for the Department to determine the interest-rate subsidy by considering the IOF tax an integral part of the commercially-available rate (considering exemption of the IOF tax a subsidy) is contrary to the GATT and U.S. law.

DOC Position

We addressed this issue in our preliminary determination. Our analysis has not changed since that time.

Comment 5

The respondent argues that the Department, based upon information for 1982 it has verified, must make adjustments in the amount of net subsidy determined to exist under Resolution 674 financing and the IPI export credit premium. Otherwise, the Department overstates the amount of subsidy conferred on 1982 exports.

DOC Position

When conducting an investigation to determine the existence and extent of subsidization, we choose an appropriate period of investigation. In this case, the period for which we are measuring subsidization is calendar year 1981. Normally, the period of investigation provides the most current information available.

We recognize that for any one company the level of benefit from a particular subsidy program (such as Resolution 674 financing) may change after the period of investigation and that in some cases this may be known prior to the final determination. But, we cannot make adjustments for that program when complete information is unavailable for determining the amount of subsidization in its entirety from any of the several programs that a company may be eligible for and use. For this reason, we determine the estimated net subsidy based on the period of investigation. Changes in the amount of benefit a company receives from a program subsequent to the period of investigation, whether that increases or decreases the level of subsidization, can be adjusted for during a section 751 administrative review.

However, when there is a fundamental change in the benefit from a program after the period of investigation (or after the review period in a section 751 administrative review), which is applicable to all recipients, we take cognizance of that change if we have been able to confirm that the change has occurred and if there is no reason to believe that there has been a shift of these benefits to other programs. We then announce the adjustment in the rate for the deposit of estimated countervailing duties in the next notice published in the normal course of the proceeding. In the case of the IPI export credit premium, there have been three verified reductions in the maximum available benefit during 1982. Currently, the rate is 11 percent as opposed to the

15 percent rate that prevailed during most of 1981. Using 1981 information on the amount of benefit received, we have made a proportional reduction in the amount of estimated net subsidy from this program.

Comment 6

The respondent argues that the Department's calculation of the benefit from the IPI export credit premium on the basis of the IPI credits earned on the date of export of each shipment rather than on the actual date of receipt by the company of the IPI credits for each shipment reflects an improper interpretation of section 771(6)(B) of the Act. Further, respondent claims that this procedure will result in the collection of countervailing duties in excess of the benefit actually received, which is contrary to the Subsidies Code and U.S. countervailing duty law.

Respondent states that because of the ongoing devaluation of the cruzeiro, the Department, in order to determine the dollar value of the benefit to the company on each export shipment, should convert the cruzeiro amount of the IPI credits into dollars at the exchange rate on the date of their receipt rather than at the exchange rate on the date of shipment. This procedure allegedly would not involve use of an impermissible offset and would allow a precise measure of the effects of devaluation on the veal value of the IPI credits received, since it would compare dollar-value received to dollar-denominated exports and take into account economic realities in Brazil.

DOC Position

The language in the Act concerning permisible offsets in unabiguous. Under section 771(6)(B), an offset is allowed for "any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by Government order." In the case of the IPI export credit premium, no such government mandate exists. Delays in a company's receipt of the IPI credits are purely administrative, frequently the result of a company's delayed application for it. When a company applies for the IPI credits it must determine the amount for which it is eligible by using the exchange rate in effect on the date of shipment, even if application is made months later and the exchange rate has changed substantially.

Further, a company quotes its export prices in dollars but receives cruzeiros. The amount of cruzeiros received is determined at the exchange rate in effect when the exchange contract for the shipment is negotiated. This occurs on or before the date of shipment. Any change in the exchange rate after the date of shipment has no effect on the cruzeiro amount to be received by the company for either the IPI credits or the gross value of the shipment, their exchange value in terms of dollars having already been predetermined.

Negative Determination of Critical Circumstances

Counsel for the Five alleged that imports of carbon steel plate from Brazil present "critical circumstances." Under section 355.29 and 355.33(b) of the Department's regulations, critical circumstances exist when the alleged subsidies include an export subsidy inconsistent with the Agreement and there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

In our preliminary determination we found, based upon the most recent information then available, that critical circumstances did not exist for carbon steel plate from Brazil. Information is now available on all entries made prior to the suspension of liquidation ordered on June 17, 1982 by our preliminary affirmative countervailing duty determination. In addition to the data used in our preliminary determination, we have examined import statistics from May through July 1982, because many entries made prior to June 17, 1982, may not have been included in U.S. import statistics before July. Based on these data, we have determined that critical circumstances do not exist for carbon steel plate from Brazil.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturers' records.

Administrative Procedures

The Department has offered interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on July 16, 1982. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of carbon steel plate from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will be voided and this proceeding will be terminated. If, however, the ITC determines that such injury does exist the suspension agreement shall remain in effect in accordance with its terms.

In the event the suspension agreement is violated, the Department, in accordance with section 703(i) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise and will issue a final countervailing duty order as required by section 704(i)(1)(C) of the Act.

This determination is published in accordance with section 705(d) of the Act.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

January 11, 1983.

[FR Doc. 83-1310 Filed 1-19-83; 8:45 am]

BILLING CODE 3512-25-M

Certain Scissors and Shears From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain scissors and shears from Brazil. The review covers the period March 1, 1980 through February 28, 1981. As a result of the review, the Department has preliminarily determined the amount of the net subsidy to be 3.88 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Laura K. Kneale or Edward F. Haley, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 10266) the final results of its last administrative review of the countervailing duty order on certain scissors and shears from Brazil (T.D. 77–64, 42 FR 8634) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are scissors and shears valued over $1.75 per dozen, imported directly or indirectly from Brazil. Such imports are currently classifiable under items 650.9000 and 650.9200 of the Tariff Schedules of the United States Annotated.

The review covers the period March 1, 1980 through February 28, 1981 and three programs found countervailable in the original investigation: preferential financing for exports, income tax exemptions for export earnings, and an overrebate of indirect taxes.

There are two unknown Brazilian exporters of this merchandise to the United States. The review is based on information provided by the Government of Brazil covering one of these exporters, ZIVI, S.A.—Cutelaria, whose shipments represented 92% of Brazilian exports of this merchandise to the United States during the period.

Analysis of Programs

(1) Preferential Financing For Exports. Under this program companies are declared eligible by the Department of Foreign Commerce of the Banco Central do Brazil ("CACEX") to receive working capital loans. These loans have a duration of up to one year. Each firm producing scissors and shears can obtain preferential financing for up to 30 percent of the value of its previous year's exports.

We calculated the subsidy under this program by multiplying the value of loans outstanding under the program during the period by the differential between the commercial interest rate and the preferential interest rate for each loan. For loans granted prior to the period, only that portion extending past March 1, 1980 was included in our calculation. We similarly prorated loans extending past February 28, 1981.

Then commercial rate for short-term working capital is the rate established by the Banco do Brazil for discounting sales of accounts receivable. We chose this as the benchmark rate because information provided by the Government of Brazil indicates that working capital is normally raised within the Brazilian financial system through the sale of accounts receivable. The commercial rate includes the tax on financial transactions, from which loans under the preferential financing program are exempt, and varied from 25.08 to 66.5 percent during the period April 20, 1979 to February 28, 1981.

During the period ZIVI had loans outstanding under Resolutions 515 (effective February 8, 1979) and 602 (effective March 5, 1980) of the Banco do Brazil. The effective annual rate under the former was 8.7 percent and for all loans taken out by ZIVI under Resolution 602 was 26.39 percent. The differential between the commercial and preferential rates was 16.38 percent for loans granted under Resolution 515, and 33.48 and 37.98 percent for loans granted under Resolution 602. We calculated the benefit conferred by the program for the period to be 2.77 percent *ad valorem*.

With the publication of successor Resolution 674, effective January 22, 1981, there was a considerable increase in benefits under the program. The effective rate of interest for loans under this resolution is 44 percent. The comparable rate for discounting sales of accounts receivable is 59.6 percent plus the 6.9 percent tax on financial transactions. The differenetial is 22.5 percent.

ZIVI did not contract for loans under Resolution 674 during the period from January 22, 1981 through February 28, 1981. To estimate the potential benefit and cash deposit of estimated duties for this program, we summed the prorated value of loans outstanding during the current review period, and found an actual utilization rate of 31.78 percent. We then multiplied the differential between the benchmark commercial rate and the preferential interest rate by the loan utilization rate and found a potential benefit under this program of 7.15 percent *ad valorem*.

(2) Income Tax Exemptions for Export Earnings. Exporters of scissors and shears are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We calculated the benefit from this program to be 1.11 percent *ad valorem* for the period.

(3) IPI Export Credit Program. The IPI is a tax on manufactured products. The Brazilian government provides a cash payment upon export as a rebate of this tax. In previous investigations and reviews, we found the IPI export credit to be a countervailable overrebate of indirect taxes. The Brazilian government eliminated IPI overrebates on December 7, 1979 but reinstated them on April 1, 1981. Therefore, this program provided no benefit during the period of review. Currently, the Government of Brazil collects a tax on exports of scissors and shears to the U.S. which fully offsets the benefit received under this program. Therefore, for purposes of the cash deposit of estimated duties, the subsidy under this program is zero percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred by the three programs during the period of review is 3.88 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.88 percent of the f.o.b. inovice price on all shipments of Brazilian scissors and shears exported on or after March 1, 1980 and on or before February 28, 1981.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 8.26 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first wordkay thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the

results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 17, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1582 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Services Subcommittee of the President's Export Council; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980 and Executive Order 12399 of December 31, 1982. The Council's purpose is to advise the President on matters relating to United States export trade. The Services Subcommittee was formed by the Council to study service trade issues.

Time and Place

February 10, 1983, 10:00 a.m.–12:30 p.m. The meeting will take place in Room 4830 of the Herbert C. Hoover Building, 14th & Constitution Ave., NW., Washington, D.C. 20230.

Agenda

The agenda will include the following:

An assessment of the insurance industry's competitive situation in the U.S. and abroad

New approaches to opening up markets in developing countries to U.S. insurers

New ways to promote U.S. insurance operations abroad

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION CONTACT:

Copies of Minutes

Elisabeth Vermilye, Room 3213, U.S. Department of Commerce, 14th & Constitution Avenue NW., Washington, D.C. 20230, Telephone: (202) 377–1125.

Dated: January 17, 1983.

Brant Free,

Director, Office of Service Industries.

[FR Doc. 83-1579 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Steel Wire Rope From Korea; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of steel wire rope from Korea is being postponed until not later than April 26, 1983.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–1766.

SUPPLEMENTARY INFORMATION: On October 22, 1982, we announced our initiation of an antidumping investigation to determine whether steel wire rope from Korea is being, or is likely to be, sold in the United States at less than fair value (47 FR 47054). The notice stated that we would issue a preliminary determination by March 7, 1983.

Section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties involved are cooperating in the investigation, if it detemines that the case is extraordinarily complicated, and if additional time is needed to make the preliminary determination. We find these factors to exist in the present case. Specifically, we determine that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated and the adjustments to be made. We intend to issue a preliminary determination not later than April 26, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 17, 1983.

[FR Doc. 83-1584 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Trade Information Services; Fee Schedule

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce announces a new user fee program for Country Market Surveys and for Global Market Surveys, which were previously provided on a cost-free basis. The program also includes an increase in fees for more current International Market Research reports.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Requests for services described in this notice should be directed to International Market Research Services, OTIS/ITA, ROOM 1320, U.S. Department of Commerce, Washington, D.C. 20230, or to the nearest Department of Commerce District Office.

SUPPLEMENTARY INFORMATION: Descriptions of the products offered for sale, as well as the prices which will be applied as of January 12, 1983, are as follows:

Country Market Surveys (CMS)s

CMSs offer a wealth of marketing information relevant to the potential U.S. exporter, information that is often difficult to obtain from other sources. They are summaries of full-length International Market Research (IMR) reports which analyze U.S. export opportunities in a specific country market for a particular U.S. industry. The surveys describe the current marketing situation, trends expected in the next five years, best sales prospects, estimates and projection of market size figures, imports from the United States, domestic production, and end-user industry sectors. The CMSs also provide sources of information on regulations and technical standards. The publications are available for a fee of $7.50 for each CMSs or $6.50 each if six or more CMSs are ordered.

Global Market Surveys (GMS)s

GMSs are a combination in loosleaf binder form of all Country Market Surveys prepared and distributed before July 1982 on a selected industry or product theme. They offer the potential exporter the opportunity to purchase all the earlier CMSs for a particular industry theme at a price significantly below the individual CMS price. A fee of between $30 and $100 has been established for each GMS depending on the number and age of country surveys contained in the GMS.

International Market Research (IMR) Reports

IMR reports are original studies of growth export markets for selected U.S. industries. They are prepared on the spot, in the country of research, by market consultants under contract to the U.S. Department of Commerce or by the U.S. Foreign Commercial Service. The reports reflect the opinions and view of the surveyed country's end users, importers, agents, distributors and government officials. Fees for such reports are between $50 and $100, depending on length of the report.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 83-1565 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Status Report on Voluntary Product Standards

AGENCY: National Bureau of Standards, Commerce.

ACTION: Development, maintenance, and withdrawal of certain voluntary standards.

SUPPLEMENTARY INFORMATION: On August 30, 1982, the Department of Commerce (Department) announced in the **Federal Register** (47 FR 38171) the status of 26 standards classified as voluntary standards. The announcement was made in accordance with the revised "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10).

The August 30, 1982, notice specified the retention of specific standards for fixed periods of time. The updated status of all existing voluntary standards is indicated below.

The following Voluntary Product Standards will continue to be maintained by the Department:

Standard and Proponent Organization

PS 1-74 "Construction and Industrial Plywood", American Plywood Association

PS 20-70 "American Softwood Lumber Standard", American Lumber Standards Committee

PS 73-77 "Carbonated Soft Drink Bottles", Glass Packaging Institute

The Department has agreed to sponsor the development of a Voluntary Product Standard for the production of carbonated soft drinks in glass bottles, which was requested by the National Soft Drink Association. It has been determined that this standards project meets the six requirements for Department sponsorship stated in § 10.0(b) of the mentioned Procedures.

The following standards will be retained by the Department until January 20, 1984, to permit the orderly transfer of sponsorship of such standards from the Department to the identified organizations.

PS 56-73 "Structural Glued Laminated Timber", American Institute of Timber Construction

PS 67-76 "Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases", Jewelers Vigilance Committee

PS 68-76 "Marking of Articles Made of Silver in Combination with Gold", Jewelers Vigilance Committee

PS 69-76 "Marking of Articles Made Wholly or in Part of Platinum" Jewelers Vigilance Committee

PS 70-76 "Marking of Articles Made of Karat Gold", Jewelers Vigilance Committee

PS 71-76 "Marking of Jewelry and Novelties of Silver", Jewelers Vigilance Committee

PS 72-76 "Toy Safety", American Society for Testing and Materials

In accordance with § 10.13 of the mentioned Procedures, notice is hereby given of the withdrawal of the following standards. This action is taken in furtherance of the Department's announced intentions as set forth in the August 30, 1982, notice to withdraw these standards. The effective date for the withdrawal of the standards will be March 21, 1982. This withdrawal action terminates the authority to refer to these standards as voluntary standards developed under the Department of Commerce procedures. The organizations listed below have assumed responsibility for the standards.

PS 36-70 "Body Measurements for the Sizing of Boys' Apparel", American Society for Testing and Materials

PS 42-70 "Body Measurements for the Sizing of Women's Patterns and Apparel", American Society for Testing and Materials

PS 45-71 "Body Measurements for the Sizing of Apparel for Young Men (Students)", American Society for Testing and Materials

PS 51-71 "Hardwood and Decorative Plywood", Hardwood Plywood Manufacturers Association

PS 54-72 "Body Measurements for the Sizing of Girls' Apparel", American Society for Testing and Materials

PS 63-75 "Latex Foam Mattresses for Hospitals", American Society for Testing and Materials

PS 66-75 "Safety Requirements for Home Playground Equipment", American Society for Testing and Materials

CS 151-50 "Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers and Children (for the Knit Underwear Industry)", American Society for Testing and Materials

FOR FURTHER INFORMATION CONTACT: Karl G. Newell, Jr., Office of Product Standards Policy, National Bureau of Standards, Washington, D.C. 20234, Telephone: (301) 921-2368.

Dated: January 6, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-927 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

President's Private Sector Survey on Cost Control; Open Meeting

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of Public meeting of the Executive Committee of the President's Private Sector Survey on Cost Control.

SUMMARY: The President's Private Sector Survey on Cost Control was established by the President pursuant to Executive Order 12369 of June 30, 1982, and extended by Executive Order 12398 of December 31, 1982. The Executive Committee of the Survey is chartered by the Department of Commerce as a public advisory committee in accord with the Federal Advisory Committee Act.

The purpose of the President's Private Sector Survey on Cost Control is to conduct a private sector survey on cost control in the Federal Government and to advise the President, the Secretary of Commerce, and other Executive agency heads with respect to improving managment and reducing costs.

Time and Place

February 4, 1983 at 11:00 a.m. The meeting will take place at the U.S. Department of Commerce Auditorium, First Floor, Herbert C. Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda

(1) Receive a status report on activities of the President's Private Sector Survey.

(2) Establish a Subcommittee of the Executive Committee. The purposes of the Subcommittee are: (i) To review the recommendations submitted, including task force reports and public comments, and (ii) determine which recommendations should be made to the President and Departments and Agencies.

SUPPLEMENTARY INFORMATION: To accomplish the President's objective that the survey be funded, to the

maximum extent practicable, by the private sector, staff support for the Executive Committee is provided by a not-for-profit organization, under a joint agreement with the Department of Commerce. This organization, The Foundation for the President's Private Sector Survey on Cost Control, Inc., provides the staffing for 36 separate Task Forces which have examined the operations of various Federal agencies and programs to gather and process the information necessary for the Executive Committee to accomplish its objectives.

It is expected that the Subcommittee will hold approximately six public meetings between late February and late April, 1983. Exact dates will be noticed in the **Federal Register.** Copies of the draft reports will be publicly available approximately two weeks prior to the date of the pertinent meeting. Copies will be available for public inspection at the Department of Commerce's Central Reference and Records Inspection Facility, Room 6628 Main Commerce (Hoover Building) at 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Please telephone Ms. Geraldine LeBoo at (202) 377–3271 for information concerning fees and procedures for obtaining copies by mail.

The public may file written statements for consideration by the Subcommittee any time before or after the meetings. It is strongly recommeded that statements be filed after the draft reports are made public, but before the pertinent Subcommittee meeting is held, to ensure that the comments are considered by the Subcommittee before adoption of a report. The comments should be filed at the Department of Commerce's Central Reference and Records Inspection Facility, address and phone number as above. All public statements received will be available for public review. It is expected that the full Executive Committee will hold a final meeting probably in late May or early June, to consider and act upon a summary report for the President.

Public Participation

The February 4 meeting will be open to the public. Seating will be on a first-come, first-serve basis, up to the safe capacity of the meeting room. Media representatives are encouraged to call Mr. Malcolm Barr, Director, News Relations, Department of Commerce, 377–4901, to facilitate coverage of the meeting. The meeting agenda will not include time for oral statements from public attendees. Although the February 4 meeting will not consider any draft reports, the public may file any written statements it wishes to file. The place to file and procedures to be followed are the same as that described above for the forthcoming Subcommittee meetings.

Copies of minutes of each meeting will be publicly available from the Department's Centeral Reference and Records Inspection Facility, address and phone number as above.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Colson, Committee Control Officer for the Executive Committee of the President's Private Sector Survey on Cost Control, telephone (202) 466–5170.

Dated: January 19, 1983.

Marilyn S. McLennan,

Chief, Information Policy and Management Division, Office of the Secretary.

[FR Doc. 83-1794 Filed 1-19-83; 11:19 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Issuance of Letters of Authorization

An amendment made to the Marine Mammal Protection Act in 1981 directs the Secretary to allow, on request, the taking of small numbers of non-depleted marine mammals incidental to specific activities in specified geographical areas, if the Secretary makes certain findings concerning the effects of the activities and establishes regulations covering these activities. In 1982, the National Marine Fisheries Service issued Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities. These included specific regulations allowing the taking of ringed seals incidental to on-ice seismic activities in the Beaufort Sea. Any company or contractor wishing to be covered by these regulations must apply for and receive a Letter of Authorization, which is valid for one operating year. We have received four applications for a Letter of Authorization to conduct on-ice seismic activities in the Beaufort Sea in 1983. We have determined that requests are consistent with findings made for the specific regulations and that the level of taking will have a negligible impact on the ringed seals species or stock and its habitat and its availability for subsistence use.

Therefore, notice is being given that the National Marine Fisheries Service issued four Letters of Authorization unde the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to on-Ice Seismic Activities to the following:

Western Geophysical Company, 351 E. International Airport Road, Anchorage, Alaska 99502, Issued on January 14, 1983

Consolidated Georex Geophysics, 699 Hampshire Road, Suite 203, Westlake Village, California 91361, Issued on January 14, 1983

Geophysical Service Inc., 5801 Silverado Way, Anchorage, Alaska 99502, Issued on January 14, 1983; and

Dames & Moore, 800 Cordova, Suite 101, Anchorage, Alaska 99501, Issued on January 14, 1983.

These Letters of Authorization are valid for 1983 and are subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B).

These Letters of Authorization are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 14, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-1589 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton Fiber Textile Products From Thailand

January 17, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of cotton gloves and mittens in Category 331 at a level of 632,366 dozen pairs during the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983. A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended and extended, between the Governments of the United States and Thailand, the United States

Government has decided to control imports of cotton textile products in Category 331, produced or manufactured in Thailand and exported to the United States during the eighteen-month period which began on January 1, 1982, in addition to those categories previously designated.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

SUPPLEMENTARY INFORMATION: On October 14, 1982, there was published in the **Federal Register** (47 FR 45896) a letter dated October 8, 1982 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, produced or manufactured in Thailand, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983. In accordance with the terms of the bilateral agreement, as amended and extended, the United States Government has decided also to control imports of cotton textile products in Category 331, produced or manufactured in Thailand and exported to the United States during the same period. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 331 in excess of the designated level of restraint. The level has not been adjusted to reflect any imports after December 31, 1981. Imports during the January 1–November 30, 1982 period have amounted to 319,025 dozen pairs in Category 331 and will be charged. As the data become available, further charges will be made to account for imports during the period which began on December 1, 1982 and extends to the effective date of this action, as well as thereafter.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 17, 1983.

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on October 8, 1982 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 Thailand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 21, 1983 and for the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 331, produced or manufactured in Thailand, in excess of 632,366 dozen pairs.[1]

Textile products in Category 331 which have been exported before January 1, 1982 shall not be subject to this directive.

Textile products in Category 331 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissoner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commission of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreeemnts.

[FR Doc. 83-1529 Filed 1-19-83; 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. Imports in Category 331 during the January-November 1982 period have amounted to 319,025 dozen pairs.

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 81-1]

A&B Wiper Supply, Inc., a Corporation; Provisional Acceptance of a Consent Order Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Consent Order Agreement under the Consumer Product Safety Act.

SUMMARY: Published below is a provisionally-accepted Consent Order Agreement with A&B Wiper.

DATES: Any interested person may ask the Commission not to accept this agreement by filing a written request with the Office of the Secretary by February 4, 1983.

ADDRESS: Persons wishing to comment on this Consent Order Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Earl A. Gershenow, directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION: (Below signature).

Dated: January 14, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

United States of America, Consumer Product Safety Commission

In the matter of A&B WIPER SUPPLY, INC., a corporation, and ALBERT KANEFSKY, as an officer of the corporation, and JOEL KANEFSKY, as an officer of the corporation. CPSC Docket No. 81–1.

Consent Agreement and Order

This Consent Agreement is made by and between A&B Wiper supply, Inc., Joel Kanefsky and Albert Kanefsky (hereinafter collectively referred to as ("A&B"), respondents in the above matter, and the Consumer Product Safety Commission (the "Commission") pursuant to § 1025.26 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.26, in full and complete settlement of the above-captioned enforcement action against A&B. Attached to this Consent Agreement is an Order which the Commission shall issue upon its final acceptance of this Consent

Agreement, which Order shall then constitute the final decision and order of the Commission within the meaning of § 1025.52 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.52.

It is hereby agreed between the Commission and A&B that:

1. A&B Wiper Supply, Inc. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with its principal place of business at 116 Fountain Street, Philadelphia, Pennsylvania. Albert Kanefsky is the president of A&B Wiper Supply, Inc. Joel Kanefsky is secretary and treasurer of A&B Wiper Supply, Inc. A&B Wiper Supply, Inc., Albert Kanefsky and Joel Kanefsky are the respondents in this action.

2. For the purposes of this Consent Agreement and Order, A&B consents to the jurisdiction of the Commission over the subject matter of this action under the Consumer Product Safety Act, 15 U.S.C. 2051 et seq.

3. This Consent Agreement and Order resolve all allegations set forth in the complaint of the Commission staff in this matter, described in paragraph 5 below. The Order shall take effect upon its issuance by the Commission and service upon A&B.

4. This Consent Agreement and Order relate to certain children's sleepwear manufactured by the William Carter Company and treated with a chemical flame retardant TRIS (2,3-dibromophophyl) phosphate ("TRIS"), purchased by A&B from Vinyl Sales, Inc. of Haverhill, Massachusetts. Said sleepwear is a consumer product as that term is defined in Section 3(a)(1) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 1052(a)(1).

5. The staff of the Commission has alleged that A&B sold approximately 80,000 pounds (approximately 280,000 garments) of TRIS-treated children's sleepwear in commerce without having first cut such sleepwear into rags and without having reported such sales to the Commission pursuant to Section 15(b) of the CPSA, 15 U.S.C. 2064(b). The staff of the Commission has further alleged that A&B had information which reasonably supported the conclusion that the uncut TRIS-treated children's sleepwear contained a product defect which could create a substantial product hazard as those terms are used in Section 15(b) of the CPSA, and that, therefore, A&B violated Sections 19(a)(3) and 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(3) and 2068(a)(4), in failing to report those sales to the Commission.

6. Without admitting the existence of a substantial product hazard or a violation of any reporting requirement, A&B agrees as follows:

(a) A&B will repurchase any and all uncut TRIS-treated fabric sold by it which is still in commerce and will pay the cost of shipping such fabric to A&B's factory in Philadelphia, regardless of its present location.

(b) A&B will pay to the Commission, in accordance with the Order attached hereto, the sum of $10,000.

This Consent Agreement and Order constitute a complete settlement and resolution of any violation that has been or might have been alleged against A&B concerning any hazard associated with TRIS-treated fabric.

7. Upon final acceptance by the Commission of this Consent Agreement, A&B will knowingly and voluntarily waive any right it may have to an administrative or judicial hearing or any other procedural steps in this matter and any right it may have to seek judicial review or otherwise to contest the validity of the Commission's Order.

8. Upon provisional acceptance by the Commission of this Consent Agreement, this Consent Agreement and Order will be placed on the public record, on the Commission's Public Calendar and in the **Federal Register** pursuant to 16 CFR 1115.20(b). Upon final Commission acceptance, the Commission will make this Consent Agreement and Order available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

A&B Wiper Supply, Inc., Joel Kanefsky and Albert Kanefsky.

Joel Kanefsky,

Consumer Product Safety Commission.

By: ———

In the matter of A&B Wiper Supply, Inc., a corporation, and Albert Kanefsky, as an officer of the corporation, and Joel Kanefsky, as an offier of the corporation. CPSC Docket No. 81–1.

Order

Upon consideration of the foregoing Consent Agreement, the Commission having accepted the terms thereof, and in full and final settlement of this administrative proceeding:

It is hereby ordered that A&B Wiper Supply, Inc., Albert Kanefsky and Joel Kanefsky ("A&B") shall repurchase any and all uncut TRIS-treated fabric sold by A&B which remains, as of the date of this Order, in the stream of commerce and shall pay the cost of shipping such fabric to A&B; and

It is further ordered that A&B shall pay to the Commission the sum of $10,000 in equal semi-annual installments of $2,500 over two years, the first payment to be made within 20 days of service of this Order.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-1543 Filed 1-19-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amendment to a System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Amendment of one system of records notice.

SUMMARY: The Department of the Navy proposes to amend one system of records to its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice on February 22, 1983, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the action proposed should be addressed to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR Doc. 81–674 (47 FR 2574) January 18, 1982
FR Doc. 81–9204 (47 FR 14944) April 7, 1982
FR Doc. 82–9844 (47 FR 15636) April 12, 1982
FR Doc. 82–12593 (47 FR 20018) May 10, 1982
FR Doc. 82–15596 (47 FR 25041) June 9, 1982
FR Doc. 82–23533 (47 FR 37948) August 27, 1982
FR Doc. 82–27420 (47 FR 44134) October 6, 1982
FR Doc. 82–27692 (47 FR 44381) October 7, 1982

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1983.

N05890–1

SYSTEM NAME:

Automated Claims Information System (ACIS) (47 FR 2704) January 18, 1982.

CHANGES:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At the end of the entry, add the following sentence: "Any medical personnel involved in medical malpractice claims against the Department of the Navy."

CATEGORIES OF RECORDS IN THE SYSTEM:

At the next to the last line after the word" . . . incident . . .", add the phrase: ". . . and medical personnel involved (if applicable) . . ."

N05890-1

SYSTEM NAME:

Automated Claims Information System (ACIS)

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have filed claims against the Department of the Navy under the Federal Tort Claims Act, the Foreign Claims Act, Military Claims Act, the 'Nonscope' Claims Act, Legislative Reorganization Act, or Military and Civilian Employees' Claims Act. All individuals who have filed claims with the U.S. Postal Service for loss or damage to mailed matter, and which claims have been paid by the U.S. Postal Service and thereafter forwarded for reimbursement by the Department of the Navy pursuant to 39 U.S.C. 712. All individuals who have asserted claims or instituted suits under the Public Vessels Act and Suits in Admiralty Act against third parties who have impleaded the Department of the Navy in the name of the United States. All individuals against whom the Navy has claims sounding in tort, and all individuals who are in the military or are dependents of military members and have been provided medical care by a Naval medical facility for injuries resulting from such tortious conduct. All common carriers against whom recovery has been sought by the Department of the Navy. Any medical personnel involved in medical malpractice claims against the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, social security number, office processing the claim, dollar amount of claim, dollar amount paid, type of claim, type of property damage, type of personal injury, date of incident that caused the claim, date the claim was presented to the Navy, date payment was made or claim was closed, amount claimed against individual, amount received from individual, location of incident, medical personnel involved (if applicable), and government bill of lading (if applicable).

* * * * *

[FR Doc. 83-1207 Filed 1-19-83; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., February 15, 1983 in MRA&L Conference Room No. 3E794, The Pentagon, and from 9:30 a.m. to approximately 12:00 noon, February 16, 1983 in MRA&L Conference Room No. 3E794, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the OSD/Services responses to the recommendations/requests for information/continuing concerns made at the 1982 Fall Meeting, discuss current issues relevant to women in the Services, and to finalize the itinerary/program for the next Semiannual Meeting scheduled for April 24-28, 1983 in Washington, D.C.

Persons desiring to: (1) Attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697-2122 no later than February 9, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1983.

[FR Doc. 83-1549 Filed 1-19-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Secretary of Education invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before February 22, 1983.

ADDRESSES: Written comments or requests should be addressed to Richard Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: William Wooten, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Secretary of Education publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addressees named above.

Dated: January 14, 1983.

T. H. Bell,

Secretary of Education.

Office of Elementary and Secondary Education

New

- State Performance Report—Chapter 1, Education Consolidation and Improvement Act (ECIA), Local Educational Agency Program

To be assigned
Annual
State or local governments
SIC: 941
Responses: 58; Burden Hours: 4,400
Federal Cost: $1,000; Public Cost: $44,000
One form submitted for approval

Abstract: Section 406A of the General Education Provisions Act requires the Secretary to collect certain data on Federal education programs. The use of this report would satisfy the requirement as it applies to Chapter 1.

- Financial and Performance Reports—Chapter 1, ECIA, Transition Services Program

ED 880–1, –2
Annual
State or local governments
SIC: 941
Responses: 30; Burden Hours: 540
Federal Cost: $650; Public Cost: $5,400
Two forms submitted for approval

Abstract: Chapter 1 of the Education Consolidation and Improvement Act of 1981 authorizes grants to SEAs and LEAs to support projects to facilitate the transition of children from State-operated institutions for neglected or delinquent youth into locally-operated educational programs. These reports will allow the collection of common performance data on these projects.

Extension

- Grant Application for the Chapter 1, ECIA, Transition Services Program

ED 880
Annual
State or local governments
SIC: 941
Responses: 50; Burden Hours: 1,000
Federal Cost: $3,950; Public Cost: $10,000
One form submitted for approval

Abstract: Chapter 1 of the Education Consolidation and Improvement Act of 1981 authorizes funding for grants to SEAs and LEAs to support projects to facilitate the transition of children from State-operated institutions for neglected or delinquent youth into locally-operated programs. This application is necessary to conduct a competition for grant funds.

Office of Special Education and Rehabilitative Services (OSERS)

New

- Comprehensive Service Delivery Model for Severely Handicapped Children—State of Kansas

To be assigned
Nonrecurring
State or local governments/businesses or other institutions
SIC: 821/822/892/941
Responses: 500; Burden Hours: 500
Federal Cost: $30,000; Public Cost: $5,000
One form submitted for approval

Abstract: The Kansas State Department of Education is conducting a three-year project to implement a comprehensive service delivery system for severely handicapped children and youth. The delivery system focuses on providing the best service available to each individual child and youth in the least restrictive environment.

- Comprehsive Service Delivery Model for Severely Handicapped Children—State of Georgia

To be assigned
Nonrecurring
State or local governments/businesses or other institutions
SIC: 941/892/821/822
Responses: 150; Burden Hours: 150
Federal Cost: $35,000; Public Cost: $1,500
One form submitted for approval

Abstract: This project will plan for, demonstrate, and evaluate ways to reshape service delivery to severely handicapped children and youth, birth through 21, in the State of Georgia. The project will include identification of service and delivery gaps, replacement of piece-meal programming with comprehensive service.

- Comprehensive Service Delivery Model for Severely Handicapped Children—State of New York

To be assigned
Nonrecurring
State or local governments/businesses or other institutions
SIC: 941/892/821/822
Responses: 500; Burden Hours: 500
Federal Cost: $30,000; Public Cost: $5,000
One form submitted for approval

Abstract: This project will establish an integrated state-wide system for delivering special education and related services to approximately 45,000 severely handicapped children. It is expected that 22,500 children located near their homes will have greater access to a broader range of services than at present. They will be served in least restrictive environments.

Extensions

- State Plan for Vocational Rehabilitation Services

ED SPVR
Annual/Triennial
State or local governments
SIC: 944
Responses: 82; Burden Hours: 820
Federal Cost: $10,000; Public Cost: $8,200
One form submitted for approval

Abstract: This form fulfills the requirements for a State Plan, as stipulated in the Rehab. Act. The Plan serves as the basis for giving monies to the States under Title I of P.L. 93–112. The current three-year Plan covers the period FY 1983 through 1985.

- Quarterly Cumulative Caseload/Expenditure Report—Rehabilitation Services ED 113

Quarterly
State or local governments
SIC: 944
Responses: 336; Burden Hours: 638
Federal Cost: $20,000; Public Cost: $5,185
One form submitted for approval

Abstract: This instrument provides for evaluation of state agency productivity and for monitoring caseloads progress of 110, SSDI, SSI programs, and of the severely disabled. It serves to document the number of rehabilitations meeting the "Substantial Gainful Employment: (SGE) requirement for the allocation of SRA program funds."

- Annual Date Report—Part B of Education of the Handicapped Act (EHA) and State Agency Programs for Handicapped Children, Title 1, Elementary and Secondary Act (ESEA), as amended

ED 869
Annual
State or local governments
SIC: 941
Responses: 58; Burden Hours: 7,882
Federal Cost: $10,000; Public Cost: $78,820
One form submitted for approval

Abstract: This data form is used annually to collect and count data for determining grant allotments under Part B, EHA, as amended and Pub. L. 89–313, Title 1 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.

- Performance Report for Special Education Programs (SEP) Discretionary Grant Programs

ED 9037–1
Annual/Biennially/Triennial
State or local governments/businesses or other institutions
SIC: 821/822/892/941
Responses: 400; Burden Hours: 6,000
Federal Cost: $25,000; Public Cost: $60,000
One form submitted for approval

Abstract: This report is used by Special Education Programs to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives. The report is due at the end of the grant award period (usually a three-year period).

- FY 84–86 State Plan, under Part B of the Education of the Handicapped Act, as amended by Pub. L. 94–142

ED 9055
Triennial
State or local governments
SIC: 941
Responses: 58; Burden Hours: 1,450
Federal Cost: $30,000; Public Cost: $14,500
One form submitted for approval

Abstract: Any State meeting the eligibility requirements of Section 612, Pub. L. 94–142, may apply for participation in the Part B. EHA, state grant program by submitting an application as prescribed in ED 9055. The State Plan also is used as the basis for a compliance review and aa determination of technical assistance

needs. States may apply at any time during the cycle.

Office of Vocational and Adult Education

Extensions

- Financial Status and Performance Report for Direct Grants-OVAE

ED 360,360–1
Annual
State or local governments
SIC: 941
Responses: 30; Burden Hours: 240
Federal Cost: $2,200; Public Cost: $2,400
Two forms submitted for approval

Abstract: The reports are used by grant officers and project officers to monitor the expenditure and use of funds and the performance of approved activities.

- Financial Status and Performance Reports for the Adult Education State Program

ED 365,365–1
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 570
Federal Cost: $2,400; Public Cost: $5,700
Two forms submitted for approval

Abstract: Regulations require all grantees to report on the status of funds and the performance of activities conducted. Data collected are needed for the purposes of accounting for the expenditures of funds and assessing the effectiveness of the carrying out of State plans under the Adult Education State Program.

- Annual Plan and Accountability Report for Vocational Education

ED 576–3,576–4 Annual (Three year plans can be submitted in lieu of annual plan)
State or local governments
SIC: 941
Responses: 57; Burden Hours: 18,240
Federal Cost: $262,000; Public Cost: $228,000
Two forms submitted for approval

Absdtract: Section 108 of the Vocational Education Act requires State Boards for Vocational Education to submit Annual Plans and Accountability Reports in order to receive Federal funds for vocational education Programs.

- Annual Evaluation Report of the State Advisory Councils for Vocational Education

ED 576–5
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 21,375
Federal Cost: $175,000; Public Cost: Public Cost: $285,000
One form submitted for approval

Abstract: The Vocational Education Act requires the State Advisory Council to submit an annual report to the Secretary of Education evaluating the vocational education programs conducted in its State.

- State-administered Vocational Education Program Improvement Projects—Abstracts

ED 590
On Occasion
State or local governments
SIC: 941
Responses: 912; Burden Hours: 228
Federal Cost: 47,780; Public Cost: $2,280
One form submitted for approval

Abstract: Section 171 of the Vocational Education Act mandates that the National Center for Research in Vocational Education act as a clearinghouse for contracts made by the States for research, exemplary and innovative programs, and curriculum development.

- Application for Vocational Education Direct Grant Programs

ED 3176
Annual
State or local governments
SIC: 941
Responses: 67; Burden Hours: 1,340
Federal Cost: $45,000; Public Cost: $13,400
One form submitted for approval

Abstract: The standard OMB Circular No. A-102 application form is used to apply for vocational education direct grants.

Office of Postsecondary Education, Office of Student Financial Assistance (OSFA)

New

- Statement of LEEP Account/ Participants Certification Statement Law Enforcement Education Program

LEEP 6 & 6A
Monthly
Individuals of households
SIC: NA
Responses: 98,176; Burden Hours: 9,818
Federal Cost: $392,227; Public Cost: $1,963
Two forms submitted for approval

Abstract: This form serves as a bill or a certification of law enforcement employment. The form serves to collect information on the recipient of funds. This information must be certified by an official of the employing agency. Information is fed into the computer file which automatically credits the recipient's account with the appropriate amount of forgiveness.

- Call Report—Lender's Annual Report on Guaranteed Student Loans Outstanding

- ED 799–1

Annual
Businesses or other institutions
SIC: 822/601/602/603/604/605
Responses: 22,500; Burden Hours: 45,000
Federal Cost: $20,000; Public Cost: $180,000
One form submitted for approval

Abstract: This form is completed by the lender and provides the GSLB updated information of the lender's loan portfolio. It is also used to determine the amount that the lender can bill for interest in the next quarter.

- Student Confirmation Report for Guaranteed Student Loan Program P.L. 89–329

ED 1072
Semiannually
Businesses or other institutions
SIC: 822/824
Responses: 22,500; Burden Hours: 22,500
Federal Cost: $60,000; Public Cost: $90,000
One form submitted for approval

Abstract: Data from this form are used to update the Student Status Transaction Statement which will indicate if and when a student ceases attendance. The lender then establishes a repayment schedule with the student.

- Loan Transfer Statement Guaranteed Student Loan Program

Ed 1074
Businesses or other institutions
SIC: 822/601/602/603/604/605
Responses: 16,265; Burden Hours: 32,530
Federal Cost: $85,000; Public Cost: $130,120
One form submitted for approval

Abstract: This form is used to report the selling and buying of existing loans between lenders. Both lenders must sign and date the form prior to submission to ED by the buying lender.

- Federal Loan Transaction Statement Federally Insured Student Loan Program

ED 1199
Monthly
Businesses or other institutions
SIC: 822/601/602/603/604/605
Responses: 133,000; Burden Hours: 133,000
Federal Cost: $23,854; Public Cost: $1,368,000
One form submitted for approval

Abstract: This form is used by ED's Guaranteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

- Summary Data Sheet (National Direct Student Loan) Listing Form

ED 1269, –1

Annual
Businesses or other institutions
SIC: 941
Responses: 57; Burden Hours: 1,140
Federal Cost: $149,000; Public Cost: $20,000
Two forms submitted for approval

Abstract: This form was designed to provide pertinent information to ED for compliance and statutory provisions governing the National Direct (Defense) Student Loan Program.

- Application for State Student Incentive Grant Program

ED 1288
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 171
Federal Cost: $50,000; Public Cost: $1,710
- One form submitted for approval

Abstract: Completed application shows' states qualification for Federal funds, specifying matching and maintenance of effort capability, methods of determining student financial need, and extent of institutional eligibility. With its signed assurances, the document commits a state to administer the Federal funds and state matching funds in compliance with the statute. Data are used in program management.

- Financial Status and Performance Report, State Student Incentive Grant Program

ED 1288–1, –2
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 171
Federal Cost: $50,000; Public Cost: $1,800
Two forms submitted for approval

Abstract: This annual report fulfills the statutory requirement of Sec. 415C(b) (8), Higher Education Act, (HEA). The collected data provides fiscal information about use of allotments and describes program accomplishments. The analyzed data is used for program evaluation, various budget/policy decisions, and to assist States in program development.

Revisions

- Student Aid Report

ED 255–1
Annual
Individuals or households
SIC: NA
Responses: 2,326,000; Burden Hours: 1,157,185
Federal Cost: $7,712,000; Public Cost: $0
One form submitted for approval

Abstract: The student completes an application form (ED 255) on which he/she provides income and asset information necessary to determine an expected family contribution toward educational expenses. The student sends the form to an ED contractor which determines the amount of the expected family contribution. The ED contractor then sends the student a SAR which is a notification of the results of that determination.

- Fiscal-Operations Report/ Application to Participate in National Direct Student Loan (NDSL), Supplemental Education Opportunity Grant (SEOG), and College Work Study (CWS) Programs

ED 646,–1
Annual
Businesses or other institutions
SIC: 822,824
Responses: 4,650; Burden Hours: 174,750
Federal Cost: $40,000; Public Cost: $758,415
Two forms submitted for approval

Abstract: The application data will be used to compute the amount of funds needed by each institution during the 1983–84 award period. The fiscal-operation's report data will be used to assess program effectiveness and accountability of funds expended during the award period 1961–82.

Extensions

- PELL Grant Program Student Validation Roster

ED 255–4
Annual
Businesses or other institutions
SIC: 823
Responses: 5,000; Burden Hours: 80,000
Federal Cost: $750,000; Public Cost: $800,000
One form submitted for approval

Abstract: The student Validation Roster is the vehicle through which end-of-year adjustments to the authorization of PELL funds are made, based on the actual and accepted disbursement of funds as reflected by the number of eligible PELL recipients at the institution.

- Physician's Certification of Borrower's Total and Permanent Disability for Student Loan Program

ED 1172
Annual
Individuals or households
SIC: NA
Responses: 7,000; Burden Hours: 2,167
Federal Cost: $2,500; Public Cost: $124,583
One form submitted for approval

Abstract: The Guaranteed Student Loan Program was established in 1965 under Title IV Part B of the Higher ED Act. The GSLP's chief objective is to provide a program of student loan insurance for students attending eligible postsecondary schools. This form is used to request cancellation of loans owned. The law provides that the Federal Government will cancel the loan if the borrower becomes permanently and totally disabled.

Office of Postsecondary Education (OPSE)

New

- Financial Status and Performance Report for Talent Search Program

To be assigned
Annual
Businesses and other institutions
SIC: 822
Responses: 167; Burden Hours: 668
Federal Cost: $5,500; Public Cost: $10,020
Two forms

Abstract: Data collected from these reports are reviewed and analyzed in accordance with the Education Division General Administrative Regulations (EDGAR)

- Application for Grants under the Education for Public Service Program

ED 404
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 120; Burden Hours: 2,400
Federal Cost: $1,700; Public Cost: $36,000
One form submitted for approval

Abstract: This information is required of institutions of higher education applying for an allocation of fellowships under Title IX, B of the Higher Education Act, as amended. The information will be used in the evaluation process to determine with institutions will be funded.

Reinstatements

- Financial Status and Performance Report for Veterans Cost of Instruction Program

ED 269–1, –2
Annual
Businesses or other institutions
SIC: 822
Responses: 880; Burden Hours: 1,320
Federal Cost: $8,000; Public Cost: $17,160
Two forms submitted for approval

Abstract: This data instrument will be used to obtain an accounting of funds expended, obligated and remaining in accordance with regulations. Regulations also require an annual program performance report in accordance with established criteria.

- Institutional List of Candidates for Foreign Language and Area Studies Fellowship Program.

ED 7632
Annual

State or local governments/businesses or other institutions
SIC: 822
Responses: 120; Burden Hours: 30
Federal Cost: $1,000; Public Cost: $300
One form submitted for approval

Abstract: This form is necessary to comply with program intent and is used to monitor results of grantees.

Revisions

- Program Announcement—Comprehensive Program Awards—Fund for the Improvement of Postsecondary Education

ED 0001 0002
Annual
State or local governments/businesses or other institutions
SIC: 822/941
Responses: 2,200; Burden Hours: 45,540
Federal Cost: $497,000; Public Cost: $129,000
Two forms submitted for approval

Abstract: This is a grant application for competitive awards with a 2-stage application process

- Performance/Financial Status Reports for the Cooperative Education Grant Program

ED 411 –1
Annual
Businesses or other institutions
SIC: 822
Responses: 220 Burden Hours: 1,155
Federal Cost: $3,758; Public Cost: $10,230
Two forms submitted for approval

Abstract: The Performance and Financial Reports are needed by the U.S. Dept. of Education to monitor and close out grants awarded by the Cooperative Education Program.

- Application for College Housing Loan Program

ED 866
Annual
Businesses or other institutions
SIC: 821/822
Responses: 300; Burden Hours: 9,600
Federal Cost: $490,000; Public Cost: $144,000
One form submitted for approval

Abstract: This data collection contains application materials for the College Housing Loan Program. It is based on OMB Circulars, EDGAR and specific program regulations.

- Performance/Financial Reports for the Supplemental Funds Program for Cooperative Education

ED 886–1, –2
Businesses or other institutions
SIC: 822
Responses: 446; Burden Hours: 446
Federal Cost: $3,452; Public Cost: $4,014
Two forms submitted for approval

Abstract: The Performance and Financial Reports are needed by the US Department of Education to monitor and close out grants awarded by the Cooperative Education Program.

- Financial Status and Performance Report for Special Programs for Disadvantaged Students

ED 1231
Annual
Businesses or other institutions
SIC: 822
Responses: 640; Burden Hours: 2,560
Federal Cost: $15,000; Public Cost: $38,400
Two forms submitted for approval

Abstract: Data collected from these reports are reviewed and analyzed in accordance with the Education Division General Administrative Regulations (EDGAR).

- Financial Status and Performance Report for Discretionary Programs

ED 1294
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 375; Burden Hours; 7,500
Federal Cost: $5,500; Public Cost; $75,000
Two forms submitted for approval

Abstract: Data collection instrument is needed to comply with EDGAR regulations. The information will be used to assess and monitor project effectiveness and to determine if the program is meeting the projected goals of the grants.

- Foreign Language and Area Studies Fellowship Application

ED 7608, 7610
Biennially
State or local governments/businesses or other institutions
SIC: 822
Responses: 2,000; Burden Hours: 2,000
Federal Cost: $8,500; Public Cost: $20,000
Two forms submitted for approval

Abstract: The fellowship application will be used by ED to review and evaluate the institution's selection of individuals designated for fellowships.

Extensions

- Application for Foreign Language and Area Studies

ED 324
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 500; Burden Hours 25,000
Federal Cost: $5,000; Public Cost: $375,000
One form submitted for approval

Abstract: The information collected in these applications are reviewed by outside panelists and the requesting Agency and recommendations made for awards under these programs.

- Financial Status and Performance Report for Educational Information Centers

ED 366, –1
Annual
State or local governments/businesses or other institutions
SIC: 822/821/824
Responses: 32; Burden Hours: 128
Federal Cost: $1,795; Public Cost: $1,600
Two forms submitted for approval

Abstract: Data collection instrument is needed to comply with EDGAR regulations. The information will be used (a) to assess and monitor project effectiveness and (b) to determine if the program is meeting the needs of the target populations.

- Application for Grants Under the Law School Clinical Experience Program

ED 595
Annual
State or local governments/businesses or other institutions

SIC: 822
Responses: 100; Burden Hours: 3,000
Federal Cost: $2,000; Public Cost: $39,000
One form submitted for approval

Abstract: This data instrument will collect information to be used in the evaluation of applications to determine which proposed programs should be funded.

- Financial Status and Performance Report for Biomedical Sciences Program

ED 822
Annual
- Businesses and other institutions

SIC: 822
Responses: 12; Burden Hours: 48
Federal Cost: $275; Public Cost: $480
Two forms submitted for approval

Abstract: Data collected from these reports are reviewed and analyzed in accordance with the Education Division General Administrative Regulations (EDGAR).

- Designation as Eligible Institution

ED 1049–6
Annual
Businesses and other institutions
SIC: 822
Responses: 800; Burden Hours: 800
Federal Cost: $39,570; Public Cost: $12,000
One form submitted for approval

Abstract: This data will be used to determine if an institution meets the specific program qualifications to receive Title III funds as provided for in the legislation and regulations governing the insitutional aid programs.

- Request for Institutional Eligibility under Title IV, HEA, as amended

ED 1059
Recurring
Businesses or other insitutions/state or local governments
SIC: 822
Responses: 1,000; Burden Hours: 1,000
Federal Cost: $205,000; Public Cost: $15,000
One form submitted for approval

Abstract: The Secretary of Education must determine whether postsecondary educational institutions meet the statutory and regulatory requirements for eligibility for funding. This data is used to determine eligibility of institutions.

- Certificate of Project Costs

ED 1143
Recurring
Businesses or other institutions
SIC: 822
Responses: 300; Burden Hours: 150
Federal Cost: $6,700; Public Cost: $1,800
One form submitted for approval

Abstract: The information collected will enable the Department to determine if insititutions are meeting the statutory and regulatory requirements relating to existing academic facilities projects.

- Terminal Report for Holders of Foreign Language and Area Studies Fellowships

ED 7614
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 1,000; Burden Hours: 500
Federal Cost: $2,700; Public Cost: $2,500
One form submitted for approval

Abstract: The information collected in the data instrument is used by ED staff to review the progress and achievements of awardees.

Office of Educational Research and Improvement

New

- A Study of Impacts of General Purpose Dissemination Assistance

To be assigned
Nonrecurring
State or local governments
SIC: 941/821/822/823/829
Responses: 250; Burden Hours: 145
Federal Cost: $100,000; Public Cost: $1,460
One form submitted for approval

Abstract: Gain understanding of impacts of different kinds of dissemination activities sponsored by three NIE programs that are based on a general purpose dissemination assistance model. To be used to strengthen conceptualization, design, and management of dissemination programs.

- Library Services and Construction Act (Pub. L. 85-597, as amended) Application and Project Plan under the Library Services and Construction Act—Titles I and III

ED 893
Annual
State or local governments
SIC: 941/823
Responses: 54; Burden Hours: 1,620
Federal Cost: $20,000; Public Cost: $16,200
One form submitted for approval

Abstract: The application is initiated through the Basic State Plan (State Federal Agreement), the long-range program amendments and submission of projects for Titles I and III. The Annual Program Project Plan and Evaluation form determines if targeted priority populations have been served through the identification of projects. It notes expenditures for priority areas under the law from all sources. It also notes planned expenditures of State funds for administration.

- Library Services and Construction Act (Pub. L. 85-597, as amended) Titles I and III Financial Status and Performance Reports

ED 893-1
Annual
State or local governments
SIC: 941/823
Responses: 54; Burden Hours: 1,620
Federal Cost: $20,000; Public Cost: $16,200
Two forms submitted for approval

Abstract: This is a final expenditures report for services to handicapped, institutionalized, MURL, public library services from all sources from which we determine maintenance of effort. The expenditures of State funds for administration are checked to determine if matching requirement is met. Overall expenditures of State funds are checked to determine if either matching or maintenance of effort is met. Expenditures are checked to determine if grant has been expended under compliance timelines. Also includes expenditures on interlibrary cooperation programs. Performance Report summarizes program activities and gives evaluation of progress toward reaching the goals of the long-range program for Titles I and III.

- Survey of Teacher Demand and Shortage

ED 2406-1
On occasion
State or local governments/businesses or other institutions
SIC: 821/941
Responses: 2,800; Burden Hours: 1,960
Federal Cost: $400,000; Public Cost: $19,600
Two forms submitted for approval

Abstract: This survey responds to the mandate in the General Education Provision Act for NCES to determine the demand for, and the availability of, qualified teachers. The information gathered is needed by Congress, the Executive Branch, and others who effect education policy at all levels of government. Specific areas of inquiry are the number of filled and unfilled teacher position openings and methods by which shortages may be alleviated.

- Verification Survey—Postsecondary Education

ED 2454
Nonrecurring
Businesses or other institutions
SIC: 822
Responses: 30,000; Burden Hours: 5,000
Federal Cost: $75,000; Public Cost: $11,662
One form submitted for approval

Abstract: Conduct a survey to establish the characteristics of the universe of postsecondary institutions to help reduce respondent burden through use of sample rather than universe surveys.

[FR Doc. 83-1506 Filed 1-19-83; 8:45 am]
BILLING CODE 4000-01-M

Assessment Policy Committee, National Assessment of Educational Progress (NAEP)

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: The Secretary announces a meeting of the Assessment Policy Committee for the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide policy guidance and direction to the NAEP project which is supported by the National Institute of Education. The entire meeting will be open to the public and interested persons are invited to attend.

DATE: February 25, 1983, 9:00 a.m. to 5:00 p.m.; meeting will continue on February 26, 9:00 a.m. to the conclusion of the agenda.

LOCATION: Holiday Inn—Denver Downtown, 15th and Glenarm Place, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Mr. Dunlap Scott, Jr., Director, Utilization and Liaison, National Assessment of Educational Progress, 1860 Lincoln Street, Room 700, Denver, Colorado 80295 (303/830-3721).

SUPPLEMENTARY INFORMATION: NAEP has a primary purpose the assessment of the performance of children and young

adults in the basic skills of reading, mathematics, and communications. The Assessment Policy Committee is established by section 405(k)(2)(A) of the General Education Provisions Act, 20 U.S.C. 1221e. The Assessment Policy Committee is responsible for the design of NAEP, including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting, dissemination of results, and studies to evaluate and improve the form and utilization of the NAEP.

The proposed agenda for the meeting includes:

- Action on previous minutes
- Director's report
- Review design changes for the 1983–84 assessment
- Report from the APC Innovations Committee
- Public comments
- Miscellaneous housekeeping items.

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, persons may contact Mr. Dunlap Scott, Jr.

(Catalog of Federal Domestic Assistance 84.117, Education Research and Development)

Dated: January 17, 1983.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 83-1577 Filed 1-19-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: High Energy Physics Advisory Panel.

Date and time: Monday, February 7, 1983—9:00 a.m.–6:00 p.m.; Tuesday, February 8, 1983—9:00 a.m.–4:00 p.m.

Place: Department of Energy, Room A-410, Germantown, Maryland.

Contact: Dr. P. K. Williams, Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, DC 20545, Telephone 301-353-4829.

Purpose of Committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda:

—Discussion of the FY 83 DOE/HEP Continuing Resolution and the NSF/EPP Budget,

—Discussion of the FY 84 Presidential Budget Requests (if available) for DOE/HEP and NSF/EPP,

—Discussion of the planned 1983 Subpanel on Future HEP Facilities,

—Discussion of the progress of the technical assessment panels for university programs and non-accelerator experiments,

—Status of international bilateral agreements in HEP.

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact P. K. Williams at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 14, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-1515 Filed 1-19-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-225-000]

Centel Corp.; Filing

January 17, 1983.

Take notice that on January 3, 1983, Centel Corporation (Centel), Southern Colorado Power Division (Southern Colorado) tendered for filing a Wheeling Agreement dated September 26, 1980, between Centel and Arkansas River Power Authority (ARPA), providing delivery of ARPA power through the transmission facilities of Centel's Southern Colorado Power Division.

Centel requests an effective date of September 26, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon ARPA and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1583 Filed 1-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-46-000]

Kentucky West Virginia Gas Company; Informal Settlement Conference

January 17, 1983.

Take notice that an informal settlement conference will be convened in the above-captioned docket at 10:00 a.m. on February 8, 1983, in a room to be designated at the offices of the Federal Energy Regulatory Commission., 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1584 Filed 1-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-85-000]

Western Gas Interstate Co.; Informal Settlement Conference

January 17, 1983.

Take notice that an informal settlement conference will be convened in the above-captioned dockets at 10:00 a.m. on January 26, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1586 Filed 1-19-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL 2287-5; OPTS-140005]

Captial Systems Group and Dynamac, Inc., Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor and subcontractor information submitted by manufacturers, processors, and importers of chemical substances recommended for consideration by the Interagency Testing Committee under section 4 of the Toxic Substances Control Act (TSCA). Some of this information may be claimed to be confidential. Capital Systems Group (CSG) of Kensington, Maryland, and its subcontractor, Dynamac, Incorporated, of Rockville, Maryland, will review and analyze this information for the purpose of developing technical support documents concerned with environmental and health effects of these chemical substances and to identify exposure situations.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Chris C. Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (202-554-1404), Outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION: Under section 4 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603, EPA is authorized to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health or the environment. To accomplish this, EPA will need to use production data and exposure information submitted by manufacturers, processors, and importers of chemical substances recommended for consideration by the Interagency Testing Committee under section 4. Some of these submissions may be claimed confidential. EPA has selected Capital Systems Group of Kensington, Maryland, and its subcontractor, Dynamac, Inc., of Rockville, Maryland, to provide outside assistance in performing analyses of these submissions for EPA's use in its evaluation of these chemical substances (Contract No. 68-01-6530). CSG and Dynamac, Inc., will review and analyze the information for the purpose of developing technical support documents concerned with environmental and health effects of the substances and to identify possible exposure situations and determine the magnitude of such exposure.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to CSG and its subcontractor, Dynamac, inc. EPA is publishing this notice to inform TSCA submitters that CSG and Dynamac, Inc., will have access to confidential business information from EPA.

Captial Systems Group and Dynamac, Inc., are legally required under the terms of their contract and subcontract to safeguard the confidential business information they receive from any unauthorized disclosure. Any reports they prepare using this information will also be treated as confidential. All confidential business information will be returned to EPA when CSG and Dynamac, Inc., have completed their work.

Under the EPA manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," CSG and Dynamac, Inc., have been authorized to have access to this information. EPA has approved CSG's security plan and has conducted the required inspection of the CSG facilities and found them to be in compliance with the provisions of the manual. No confidential business information will be transferred to Dynamac, Inc.'s, facilities under this contract and subcontract.

CSG and Dynamac, Inc., are required to treat all confidential business information in accordance with the requirements of the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual. Their personnel will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: December 27, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-1560 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

[A-6-FRL 2287-4]

Final Agency Action on a PSD Permit for Endevco, Inc.

Notice is hereby given that on July 6, 1982, Region 6 of the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-AR-386, to Endevco, Incorporated for approval to modify its existing natural gas sweetening plant located 8 miles northeast of Fouke, Miller County, Arkansas, pursuant to 40 CFR 52.21. On July 23 and August 5, 1982, Mr. John A. Buckley, Jr., Attorney at Law, petitioned the Administrator on behalf of several landowners and residents in the vicinity of the plant for review of the PSD permit.

Because a petition for review was filed with the Administrator, the issuance of the permit was no longer a final agency action and the PSD permit for Endevco was not effective. *See* 40 CFR 124.15(b)(2). The petition for review was denied by the Administrator on October 22, 1982. Pursuant to 40 CFR 124.19(f)(1), a final permit decision on PSD-AR-386 was issued by Region 6 on November 23, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-AR-386 is available only by the filing of a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of all of the materials concerning PSD-AR-386 are available for public inspection upon request at the following location: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

January 6, 1983.

[FR Doc. 83-1561 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Application for Capital Assistance.

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Because this submission is seeking expedited OMB review and approval, comments are requested within 10 business days after date of publication.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact the Office of the Executive Secretary, telephone (202) 389-4351.

SUMMARY: Pub. L. 97-320—The Garn-St Germain Depository Institutions Act of 1982—in Title II "Net Worth Certificate Act," authorizes FDIC to augment the capital structure of banks through the issuance to FDIC of capital instruments known as Net Worth Certificates in exchange for promissory notes. The application furnishes the data necessary to establish initial eligibility of the institution to receive such capital assistance and to compute the amount of assistance to be requested.

It is estimated that the collection of this information will create a reporting burden of 50 hours per application filing for each of the estimated 35 applicants.

Dated: January 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-1554 Filed 1-19-83; 8:45 am]

BILLING CODE 6714-01-M

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection.

Quarterly Report of Pledged Assets.

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and to Mr. Richard sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" contact the Office of the Executive Secretary, telephone (202) 389-4351.

SUMMARY: The Federal Deposit Insurance Act provides that before any U.S.-located branch of a foreign bank becomes an insured branch, the bank shall deliver to the FDIC a surety bond, a pledge of assets, or both, in such amounts and of such types as FDIC may require. The pledged assets are to be lodged at a designated depository. These assets will protect the FDIC against the risks entailed in insuring the domestic deposits of a U.S.-based branch of a foreign bank.

It is estimated that the collection of this information will create a reporting burden of 4 hours per year for each of the estimated 30 respondents.

Dated: January 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-1590 Filed 1-19-83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 83-32]

Federal Savings and Loan Advisory Council; Renewal of Charter

Pursuant to the provisions of Section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a), the following notice has been adopted by the Federal Home Loan Bank Board for publication in the **Federal Register.**

Pursuant to the provisions of Section 9 of the Federal Advisory Committee Act (5 U.S.C. App. I), and the implementing regulations issued by the Office of the General Services Administration, the Federal Home Loan Bank Board, having determined that the continuation of the Federal Savings and Loan Advisory Council is in the public interest in connection with the performance of the duties imposed on it by law, hereby renews the existence of the Federal Savings and Loan Advisory Council for two years to January 31, 1985, and in connection therewith reissues the following charter (which appears as Section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a)) to the said Council:

Federal Savings and Loan Advisory Council Charter

There is hereby created a Federal Savings and Loan Advisory Council, which shall continue to exist as long as the Bank Board bi-annually determines, as a matter of formal record with timely notice in connection with the performance of duties imposed on the Council by law. The Council shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act. The Council shall consist of one member of each Federal Home Loan Bank district to be elected annually by the Board of directors of the Federal Home Loan Bank in such district and twelve members to be appointed annually by the Bank Board to represent the public interest. Each such elected member shall be a resident of the district for which he is elected. All members and alternates of the Council may be compensated as provided for in Section 354 of the Garn-St Germain Depository Institutions Act of 1982 amending section 8a of the Federal Home Loan Bank Act, and shall be entitled to reimbursement from the Bank Board for traveling expenses incurred in attendance of meetings of such Council, and subsistence expenses not to exceed $75.00 per day, in accordance with the Federal Travel Regulations, as amended. The Council shall meet in Washington, District of Columbia, at least twice a year and oftener if requested by the Bank Board. The Council may select its chairman, vice chairman, and secretary, and adopt methods of procedure, and shall have power—

(1) To confer with the Bank Board on general business conditions, and on special conditions affecting the Federal Home Loan Banks and members and the

Federal Savings and Loan Insurance Corporation.

(2) To request information, and to make recommendations with respect to matters within the jurisdiction of the Bank Board and the Federal Savings and Loan Insurance Corporation.

The Federal Home Loan Bank Board also has directed, in connection with the foregoing that—

1. The Federal Savings and Loan Advisory Council's expenses is to be paid for by the self-supporting Federal Home Loan Bank System, and none of its annual operating costs shall be charged to or paid by the United States;

2. The said Charter of the Federal Advisory Council shall not be amended, altered or repealed except by Congress or by the Federal Home Loan Bank Board; and

3. The said Charter shall terminate on January 31, 1985, unless reissued prior to that date by the Federal Home Loan Bank Board.

Dated: January 14, 1983.

Federal Savings and Loan Advisory Council.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 83-1579 Filed 1-19-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Dewco Agency, Inc.; Formation of Bank Holding Company

Dewco Agency, Inc., Timber Lake, South Dakota, 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 Dewey County Bank, Timber Lake, South Dakota. 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)).

Dewco Agency, Inc., Timber Lake, South Dakota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of acting as insurance agent or broker in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant in Timber Lake, South Dakota, and the geographic area to be served is that area within a 35 mile radius from Timber Lake, South Dakota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than February 12, 1983.

Board of Governors of the Federal Reserve System, January 13, 1983.

James McAfee,

Deputy Secretary of the Board.

[FR Doc. 83-1313 Filed 1-19-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Ti-Caro, Inc.'s proposed acquisition of all voting securities of Charles H. Flynt, Jr..	Jan. 6, 1983.
(2) Pacific Power & Light Company's proposed acquisition of all voting securities of Occidental Minerals Company.	Do.
(3) Transco Energy Company's proposed acquisition of certain assets of Conoco, Inc..	Jan. 5,1983.
(4) Getty Oil Company's proposed acquisition of certain assets of Conoco, Inc..	Do.
(5) The Stop & Shop Companies, Inc.'s proposed acquisition of certain assets of Memco Stores, Inc., a wholly-owned subsidiary of Lucky Stores, Inc..	Jan. 7, 1983.
(6) City Investing Company's proposed acquisition of certain assets of AMREP Corp..	Do.
(7) Pilkington Brothers, P.L.C.'s proposed acquisition of certain voting securities of Libbey-Owens-Ford Company.	Dec. 30, 1982.
(8) Kaufman and Broad, Inc.'s proposed acquisition of certain voting securities of San Francisco Real Estate Investors Trust.	Do.
(9) Mr. Alfred L. Griggs' proposed acquisition of certain assets of Albany and Syracuse Groups of the New York Division of Associated Coca-Cola Bottling Company, a subsidiary of The Coca-Cola Company.	Do.
(10) Lamar Financial Corporation's proposed acquisition of all voting securities of Realty Development Corporation.	Do.
(11) Ms. Lisa Garrett's proposed acquisition of certain assets of the Amoco Oil Company.	Do.
(12) ANR Production Company's proposed acquisition of certain assets of Conoco, Inc..	Do.
(13) Manville Corporation's proposed acquisition of certain assets of Crown Zellerbach Corporation.	Dec. 29, 1982.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 83-1587 Filed 1-19-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal and Child Health Research Grants Review Committee; Reestablishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Health Resources and Services Administration announces the reestablishment by the Secretary, HHS, with concurrence by the General Services Administration, of the following advisory committee:

Designation: Maternal and Child Health Research Grants Review Committee.

Purpose: The Commmittee shall advise the Secretary and the Administrator, Health Resources and Services Administration, regarding research grants in the field of maternal and child health and reviews applications for grants to improve the operation, functioning, and general usefulness and effectiveness of maternal and child health services of all kinds by providing financial support for studies that may contribute to the advancement of health services for mothers and children.

Authority for this Committee will expire on June 30, 1984, unless the Secretary, HHS, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: January 14, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-1522 Filed 1-19-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1199]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors

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

ACTION: Notice Updating Contract Rent Annual Adjustment Factors.

SUMMARY: This Notice sets forth updated Annual Adjustment Factors which are to be used to adjust rents under the Section 8 Housing Assistance Payments Programs.

FOR FURTHER INFORMATION CONTACT: Cecilia D. Livingston, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, (202) 755-5353; Jerry Noel, Management Procedures Division, Office of Multifamily Housing Management and Occupancy, (202) 755-6870; Monica Sussman, Office of State Agencies and Bond Financed Programs, (202) 755-7172; for technical information regarding the development of the schedules for specific areas or the method used for calculating the adjustment factors, Ellis V. St. Clair, Economic and Market Analysis Division, Office of Policy Development and Research, (202) 755-5590. Mailng address for above persons: Department of Housing and Urban Development, 451 Seventh Stret, SW., Washington, D.C. 20410. (Telephone numbers are not toll-free.)

EFFECTIVE DATE: November 8, 1982.

SUPPLEMENTARY INFORMATION: in accordance with Section 8(c)(2)(A) of the U.S. Housing Act of 1937, the Department is revising the Annual Adjustment Factors which are to be used to adjust rents under the Section 8 Housing Assistance Payments Programs. Pursuant to 24 CFR 888.202, the Factors are required to be published in the **Federal Register** at least annually by Notice. The annual anniversary date for publication of the Factors is November 8, 1982. For the Section 8 existing program ("finders-keepers") the revised factors set forth in this Notice shall be applied on HAP Contract anniversary dates which fall on or after the publication date of the revised factors. For the other Section 8 programs, the revised factors shall be applied on HAP Contract anniversary dates which fall on or after November 8, 1982. This Notice is effective as of November 8, 1982.

Different adjustment factors are provided for 37 Standard Metropolitan Statistical Areas (SMSAs) and for the four Census Regions. The adjustment factors for each area have been calculated in two stages. In the first stage, a single gross rent adjustment factor was developed for each area based on the changes in the rent and utility components of the Consumer Price Index (CPI) for the most recent twelve-month period. In the second stage, separate adjustment factors for contract rents including utilities and for contract rents excluding utilities were developed for selected rent ranges, based on data obtained from the 1980 Annual Housing Survey (AHS) national sample. Adjustment factors have been developed for each fifty dollar rent interval covering contract rents from less than $200 per month to contract rents of $600 or more per month.

The new factors apply to rental units of all bedroom-sizes in each rent interval, reflecting a change from the format for previous years that included slightly different factors for units of different sizes.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Section 8(c)(2)(A), U.S. Housing Act of 1937 (42 U.S.C. 1437f)).

Dated: January 13, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

Contract Rent Automatic Annual Adjustment Factors, Section 8 Housing Assistance Payments Programs

TABLE NO. 1.—ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY—BY RENT RANGE

Area	Under $200	$200 to $249	$250 to $299	$300 to $349	$350 to $399	$400 to $449	$450 to $499	$500 to $549	$550 to $599	$600 plus
Northeast Census Region	1.095	1.089	1.084	1.078	1.073	1.068	1.062	1.057	1.052	1.046
North Central Census Region	1.100	1.094	1.089	1.083	1.077	1.072	1.066	1.060	1.055	1.049
South Census Region	1.119	1.112	1.106	1.099	1.092	1.086	1.078	1.072	1.066	1.058
West Census Region	1.131	1.124	1.117	1.108	1.101	1.094	1.086	1.079	1.072	1.064
Anaheim-Santa Ana-Garden Grove, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.078
Anchorage, AK SMSA	1.273	1.259	1.244	1.227	1.212	1.196	1.181	1.166	1.151	1.134
Atlanta, GA SMSA	1.118	1.112	1.105	1.098	1.092	1.085	1.078	1.072	1.065	1.058
Baltimore, MD SMSA	1.106	1.101	1.095	1.088	1.083	1.077	1.070	1.065	1.059	1.052

TABLE NO. 1.—ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY—BY RENT RANGE—Continued

Area	Under $200	$200 to $249	$250 to $299	$300 to $349	$350 to $399	$400 to $449	$450 to $499	$500 to $549	$550 to $599	$600 plus
Boston, MA SMSA	1.105	1.100	1.094	1.087	1.082	1.076	1.070	1.064	1.058	1.052
Buffalo, NY SMSA	1.095	1.090	1.085	1.079	1.074	1.069	1.063	1.058	1.053	1.047
Chicago, IL SMSA	1.109	1.103	1.097	1.090	1.085	1.079	1.072	1.066	1.060	1.053
Cincinnati, OH-KY-IN SMSA	1.068	1.065	1.061	1.057	1.053	1.049	1.045	1.041	1.038	1.034
Cleveland, OH SMSA	1.116	1.109	1.103	1.096	1.090	1.084	1.076	1.070	1.064	1.057
Dallas-Fort Worth, TX SMSA	1.141	1.133	1.125	1.117	1.109	1.102	1.093	1.085	1.078	1.069
Denver-Boulder, CO SMSA	1.181	1.171	1.162	1.150	1.141	1.131	1.120	1.110	1.100	1.089
Detroit, MI SMSA	1.083	1.078	1.074	1.069	1.064	1.060	1.055	1.050	1.046	1.041
Gary-Hammond-East Chicago, IN SMSA	1.109	1.103	1.097	1.090	1.085	1.079	1.072	1.066	1.060	1.053
Honolulu, HI SMSA	1.060	1.057	1.054	1.050	1.047	1.044	1.040	1.037	1.033	1.030
Houston, TX SMSA	1.201	1.190	1.180	1.167	1.156	1.145	1.133	1.122	1.111	1.099
Jersey City, NY SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Kansas City, MO-KS SMSA	1.154	1.146	1.137	1.128	1.120	1.111	1.102	1.093	1.085	1.076
Los Angeles-Long Beach, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.078
Miami, FL SMSA	1.067	1.063	1.060	1.055	1.052	1.048	1.044	1.041	1.037	1.033
Milwaukee, WI SMSA	1.120	1.114	1.107	1.100	1.093	1.087	1.080	1.073	1.067	1.059
Minneapolis-St. Paul, MN-WI SMSA	1.132	1.125	1.118	1.110	1.103	1.096	1.087	1.080	1.073	1.065
Nasssau-Suffolk, NY SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
New Brunswick-Perth Amboy-Sayreville, NJ	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
New York, NY-NJ SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Newark, NJ SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Northeast Pennsylvania, SMSA	1.054	1.051	1.048	1.045	1.042	1.039	1.036	1.033	1.030	1.026
Oxnard-Simi Valley-Ventura, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.078
Patterson-Clifton-Passaic, NJ SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Philadelphia, PA-NJ SMSA	1.120	1.113	1.107	1.099	1.093	1.087	1.079	1.073	1.066	1.059
Pittsburgh, PA SMSA	1.102	1.096	1.091	1.085	1.079	1.074	1.067	1.062	1.056	1.050
Portland, OR-WA SMSA	1.044	1.042	1.039	1.036	1.034	1.032	1.029	1.027	1.024	1.022
Riverside-San Bernardino-Ontario, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.078
St. Louis, MO-IL SMSA	1.148	1.140	1.132	1.122	1.115	1.107	1.097	1.090	1.082	1.072
San Diego, CA-SMSA	1.174	1.164	1.155	1.144	1.135	1.126	1.115	1.106	1.096	1.085
San Francisco-Oakland, CA SMSA	1.178	1.168	1.158	1.147	1.138	1.128	1.117	1.108	1.098	1.087
Seattle-Everett, WA SMSA	1.057	1.054	1.051	1.047	1.044	1.041	1.038	1.035	1.032	1.028
Washington, DC-MD-VA SMSA	1.123	1.116	1.110	1.102	1.095	1.089	1.081	1.075	1.068	1.060

Contract Rent Automatic Annual Adjustment Factors, Section 8 Housing Assistance Payments Programs

TABLE NO. 2.—ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY—BY RENT RANGE

Area	Under $200	$200 to $249	$250 to $299	$300 to $349	$350 to $399	$400 to $449	$450 to $499	$500 to $549	$550 to $599	$600 plus
Northeast Census Region	1.111	1.096	1.086	1.077	1.068	1.061	1.054	1.047	1.047	1.047
North Central Census Region	1.070	1.066	1.062	1.057	1.051	1.047	1.042	1.036	1.036	1.036
South Census Region	1.109	1.098	1.090	1.082	1.073	1.066	1.059	1.051	1.051	1.051
West Census Region	1.103	1.098	1.091	1.085	1.079	1.072	1.065	1.058	1.050	1.050
Ahahelm-Santa Ana-Garden Grove, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
Anchorage, AK SMSA	1.360	1.310	1.275	1.247	1.219	1.197	1.176	1.154	1.152	1.150
Atlanta, GA SMSA	1.076	1.072	1.068	1.064	1.057	1.052	1.047	1.040	1.040	1.040
Baltimore, MD SMSA	1.108	1.095	1.086	1.079	1.070	1.063	1.056	1.049	1.049	1.049
Boston, MA SMSA	1.134	1.116	1.103	1.093	1.082	1.074	1.066	1.058	1.057	1.057
Buffalo, NY SMSA	1.071	1.065	1.061	1.057	1.051	1.046	1.041	1.035	1.035	1.035
Chicago, IL SMSA	1.069	1.066	1.063	1.058	1.053	1.048	1.043	1.036	1.036	1.036
Cincinnati, OH-KY-IN SMSA	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
Cleveland, OH SMSA	1.077	1.073	1.069	1.064	1.058	1.052	1.047	1.040	1.040	1.040
Dallas-Fort Worth, TX SMSA	1.097	1.091	1.085	1.079	1.071	1.065	1.058	1.049	1.049	1.049
Denver-Boulder, CO SMSA	1.146	1.133	1.123	1.114	1.102	1.092	1.082	1.071	1.071	1.071
Detroit, MI SMSA	1.055	1.052	1.049	1.046	1.041	1.037	1.033	1.029	1.029	1.029
Gary-Hammond-East Chicago, IN SMSA	1.069	1.066	1.063	1.058	1.053	1.048	1.043	1.036	1.036	1.036
Honolulu, HI SMSA	1.048	1.044	1.041	1.038	1.034	1.030	1.027	1.023	1.023	1.023
Houston, TX SMSA	1.169	1.159	1.155	1.141	1.126	1.114	1.102	1.088	1.088	1.088
Jersey City, NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Kansas City, MO-KS SMSA	1.110	1.102	1.096	1.089	1.080	1.072	1.065	1.055	1.055	1.055
Los Angeles-Long Beach, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
Miami, FL SMSA	1.090	1.078	1.069	1.062	1.055	1.049	1.044	1.038	1.038	1.037
Milwaukee, WI SMSA	1.095	1.087	1.081	1.074	1.067	1.060	1.054	1.046	1.046	1.046
Minneapolis-St. Paul, MI-WI SMSA	1.112	1.102	1.094	1.086	1.077	1.070	1.062	1.054	1.054	1.054
Nassau-Suffolk, NY SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
New Brunswick-Perth Amboy-Sayreville, NJ	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
New York, NY-NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Newark, NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Northeast Pennsylvania, SMSA	1.046	1.042	1.038	1.035	1.032	1.029	1.026	1.022	1.022	1.022
Oxnard-Simi Valley-Ventura, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
Patterson-Clifton-Passaic, NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Philadelphia, PA-NJ SMSA	1.132	1.116	1.104	1.094	1.084	1.075	1.067	1.059	1.059	1.059
Pittsburgh, PA SMSA	1.077	1.071	1.066	1.061	1.055	1.050	1.045	1.038	1.038	1.038
Portland, OR-WA SMSA	1.050	1.044	1.039	1.036	1.032	1.029	1.026	1.022	1.022	1.022
Riverside-San Bernardino-Ontario, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
St. Louis, MO-IL SMSA	1.103	1.096	1.090	1.084	1.075	1.068	1.061	1.052	1.052	1.052
San Diego, CA SMSA	1.128	1.119	1.111	1.103	1.092	1.084	1.075	1.064	1.064	1.064
San Francisco-Oakland, CA SMSA	1.132	1.122	1.114	1.105	1.095	1.086	1.077	1.066	1.066	1.066
Seattle-Everett, WA SMSA	1.030	1.030	1.029	1.027	1.025	1.022	1.020	1.017	1.017	1.017
Washington, DC-MD-VA SMSA	1.119	1.108	1.097	1.088	1.079	1.071	1.063	1.055	1.055	1.055

[FR Doc. 83-1502 Filed 1-19-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-18932]

Idaho; Realty Action; Exchange of Public and Private Lands in Elmore and Owyhee Counties

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Owyhee County, Idaho

T. 6 S., R. 8 E., Boise Meridian,
Sec. 4, W½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 5, Lot 4, S½NW¼, S½;
Sec. 6, Lot 1, SE¼NE¼;
Sec. 7, S½NE¼, SE¼, E½SW¼;
Sec. 8, All;
Sec. 9, All;
Sec. 10, SW¼NW¼, SW¼, W½SE¼;
Sec. 15, W½;
Sec. 16, All;
Sec. 17, E½, N½NW¼, SE¼NW¼, SW¼.
Containing 4,127.99 acres.

In exchange for these lands, the United States will acquire the following described lands from Robert S. Rich:

Elmore County, Idaho

T. 1 S., R. 8 E., Bosie Meridian
Sec. 8, Lots 4, 5, 6, 7, 8;
Sec. 15, Lots 7, 8;
Sec. 17, Lots 1, 2, 3, 4, 5, 6, 9, 10, SE¼NW¼, NW¼SE¼;
Sec. 18, Lot 7;
Sec. 20, NE¼NE¼;
Sec. 21, NE¼NE¼, NW¼NW¼
Containing 640.86 acres.

The purpose of this exchange is to acquire the non-Federal lands, which have high public values for recreation, wildlife habitat and some livestock grazing. These lands will provide 2.75 miles of public access and use on the South Fork of the Boise River. the Federal lands that would be taken out of public ownership were being considered for disposal under the Carey or Desert Land Acts. The majority of these lands were also privately owned and cultivated at one time, before reverting to public ownership through litigation for fraud under the Desert Land Act. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions.

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States Act of August 1890. (43 U.S.C. 945).

2. The patent will be subject to any valid existing rights.

3. Reserving to the United States a right-of-way over and across a strip of land in Sections 15, 16, and 17, T. 6 S., R. 8 E., Boise Meridian, 33 feet wide beginning at the section corner common to Sections 17, 18, 19, and 20, T. 6 S., R. 8 E., Boise Meridian, and extending east along the section line of Sections 17, 16, and 15 for 13,200 feet. This right-of-way is for the full use as a road by the United States of America, its licensees and permittees, including the right of access and use for and by the people of the United States generally, to lands owned, administered, or controlled by the United States.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), and subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, including the environmental assessment and the record of public discussions, is available for review at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

For a period of 45 days from the date of publication in the **Federal Register** (January 20, 1983), interested parties may submit comments to the District Manager, Bureau of Land Management, at the above address.

J. David Brunner,
Associated District Manager.
January 7, 1983.
[FR Doc. 83-1226 Filed 1-19-83; 8:45 am]
BILLING CODE 4310-84-M

Salmon District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held at 10:00 a.m., Wednesday, March 9, 1983.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92-463 and 94-579. The purpose of the meeting will be to discuss (1) Rangeland improvement policy; (2) Status of the Ellis-Pahsimeroi EIS; (3) Status of Mackay-Big Lost EIS; (4)Proposed projects for FY 83; and (5) Weed Control.

The meeting is open to the public. Anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by March 2, 1983.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: January 7, 1983.

Kenneth G. Walker,
District Manager.
[FR Doc. 83-1525 Filed 1-19-83; 8:45 am]
BILLING CODE 4310-84-M

[AA-6659-A]

Alaska Native Claims Selection; Publication

On December 4, 1973, Choggiung Limited filed selection application AA-6659-A, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vincinity of Dillingham.

As to the lands described below, the application, as amended, submitted by Choggiung Limited, 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 2 acres, is considered proper for acquisition by Chiggiung Limited and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Surveyed)

T. 13 S., R. 56 W.

Tract A:

Beginning at the point for corner No. 1, identical with corner No. 3, Lot 10, U.S. Survey No. 4985; thence S. 0°03' E., on a portion of line 3–2, Lot 10, U.S. Survey No. 4985, 2.50 chains to corner No. 2, on line 3–2, Lot 10, U.S. Survey No. 4985; thence N. 89°57' E., approximately 8.50 chains to corner No. 3, a meander corner at the line of mean high-tide on the right bank of the Nushagak River; thence northerly, with meanders along the line of mean high-tide on the right bank of the Nushagak River, approximately 2.50 chains to coner No. 4, a meander corner at the line of mean high-tide on the right bank of the Nushagak River at the intersection of the easterly extension of line 4–3, Lot 10, U.S. Survey No. 4985 and the line of mean high-tide on the right bank of the Nushagak River; thence S. 89°57' W., on the easterly extension of line 4–3, Lot 10, U.S. Survey No. 4985, approximately 8.50 chains to corner No. 1, the point of beginning.

Containing approximately 2 acres.

All named and unnamed water bodies within the above-described lands were reviewed and, based on existing evidence, they were determined to be nonnavigable.

There are no easements to be reserved to the United States pursuant to section 17(b) of ANCSA.

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 supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 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 section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c) (Supp. IV, 1980)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Choggiung Limited is entitled to a conveyance of 161,280 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 153,632 acres. The remaining entitlement of approximately 7,648 acres will be conveyed at a later date.

Pursuant to sectin 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Choggiung Limited, and shall be subject to the same conditions as the surface conveyance, except for those provisions under section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in the lands within the boundaries of the Native village shall be subject to the consent of Choggiung Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, any agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision consititutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 22, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appea lis timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. 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:

Choggiung Limited, P.O. Box 247, Dillingham, Alaska 99576

Bristol Bay Native Corporation, P.O. Box 196, Dillingham, Alaska 99576

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-1580 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-84-M

Designation of Public Lands Within the Sonoma-Gerlach Resource Area as the Soldier Meadow Desert Dace Area of Critical Environmental Concern; Winnemucca District, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands within the Sonoma-Gerlach Resource Area as the Soldier Meadow Desert Dace Area of Critical Environmental Concern (ACEC).

SUMMARY: Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of 1976 and the authorization from the Director, I hereby designate the following described public lands within the Sonoma-Gerlach Resource Area as an Area of Critical Environmental Concern:

Mt. Diablo Base and Meridian

T.40 N., R. 24 E., Section 23, Lots 2, 3, 5, 6, 8, 9, 12.

The area described aggregates about 307.22 acres of public land.

In accordance with 43 CFR 1601.6–7, formal designation of this ACEC area is documented in the Paradise-Denio Management Framework Plan. Decisions made available to the public on August 6, 1982. Subsequent to a 30 day comment period this ACEC designation became effective September 6, 1982.

FOR FURTHER INFORMATION CONTACT: Frank C. Shields, District Manager,

Winnemucca District, Bureau of Land Management, Winnemucca, NV 89445.

SUPPLEMENTARY INFORMATION: ACEC as defined by FLPMA is an area "within the public lands where special management attention is needed [when such areas are developed or where no development is required] to protect and prevent irreparable damage to important historical, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards."

The Bureau of Land Management has adopted as its policy that these areas must meet the criteria of importance and relevance as defined in the ACEC policy and procedures guidelines published in June 1980.

The Soldier Meadow Desert Dace ACEC is the crucial habitat for the Soldier Meadow Desert Dace, which is a federal candidate endangered species. The relevance criteria is met by the area's location.

The importance criteria is met because the desert dace occurs nowhere else in the world, and this is the only place where this fish can be managed on public land.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 83-1567 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13501]

Geothermal Resources Lease Sale for Beckwourth Peak, Geysers-Calistoga, Glass Mountain, Knoxville, and Lake City Surprise Valley KGRA's

Notice is hereby given that approximately 61,355.38 acres of land in 37 parcels within Beckwourth Peak (1,917.68 acres), Geysers-Calistoga (30,985.93 acres), Glass Mountain (7,029.00 acres), Knoxville (2,201.00), and Lake City Surprise Valley (19,221.77 acres) KGRA's in Plumas, Lake, Mendocino, Napa, Sonoma, Siskiyou, Yolo, and Modoc Counties, California, will be offered competitively for lease under the Geothermal Steam Act of 1970 through sealed bids to the qualified responsible bidder of the highest cash amount per parcel. Bids will be received until 10 a.m. on March 24, 1983.

For further information contact the California State Office, Division of Operations, Room E-2605, 2800 Cottage Way, Sacramento, California 95825. Phone (916) 484-4492.

Dated: January 13, 1983.

Walter F. Homes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-1658 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Public Participation in Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation (Bureau), Interior.

ACTION: Proposed notice of revised procedures (1983) for public participation in water service and repayment contract negotiations pursuant to the Reclamation Reform Act of 1982.

SUMMARY: The Department of the Interior is proposing to revise the "Final Revised Procedures" for public participation in the water service and repayment contract negotiations published in the **Federal Register**, Volume 47, No. 35, February 22, 1982. This revision is prompted by section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), which requires certain public participation procedures be followed for entering into or amending any contract for delivery of irrigation water. We believe the intent of section 226 is being met substantially by application of the "Final Revised Procedures" presently in force. However, to fully implement section 226, the "Final Revised Procedures" need to be further revised to encompass the requirement of the 1982 Act to publish notice of proposed irrigation or amendatory irrigation contract actions no less than 60 days in advance of contract execution in newspapers of general circulation in the affected area.

DATE: Thirty calendar days from the date of this publication are allowed for receipt of comments. Following review and consideration of the public comments, the "Final Revised Procedures (1983)" will be published in the **Federal Register** as soon as possible thereafter.

ADDRESS: Comments or requests for further information should be addressed to: Commissioner Robert N. Broadbent, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, Attention: W.O. Code 440.

FOR FURTHER INFORMATION CONTACT: Telephone inquiries concerning the proposed revised procedures should be made to Contracts and Repayment Specialist Messrs. Frank Ellis or Donald Walker, telephone (202) 343-5671.

Background

The Secretary of the Interior is authorized by the Congress to approve and execute proposed water service and repayment contracts pursuant to the Reclamation Act of 1902 (32 Stat. 388-390), as amended and supplemented by but not limited to, the Reclamation Project Act of 1939 (53 Stat. 1187-1198), and the Reclamation Reform Act of 1982 (96 Stat. 1263-1274). Portions of the Secretary's authority are delegated to the Commissioner of Reclamation as set forth in Part 255 of the Departmental Manual. Portions of the delegated authority are redelegated to Regional Directors as set forth in Part 053 of the Reclamation Instructions.

The repayment of reimbursable costs associated with Bureau of Reclamation construction and loan program is secured by consummation of contracts between the United States and beneficiaries of those programs. Such contracts are required before funds will be released for construction. The terms and conditions of such contracts (including but not limited to such matters as quantities of water to be furnished, water delivery schedules, construction of facilities, terms and conditions of repayment) sometimes affect a wider range of the public than the immediate parties to the contracts.

It is the policy of the Department of the Interior to afford the affected public an opportunity to be aware of and provide comment on water service and repayment contract negotiations being conducted by the Bureau of Reclamation.

The opportunity for the public to observe negotiations, and review and comment on newly proposed water service or repayment contracts and amendments or supplements to existing contracts, was expanded in 1979. On January 2 of that year, procedures were established requiring notices to be published in the **Federal Register** announcing the Bureau's intent to negotiate terms and conditions for "all" proposed water service and repayment contracts. That procedure was modified on February 22, 1982, with the publication of the "Final Revised Procedures" for public participation in water service and repayment contract negotiations. The new procedures were designed to encourage and continue effective public participation programs at the regional and project office levels with support and oversight from the Commissioner's office. Also, the new procedures were designed to substantially reduce the **Federal Register** notices published each year in

line with this Administration's desire to eliminate excessive, burdensome, and counterproductive regulations.

In response to the public comments on the proposed revised procedures published November 2, 1981, a commitment was made to publish a quarterly status tabulation of all pending contractual actions in the **Federal Register**. **Federal Register** notices covering specific contracts are used only when there is evidence of widespread public interest in a proposed contract beyond the local project area.

The proposed revised procedures that follow are drafted to incorporate the requirements of section 226 into the "Final Revised Procedures" which will become the "Final Revised Procedures (1983)."

Publication and implementation of the "Final Revised Procedures (1983)" will not significantly affect the quality of the human environment and is categorically excluded under 516 DM 6 Appendix 9.4A(1) from further compliance with the National Environmental Policy Act of 1969, as amended.

Proposed Revised Procedures (1983)

Public participation procedures for water service or repayment contracts encompass two basic processes: publicizing proposed contractual actions and receiving public comment on such proposed actions. Both processes are addressed in section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), which amends section 9 of the Reclamation Project Act of 1939 (53 Stat. 1196), by adding the following subsection (f):

> (f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year of less) the Secretary shall—
>
> (1) Publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and
>
> (2) Provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.

When the Bureau has determined that contract actions may or will have significant environmental effects, the public participation procedures that follow will be coordinated with those involved in compliance with the National Environmental Policy Act.

Publicity

Pursuant to and consistent with section 226(f)(1) of the Reclamation Reform Act of 1982, the Bureau of Reclamation (Bureau) will determine the extent and means by which a given contractual action shall be publicized. The determination will be based on a staff assessment and recommendations included in each request to the Commissioner of the Bureau of Reclamation for approval of a basis for negotiation. When the assessment identifies a proposed contract action that is not controversial with little or no economic, social and/or environmental impact, the Bureau may determine that no public announcement will be made beyond that required by section 226(f)(1). When the assessment identifies a contract proposal that is potentially controversial and/or has identifiable economic, social and/or environmental impact, the Bureau will identify and use appropriate means of publicizing the intent to negotiate.

Pursuant to section 226 of the Reclamation Reform Act of 1982, the Bureau will publish notice of proposed irrigation or amendatory irrigation contract actions no less than 60 days prior to contract execution, in newspapers of general circulation in the affected area. (Contracts proposed for the sale of irrigation water surplus to storage capacity or project needs, or contracts with a term of 1 year or less are excluded from requirements of section 226 of the act.) However, a wide variety of publicity resources; i.e., the telphone, form letters, local news releases, public notices, meetings, workshops, hearings, etc., will be used selectively to provide local publicity appropriate for any proposed contractual action.

To provide national publicity of pending water service and repayment contract actions, the Bureau will publish a status tabulation of all pending contractual actions on or about the 15th day of January, April, July and October in the **Federal Register**. The **Federal Register** will also be used, selectively, to announce the intent to negotiate, to announce the availability of a given contract for public review, and to announce public meetings and hearings, when the Bureau determines that there is public interest in a particular contractual action beyond the local project area.

Each public notice or news release announcing the intent to negotiate a contract, announcing public meetings, hearings, or negotiating sessions regarding a proposed contract, and announcing the availability of a contract for public review and comment shall include, as appropriate, a brief description of the proposed contract, identification of specific legislative authority for the proposed contract, terms and conditions being negotiated, date, time, place of meetings or hearings, the address and telephone number of a public contact for inquiries and comments, and the period of time in which comments will be received.

Submission and Receipt of Comments

Pursuant to section 226(f)(2), opportunity for public participation in contract negotiations and submission of comments on contract negotiations and submission of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public for observation. Only those people with authority to act on behalf of the appropriate public entities may negotiate the terms and conditions of a specific contract proposal. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(3) Written comments on a proposed contract must be submitted to the appropriate Bureau officials at locations and within time limits set forth in advance public notices or as otherwise established by Bureau officials. Such written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by the appropriate contract approving authority; i.e., a Regional Director, the Commissioner of Reclamation, or the Secretary of the Interior.

(4) As specific proposed contracts become available for review and comments, copies may be obtained from the appropriate Regional Director of the Bureau. Regional offices are located at 550 West Fort Street, Boise, Idaho 83724; 2800 Cottage Way, Sacramento, California 95825; P.O. Box 427, Boulder City, Nevada 89005; P.O. Box 11568, Salt Lake City, Utah 84147; 714 South Tyler, Amarillo, Texas 79101; P.O. Box 2553, Billings, Montana 59103; and P.O. Box 25247, Denver, Colorado 80225.

Contracts and repayment officers, project managers, and others also may be designated as public contacts.

Dated: January 10, 1983.

David G. Houston,

Acting Assistant Secretary of the Interior.

[FR Doc. 83-1523 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and Findings Of No Significant Impact (FONSI's) prepared by the MMS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for lease operations for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/activity	Location	FONSI date
ARCO/ Exploration Plan	OCS Blocks 709 and 710 (47 miles ESE of Cape Lookout, NC, South Atlantic.	10/27/82

Person interested in reviewing environmental documents for the proposal listed above or obtaining information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Offshore Field Operations, Atlantic OCS Region, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285-2169, FTS-8-285-2169.

FOR COPIES CONTACT: Records Management Section, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285-2191, FTS-8-285-2191.

There will be a charge for the reproduction of these documents.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Donald P. Truesdell,

Acting Minerals Manager, Atlantic OCS Region.

[FR Doc. 83-1541 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at 202-395-7340.

- Title: Report of Sales and Royalty Remittance, 30 CFR Parts 221, 250.

Bureau Form Number: MMS-2014.

Frequency: Monthly.

Description of Respondents: Lessees of Federal and Indian Oil and Gas leases.

Annual Responses: 34,800.

Annual Burden Hours: 34,800.

Bureau Clearance Officer: Dorothy Christopher.

Direct questions to: Raymond A. Hicks 303-231-3357.

Dated: January 6, 1983.

Robert E. Boldt,

Associate Director for Royalty Management.

[FR Doc. 83-1562 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 016, Block 31, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated January 13, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1570 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 5000, Block 622, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1571 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Capitol Reef National Park; Management Plan

AGENCY: National Park Service, Interior.

ACTION: Notice of availability for the General Management Plan Final Environmental Statement.

SUMMARY: The approved Final Environmental Statement for the General Management Plan for Capitol Reef National Park is available for public distribution.

The General Management Plan addresses the issues of management zoning, resources management, visitor use and interpretation, general development, and boundary adjustments. The final environmental impact statement describes the affected environment; five alternatives, including the preferred alternative, for the management of the park; and the environmental consequences of implementing these alternatives. Also included is the statement of findings for flood plains and wetlands.

A copy of the final environmental statement may be obtained from the Superintendent, Capitol Reef National Park, Torrey, Utah 84775 or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225. Copies of the document are also available for review at the locations noted above.

Dated: January 12, 1983.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 83-1553 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of a loan or loans to the Government of Jamaica (Borrower) as part of A.I.D.'s development assistance program. The proceeds of these loans, amounting to Fifteen Million Dollars ($15,000,000), will be used to finance shelter projects for low income families residing in Jamaica. The following is the name, address and telephone number of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Jamaica

Project: 532–HG–011—$15,000,000, Paul Chen-Young, Financial Consultant to Jamaica Mortgage Bank, 7 Trinidad Terrace, Kingston 5, Jamaica, Telephone: 929–3400, 926–8640

The Borrower will receive the loan proceeds in two disbursements. The first disbursement will be approximately $6,000,000–$9,000,000 and will be made on March 31, 1983. The remainder of the funds will be disbursed approximately six months following the initial disbursement. Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. The Borrower will travel to the United States during the week of February 7, 1983 to discuss the loan with investors who have expressed an interest in lending to the Borrower. Following such discussions, the Borrower will select an investor and expects to sign a loan agreement within three weeks of the selection of an investor.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from: Director, Office of Housing and Urban Development, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: January 14, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 83-1538 Filed 1-19-83; 8:45 am]

BILLING CODE 5116-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278; or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
629	Norfolk and Western Railway Co., ICC-NW-C-0039, (malt liquors)	3	1-13-83
630	Denver and Rio Grande Western Railroad Co., ICC-DRGW-G-0020-B, 0024-A, 0032-B, 0046-A, 0048-A, 0052-A, and 0064-A, (canned goods)	3	1-13-83
631	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0313, (lime, common)	1	1-13-83
632	Southern Pacific Transportation Co., ICC-SP-C-0336, (gravel)	2	1-13-83
633	Southern Pacific Transportation Co., ICC-SP-C-0257, Supplement 2, (petroleum products)	3	1-13-83
634	Kansas City Southern Railway Co., ICC-KCS-C-0044, (alumina)	1	1-13-83
635	Kansas City Southern Railway Co., ICC-KCS-C-0043, (corn or grain sorghums or soybeans)	2	1-13-83
637	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0135, (feed ingredients and soybeans)	1	1-13-83
638	Missouri Pacific Railroad Co., ICC-MP-C-0087, Supplement 1, (whole grains and soybeans) via ports served by MP in LA and TX	2	1-13-83
639	Missouri Pacific Railroad Co., ICC-MP-C-0222, (sorghum)	3	1-13-83
640	Seaboard System Railroad, Inc., ICC-SCL-C-0015, Supplement 2, (brick)	1	1-13-83
641	Southern Pacific Transportation Co., ICC-SP-C-0318, (corn and grain sorghums)	1	1-13-83

[1]Review Board No. 1, Members Parker, Chandler, and Fortier.
Review Board No. 2, Members Carleton, Williams, and Ewing.
Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

49 U.S.C. 10505

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1397 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 13.5 to 13 cents per mile.

EFFECTIVE DATE: This decision will be effective on February 4, 1983.

FOR FURTHER INFORMATION CONTACT:

Lee Alexander (202) 275–7723
Ted Kalick (202) 275–6446
Alan Rothenberg (202) 275–7597
Boston, MA (603) 223–2372
Philadelphia, PA (215) 597–4460
Atlanta, GA (404) 881–2167
Chicago, IL (312) 353–6204
Ft. Worth, TX (817) 334–2794
San Francisco, CA (415) 974–7125

SUPPLEMENTARY INFORMATION: In a decision served December 28, 1982 (47 FR 58390, December 30, 1982), the Commission established owner-operator reimbursement at 13.5 cents per mile for all carrier-related business miles. This change became effective January 14, 1983. As noted in the October 8, 1981 decision (46 Fr 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of January 10, 1983, the current price of diesel fuel was 123.0 cents per gallon. The reimbursement figure is 12.6. Ten working days after publication of the notice in the **Federal Register** (effective February 4, 1983), carriers shall reimburse owner-operators at a minimum of 13 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the **Federal Register,** for publication.

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison.
Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1533 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance porcedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the

transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–023

Decided: January 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 3252 (Sub-123), filed December 28, 1982. Applicant: MERRILL TRANSPORT CO., 1037 Forest Ave., P.O. Box 739, Portland, ME 04104. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043, (617) 749–6500. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 14743 (Sub-33), filed December 28, 1982. Applicant: E. I. POWELL & SONS TRUCKING CO., INC., 3777 South Jackson, P.O. Box 356, Tulsa, OK 74101. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 61832 (Sub-6), filed December 27, 1982. Applicant: PITZER TRANSFER & STORAGE CORP., 341 Reserve Ave., SW, P.O. Box 12966, Roanoke, VA 24005. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St. NW., Washington, DC 20004, (202) 737–1030. Transporting *household goods*, between those points in the U.S. in and east of MI, WI, IA, NE, CO, OK, and TX.

MC 80443 (Sub-52), filed December 28, 1982. Applicant: OVERNITE EXPRESS, INC., P.O. Box 250, Newport, MN 55055. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 87872 (Sub-3), filed December 29, 1982. Applicant: EDWARD EYRING & SONS, INC., 1803 W. 58th St., Cleveland, OH 44102. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *household goods and furniture and fixtures*, between points in OH, on the one hand, and, on the other, points in AR, KS, NE, OK, and TX.

MC 107162 (Sub-85), filed December 27, 1982. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. 1, Brimley, MI 49715. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Chicago, IL.

MC 108453 (Sub-48), filed December 22 1982. Applicant: BARBLINE, INC., P.O. Box 1166, 51027–State Rd. 13, Middlebury, IN 46540. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with L. Perrigo Company, of Allegan, MI.

MC 121212 (Sub-5), filed December 30, 1982. Applicant: CUMBERLAND TRUCKING CO., INC., 2550 Lunt Ave., Elk Grove Village, IL 60007. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, 312–726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) (a) between points in IL, IN, MI, OH, and WI, and (b) between pints in IL, IN, MI, OH, and WI, on the one hand, and, on the other, points in AL, AR, FL, IA, KY, MN, MO, NC, OK, SC, TN, and TX.

MC 121293 (Sub-5), filed December 29, 1982. Applicant: PHILIP E. REEDY d.b.a. VALLEY TRANSFER, Elkhorn, NE 68022. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in IA dnd NE.

MC 123432 (sub-12), filed December 30, 1982. Applicant: WISCONSIN COACH LINES, INC., 901 Niagara St., P.O. Box 1085, Wasukesha, WI 53187. Representative: Edward G. Bazelon, 135

South La Salle St., Chicago, IL 60603, 312–236–9375. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 142603 (Sub-68), filed December 28, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Leslie Delisle (same address as applicant), (413) 732–6283. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Bay State National Corporation, of Springfield, MA.

MC 165442, filed December 27, 1982. Applicant: CON-WAY EASTERN EXPRESS, INC., 3240 Hillview Ave., Palo Alto, CA 94303. Representative: Robert M. Bowden, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e) to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control or the petition for exemption to Team 2, Room 2379.

Volume No. OP 2–025

Decided: January 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–643, filed December 28, 1982. Applicant: AAA INTERNATIONAL FORWARDING SERVICE, 18502–84th Ave. West, Edmonds, WA 98020. Representative: Robert R. Brinker, Suite 1100, 1660 L St. NW., Washington, DC 20036, 202–452–7456. As a *freight forwarder*, in connection with the transportation of used *household goods, unaccompanied baggage and used automobiles*, between points in the U.S.

MC 47583 (Sub-154), filed December 27, 1982. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, KS 66115. Representative: Pamela J. Clayton (same address as applicant), 913–321–6914. Transporting *general commodities* (except household goods and classes A and B explosives) between points in the U.S. (except AK and HI), under continuing contract(s) with the Phillips Petroleum Company, of Bartlesville, OK, and its wholly owned subsidiaries.

MC 52793 (Sub-119), filed December 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Honeywell, Inc., of Minneapolis, MN.

MC 138203 (Sub-6), filed December 30, 1982. Applicant: CURTIS BROTHERS TRUCKING COMPANY, INC., Route 12, Box 177, Fredericksburg, VA 22405. Representative: Floyd L. Curtis (same address as applicant), 703–752–4224. Transporting *lumber and wood products*, between points in Stafford County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with B 7 H Millwork, Inc., of Hartwood, VA.

MC 146853 (Sub-18), filed December 27, 1982. Applicant: HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *cabinets and vanities*, between points in Otter Tail County, MN, on the one hand, and, on the other, those points in the U.S. in and west of MI, IN, KY, MO, AR, and LA. (except AK and HI).

MC 158733 (Sub-4), filed December 23, 1982. Applicant: LEONARD FEED & GRAIN, INC., 5511 16th Ave., SW., Cedar Rapids, IA 52404. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *beer*, between La Crosse County, WI, St. Paul, MN, and Memphis, TN, on the one hand, and, on the other, points in Montgomery County, IA.

MC 165393, filed December 22, 1982. Applicant: IMPERIAL TRUCKING COMPANY, INC., 1323 North Main St., Pearland, TX 77581. Representative: Joe G. Fender, 9601 Freeway, Houston, TX 77024, 713–827–1407. Transporting *household goods and used automobiles*, between points in the U.S. (except AK and HI).

MC 165432, filed December 27, 1982. Applicant: LUEDTKE'S ELIMINATOR TRUCKING, INC., Highway 33 West, P.O. Box 97, Allenton, WI 53002. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Transporting (1) *tractor pulling sleds and accessories*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lloyd Luedtke d/b/a Luedtke's Eliminator, of West Bend, WI, and (2) *metal products and machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with Luedtke's Mfg., Inc., of Allenton, WI.

MC 165463, filed December 27, 1982. Applicant: ALBERT SKORUPA, d.b.a. RIFFLINE, 539 Oaklawn Ave., Cranston, RI 02920. Representative: Albert Skorupa, Jr., 105 Hoffman Ave., Cranston, RI 02920, 401–493–7117. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in RI, MA, CT and NY.

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–05

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–644, filed December 28, 1982. Applicant: ATLANTIC AND PACIFIC CO., INC., P.O. Box 102, Fairfax Station, VA 23039. Representative: John J. Durant, 8706 Rosedale Lane, Annadale, Va 22003, (703) 978–5199. As a *freight forwarder*, in connection with the transportation of *household goods, unaccompanied baggage, and used automobiles*, between points in the U.S.

MC 8744 (Sub-17), filed December 27, 1982. Applicant: CONSOLIDATED MOTOR EXPRESS, INC., 909 Grant St., Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in KY, MD, NC, OH, PA, TN, VA, and WV. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

MC 61264 (Sub-43), filed December 30, 1982. Applicant: PILOT FREIGHT CARRIERS, INC., P.O. Box 27153, Winston-Salem, NC 27153–0000. Representative: A. R. Hastings (same

address as applicant), (919) 722–3421. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Southeastern Bonded Warehouses, Inc., of Atlanta, GA.

MC 107544 (Sub-162), filed December 29, 1982. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, VA 24354. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 111785 (Sub-65), filed December 29, 1982. Applicant: BURNS MOTOR FREIGHT, INC., P.O. Box 149, Marlinton, WV 24954. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101, (703) 893–4924. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 115904 (Sub-145), filed January 4, 1983. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801)531–1300. Transporting *pulp, paper and related products,* and *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Boise Cascade Corporation, of Boise, ID.

MC 123865 (Sub-3), filed December 20, 1982. Applicant: LING TRANSFER, INC., Box 192, Dixon, IL 61021. Representative: James A. Andreoni, 222 E. St. Paul St., Spring Valley, IL 61362–0187, (815) 664–2393. Transporting *coal and coal products, ores and minerals,* and *commodities in bulk,* between points in IL, on the one hand, and, on the other, points in WI.

MC 146395 (Sub-5), filed December 27, 1982. Applicant: W. C. PITTS CONSTRUCTION CO., INC., P.O. Box 112, Highway 84 West, Waynesboro, MS 39367. Representative: W. C. Pitts (same address as applicant), (601) 735–4855. Transporting *Mercer commodities, lumber and wood products, building materials,* and *those commodities which because of their size or weight require the use of special handling or equipment,* between points in MS, on the one hand, and, on the other, points in OK, LA, TX, MA, TN, FL, AL, NC, SC, KY, OH, MI, GA, VA, WV, AR, KS, NM, AZ, and CA.

MC 146724 (Sub-11), filed December 30, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 South 2200 West, P.O. Box 204, West Jordan, UT 84084. Representative: Daniel O. Hands, 104 South Michigan Avenue, Chicago, IL 60603, (312) 641–1944. Transporting (1)(a) *lime* and (b) *chemicals and related products,* between ports of entry on the United States-Canada Boundary in ID, MT, and WA, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, WA, and WY, and (2) *lumber and wood products,* between the ports of entry on the United States-Canada boundary line in ID, MT, ND, and WA, on the one hand, and, on the other, points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 147825 (Sub-6), filed December 30, 1982. Applicant: VERNE'S AUTO SALES, INC., 2804 Neva Rd., Antigo, WI 54409. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *lumber and lumber products,* between points in MN, WI, and the Upper Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162134, filed December 22, 1982. Applicant: TABANI, P. O. Box 8391, Des Moines, IA 50301. Representative: Mark U. Abendroth, P.O. Box 2745, Des Moines, IA 50315, (515) 285–0461. Transporting *malt beverages,* between points in IA, MN, WI, IL and MO, under continuing contract(s) with Hamm's Des Moines Co., Inc. of Des Moines, IA 50305.

MC 164005, filed December 27, 1982. Applicant: JIM BYRNE, D.B.A. JBT., 17A Hillcrest Dr., Glen Head, NY 11545. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills NY 11375, (212) 363–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Stainless Steel Stock Exchange, Inc. of Ridgefield Park, NJ.

MC 165374 (Sub-1), filed December 27, 1982. Applicant: P & F TRANSPORT, INC, 4223 Pines Rd., Paduach, KY 42001. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, Ky 40601, (502) 227–7384. Transporting *chemicals and related products, petroleum and coal products,* between points in AL, FL, GA, IL, IN, KY, MI, MO, OH, PA, TN, VA and WV.

MC 165435, filed December 27, 1982. Applicant: TELE-TRANSPORT, INC. P.O. Box 11509, Clearwater, FL 33516. Representative: Etta Netherton (same address as applicant), (813) 442–6975. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with 91 North, Inc., of Springfield, MA.

MC 165455, filed December 30, 1982. Applicant: COMMERCIAL FREIGHT CARRIERS, INC., P. O. Box 18722, Atlanta, GA 30326. Representative: John W. Brown (same address as applicant). Transporting (1) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Mobile, AL, New Orleans, LA, and Houston, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *building materials,* between points in FL, GA, SC, NC, TN, AL, MS, LA, AR, TX and KY.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–014

Decided: January 13, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–647, filed January 3, 1983. Applicant: ZIP INTERNATIONAL FORWARDING, INC., 225 Broadway, Suite 2100, San Diego, CA 92101. Representative: Kenneth D. Polin (same address as applicant), (619) 234–1966. As a *freight forwarder,* in connection with the transportation of *household goods, baggage and used automobiles,* between points in the U.S.

MC 121496 (Sub-81), filed January 3, 1983. Applicant: ENTERPRISE TRANSPORTATION COMPANY, 2727 N. Loop West, P.O. Box 4324, Houston, TX 77210. Representative: John E. Smith, II (same address as applicant), (713) 880–6562. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Delta Solvents & Chemicals Co., of Longview, TX.

MC 148107 (Sub-12), filed December 29, 1982. Applicant: JESSE J. MESA TRUCKING CO., INC., 1500 S. Zarzamora St., San Antonio, TX 78207. Representative: Ronald Mercier (same address as applicant), (512) 223–1859. Transporting *food and related products,* between points in TX, on the one hand, and, on the other, points in IL, CO, NE, KS, MO, IA, LA, GA, SC, NC, FL, NJ, AL, MS, WI, IN, KY, TN, OK, AR, and VA.

MC 153497 (Sub-2), filed December 27, 1982. Applicant: UNITED AMERICAN FREIGHT, INC., 9324 Harrison Rd.,

Romulus, MI 48174. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, (313) 962-6492. Transporting *such commodities* as are used in the manufacture, distribution and servicing of motor transportation and construction vehicles, between Detroit, MI, on the one hand, and, on the other, points in the U.S. (except MI, OH, IN, KY, IL, WI, AK and HI).

MC 157366 (Sub-1), filed January 3, 1983. Applicant: KIT CONSTRUCTION CO., Rt. 1, Box 238, Joseph, OR 97846. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *machinery and construction materials*, between points in OR in and east of Morrow, Grant and Harney Counties, OR, on the one hand, and, on the other, points in WA and ID.

MC 165427, filed December 29, 1982. Applicant: R. WORRALL & SONS TRUCKING, INC., 8799 Jay Court, Arvada, CO 80003. Representative: Roy Worrall (same address as applicant), (303) 420-5609. Transporting (1) *food and related products*, between points in CO, on the one hand and, on the other, points in the U.S. (except AK and HI), and (2) *building materials*, between Denver, CO and points in Whiteside County, IL.

MC 165476, filed December 27, 1982. Applicant: BERRY-HINCKLEY TERMINAL, INC., 147 S. Stanford Way, Sparks, NV 89431. Representative: Barbara A. Inama, 290 S. Arlington Ave., Reno, NV 89501, (702) 322-4081. Transporting *petroleum and petroleum products*, between points in Washoe County, NV, on the one hand, and, on the other, points in CA, under continuing contract(s) with Western Mountain Oil, Inc., of Reno, NV.

MC 165486, filed January 4, 1983. Applicant: JOHN J. GURZYNSKI, d.b.a. JAMESWAY TRANSPORTATION, 80 Volcic Court, Box 161, Rock Springs, 82901. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting (1) *wood excelsior* and *wood excelsior products*, (2) *carpet padding*, (3) *plastic products*, and (4) *agricultural and horticultural mulch*, between points in the U.S. (except AK and HI), under continuing contract(s) with American Excelsior, of Arlington, TX.

MC 165506, filed December 30, 1982. Applicant: HOWARD F. GUNDRUM, d.b.a. GUNDRUM TRUCKING, 5232 Hwy 144 South, Route 5, West Bend, WI 53905. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238-3119. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Borden, Inc., of Milwaukee, WI.

MC 165537, filed January 4, 1983. Applicant: DAVID C. HUBBS TRUCKING, R.D #4, Box 480, Quarryville, PA 17566. Representative: George E. Campbell, 985 Old Eagle School Rd., Suite 501, Wayne, PA 19087, (215) 293-9220. Transporting (1) *lumber and wood products*, (2) *pulp, paper and related products*, (3) *printed matter*, (4) *chemicals and related products*, (5) *rubber and plastic products*, (6) *machinery*, (7) *building materials*, (8) *furniture and fixtures*, (9) *metal products*, (10) *textile mill products*, and *clay, concrete, glass or stone products*, between points in the U.S. (except AK and HI).

Volume No. OP4-017

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 98396 (Sub-5), filed December 9, 1982. Applicant: TOWER BUS, INC., 363 N. Gratiot, Mt. Clemens, MI 48043. Representative: Thomas W. Fisher (same address as applicant), (313) 469-2000. (A) Over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S.; and (B) Over regular routes, transporting *passengers*, (1) between Mt. Clemens, MI and Lansing, MI, from Mt. Clemens over MI Hwy 59 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Interstate Hwy 496, then over Interstate Hwy 496 to Lansing, (2) between Mt. Clemens, MI and Ann Arbor, MI, from Mt. Clemens over MI Hwy 59 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Orchard Lake Road, then over Orchard Road to Grand River Ave., then west to Farmington Road, then over Farmington Road to 8 mile Road, then over 8 mile Road to Interstate Hwy 275, then over Interstate Hwy 275 to Ann Arbor Road, then west to Ann Arbor Road to Main St., then over Main St. to Ann Arbor Trail, then over Ann Arbor Trail to Sheldon Road, then over Sheldon Road to junction MI Hwy 14, then over MI Hwy 14 to Ann Arbor, (3) between Detroit, MI and Port Huron, MI, from Detroit over MI Hwy 3 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Port Huron, (4) between Dearborn, MI and Frankenmuth, MI, (a) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction MI Hwy 83 to Frankenmuth, and (b) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 275, then over Interstate Hwy 275 to Interstate Hwy 96, then over Interstate Hwy 96 to U.S. Hwy 23, then over U.S. Hwy 23 to Frankenmuth, and (5) between Port Huron, MI and Detroit, MI, over MI Hwy 19, and return over the same routes, serving all intermediate points in (1), (2), (3), (4), and (5) above.

Note.—Applicant seeks to provide privately-funded charter and special transportation in (A) above, and in (B) above applicant seeks to provide regular route service in interstate or foreign commerce.

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A will be published in VOL #OP4-017. Part B will be published in VOL #OP4-018.

For the following, please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-009

Decided: January 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 109638 (Sub-41), filed December 20, 1982. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 1927, Cherry Rd., Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant), 919-927-4971. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI) under continuing contract(s) with Weyerhaeuser Company of Plymouth, NC.

MC 145128 (Sub-2), filed January 3, 1983. Applicant: MARKET SUPPORT SERVICES, INC., P.O. Box 1969, Camden, NJ 08101. Representative: Robert L. Cope, 1730 M Street, N.W., Suite 501, Washington, DC 20036, 202-296-2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mutual Distribution Systems, Inc., of Gloucester City, NJ.

MC 146129 (Sub-2), filed January 3, 1983. Applicant: DIRECT DELIVERY SERVICE, INCORPORATED, P.O. Box 91160, Los Angeles, CA 90009. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, 213-655-3573. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 146689 (Sub-19), filed January 3, 1983. Applicant: BLUE CHIP TRANSPORTATION COMPANY, 261 Maplewood Dr., Pottstown, PA 19464. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301-840-8565. Transporting

general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, PA, NY, NJ, and MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148018 (Sub-11), filed November 24, 1982. Original published in the **Federal Register** on December 15, 1982 (republication). Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Ste 8, Boise, ID 83705, 208–344–7714. Transporting *building materials, construction equipment and construction supplies*, between points in the U.S. (except AK and HI).

Note.—This application is republished to modify the commodity description.

MC 148159, filed January 4, 1983. Applicant: WAYNE SMITH, d.b.a. WAYNE SMITH TRUCKING, Highway 64 West, Morrilton, AR 72110. Representative: Fredrick S. Wetzel III, 727 Pyramid Place, 211 West Second Street, Little Rock, AR 72201, 501–372–5745. Transporting *paper and paper products*, between points in Conway, Pulaski, Mississippi, Poinsett, and Pope Counties, AR, Shelby County, TN, Tulsa County, OK, on the one hand, and, on the other, points in Muskogee, Mayes and Tulsa Counties, OK, Shelby County, TN, Conway County, AR, and Dallas County, TX.

MC 151078 (Sub-6), filed January 5, 1983. Applicant: COASTAL FAST FREIGHT, INC., P.O. Box 445, Jersey City, NJ 07303. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036, 202–822–8200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153009 (Sub-2), filed January 3, 1983. Applicant: SPUR TRUCK LINES, INC., 5211 Allen Street, Houston, TX 77007. Representative: Thomas F. Sedberry, P.O. Box 2023, 2600 Austin National Bank Tower, Austin, TX 78701, 512–472–8355. Transporting *Mercer commodities*, between points in TX and OK.

MC 153679 (Sub-9) filed January 3, 1983. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United Southern Bank Bldg., Nashville, TN 37219, 615–244–8100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National Transportation Consultants, Inc., of Northfield, OH.

MC 165339, filed December 21, 1982. Applicant: CONSOLIDATED CARGOS INC., 7605 N. Upland Dr., Portland, OR 97203. Representative: Kenneth M. Booze (same address as applicant), 503–2866–8361. Transporting *wearing apparel*, between points in the U.S. under continuing contract(s) with Nike, Inc. of Beaverton, OR.

MC 165498, filed January 4, 1983. Applicant: WILLIAMSBURG TRANSPORT, INC., 2850 South Broadway, St. Louis, MO 63118. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *containers and container parts* between points in the U.S. (except AK and HI), under continuing contract(s) with Ball Corporation, of Muncie, IN.

James H. Bayne,
Acting Secretary.

[FR Doc. 83-1535 Filed 1-19-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications

for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-024

Decided: January 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 8243 (Sub-3), filed December 30, 1982. Applicant: VILLANI BUS COMPANY, INC., 811 East Linden Ave., Linden, NJ 07036. Representative: Jeremy Kahn, 1511 K St. NW—Suite 733, Investment Bldg., Washington, DC 20005, 202-783-3525. Transporting *passengers*, in special and charter operations, beginning and ending at points in NJ, NY, CT, DE, PA, and MD, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153412 (Sub-1), filed December 30, 1982. Applicant: QUALITY COACH LINES, INC., 1923 N. Carson St., Suite 104, Carson City, NV 89701. Representative: Mike Pavlakis, 402 North Division St., P.O. Box 646, Carson City, NV 89701, 702-882-0202. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165333, filed December 21, 1982. Applicant: RYAN EXPRESS, INC., 831 Field Club Road, Fox Chapel, PA 15238. Representative: John J. Connors (same as applicant) (412) 963-1473. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165423, filed December 30, 1982. Applicant: FREEWAY ENTERPRISES, INC., 3322 Curtis Drive, Hillcrest Heights, MD 20746. Representative: Iris E. Crawford, 1911 R Street NW., Washington, DC 20009, (202)462-1047. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP2-026

Decided: January 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1423 (Sub-3), filed December 27, 1982. Applicant: MELNI BUS SERVICE, INC., 29 River Rd., Chatham, NJ 07928. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005 202-783-3525. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately funded charter or special transportation.

MC 142453 (Sub-2), filed December 29, 1982. Applicant: UPSTATE TRANSIT, INC., Geyser Rd., P.O. Box 190, Saratoga Springs, NY 12866. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703-522-0900. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 164802, filed November 22, 1982. Applicant: MILROC'S BUS LINES, INC. (Green Road) R.D. #2, Box 28, Sharon Springs, NY 13459. Representative: Michael E. LaRocca (same address as applicant), (518) 284-2517. Transporting *passengers*, in charter and special operations, beginning and ending at points in NY, and extending to points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately funded charter and special transportation.

MC 165143, filed December 9, 1982. Applicant: AAA FREIGHT BROKERS, INC., 2100 Alaskan Way, Seattle, WA 98101. Representative: Wallace B. Farbo, P.O. Box 1181, Milton, WA 98354. (206) 922-9812. As a *broker of general commodities*, (except household goods), between points in the U.S. (including AK and HI).

MC 165382, filed December 27, 1982. Applicant: MO-TRAN BUS LINES, INC., 104 Clark St., Moberly, MO 65270. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102, 314-635-7166. Transporting *passengers*, in charter operations, between points in MO, IA, IL, KY, TN, AR, OK, KS, and NE.

Note.— Applicant seeks to provide privately-funded charter transportation.

For the following, please direct status inquiries to Team 4 at 202-275-7669.

Volume No. OP4-015

Decided: January 13, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 156436 (Sub-4), filed December 21, 1982. Applicant: I.W. TRANSPORT, INC., 325 N. Baldwin Park Blvd., City of Industry, CA 91746. Representative: Jerome Paul (same address as applicant), (213) 960-8661. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI)

MC 159626 (Sub-1), filed January 4, 1983. Applicant: ORANGE BLOSSOM LINES INC., 407 Ros Paw Way, Placentia, CA 92670. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in Ventura, Los Angeles, Orange, Riverside, San Bernardino and San Diego Counties, CA and extending to points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately funded charter and special transportation.

MC 165516, filed December 27, 1982. Applicant: HUBER & HUBER TRANSPORT, 5944 S. Main St., Murray, UT 84107. Representative: Howard Reynolds (same address as applicant), (801) 262-9281. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165527, filed January 5, 1983. Applicant: JAMES L. ABBOTT, d.b.a. J. L. ABBOTT TRUCKING, 3950 Coburg Rd. Space 21, Eugene, OR 97401. Representative: James L. Abbott (same address as applicant). Transporting *food and other eldible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4-018

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 98396 (Sub-5), filed December 9, 1982. Applicant: TOWER BUS, INC., 363 N. Gratiot, Mt. Clemens, MI 48043. Representative: Thomas W. Fisher (same address as applicant), (313) 469-2000. (A) Over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S.; and (B) Over regular routes, transporting *passengers*, (1) between Mt. Clemens, MI and Lansing, MI, from Mt. Clemens over MI Hwy 59 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Interstate Hwy 496, then over Interstate Hwy 496 to Lansing, (2) between Mt. Clemens, MI and Ann

Arbor, MI, from Mt. Clemens over MI Hwy 59 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Orchard Lake Road, then over Orchard Road to Grand River Ave., then west to Farmington Road, then over Farmington Road to 8 mile Road, then over 8 mile Road to Interstate Hwy 275, then over Interstate Hwy 275 to Ann Arbor Road, then west to Ann Arbor Road to Main St., then over Main St. to Ann Arbor Trail, then over Ann Arbor Trail to Sheldon Road, then over Sheldon Road to junction MI HWY 14, then over MI Hwy 14 to Ann Arbor, (3) between Detroit, MI and Port Huron, MI, from Detroit over MI Hwy 3 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Port Huron, (4) between Dearborn, MI and Frankenmuth, MI, (a) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction MI Hwy 83 to Frankenmuth, and (b) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 275, then over Interstate Hwy 275 to Interstate Hwy 96, then over Interstate Hwy 96 to U.S. Hwy 23, then over U.S. Hwy 23 to Frankenmuth, and (5) between Port Huron, MI and Detroit, MI, over MI Hwy 19, and return over the same routes, serving all intermediate points in (1), (2), (3), (4), and (5) above.

Note.—Applicant seeks to provide privately-funded charter and special transportation in (A) above, and in (B) above applicant seeks to provide regular route service in interstate or foreign commerce.

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A will be published in VOL #OP4-017. Part B will be published in VOL #OP4-018.

For the following, please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-010

Decided: January 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 154838, filed January 5, 1983. Applicant: PAUL J. MARSH, 20 Alvina Boulevard, Albany, NY 12203. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801, 518-792-0957. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164799 (Sub-1), filed January 3, 1983. Applicant: 48 FREIGHTWAYS, INC., 1875 North State Street, Belvidere, IL 61008. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589, 608-873-8929. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (4) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), agricultural limestone anf fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165488, filed January 4, 1983. Applicant: FAST DEER BUS CHARTER, INC., 1625 S. Alameda St., Rm 8, Los Angeles, CA 90021. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714-667-8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165499, filed January 5, 1983. Applicant: SIERRA LINES, INC., d.b.a. SIERRA PACIFIC TOURS, P.O. Box 5305, Concord, CA 94520. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414-722-2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165509, filed January 5, 1983. Applicant: HARVEY CADILLAC COMPANY, 2600 28th Street SE., Grand Rapids, MI 49508. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517-482-2400. Transporting *passengers*, in charter and special operations, between points in MI, IL, IN, OH and WI.

Note.—Applicant seeks to provide privately funded charter and special transportation.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1536 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Please direct status inquiries to Team 3, at (202) 275-5223.

Volume No. OP3-03

Decided: January 14, 1983.

MC 1515 (Sub-323)X, filed January 5, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower—1510, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248-2942. Deviation No. 735: broaden to serve all intermediate points on a route between Texarkana, TX and Memphis, TN.

For the following, please direct status inquiries to Team 4 at 202-275-7669.

Volume No. OP4-016

Decided: January 13, 1983.

MC 118806 (Sub-82)X, filed January 4, 1983. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 3K4. Representative: Bernard J. Kompare, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600.

Sub 80 certificate: broaden to "(3) machinery and transportation equipment" from "(3) self propelled articles, each weighing 15,000 lbs. or more".

Volume No. 323

Decided: January 13, 1983.

For status, call 202-275-0957.

MC 115180 (Sub-106)X, filed December 21, 1982. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 465 W. 14th St., New York, NY 10014. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Subs 1, 2, 3, 4, 5, 9, 10, 12, 13, 14, 15, 17, 18, 20, 22, 23, 24, 26, 28, 32, 34, 35, 36, 37, 39, 47, 49, 50, 51, 52, 53, 55, 56, 57, 58, 60, 61, 62, 63, 66, 67, 68, 70, 72, 74, 77, 78, 79, 80, 81, 83, 86, 89, 91, 96, 97, 99F, 101F, and 102F: (1) Broaden (a) frozen sea foods, frozen poultry, frozen fruit, frozen vegetables, and frozen meat, frozen foods, candy and confections, excluding molded chocolate, sea foods, fruit and vegetables, and poultry, dressed or cold packed, fresh oysters, clams and scallops, poultry, dressed, fresh frozen, meats, fresh, butter, cheese, and oleomargarine (Sub 1), meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses (Subs 1, 2, and 81, edible animal fats, animal oils, and vegetable oils, and products thereof in packages, and oleomargarine, in packages (Sub 3), meats, meat products and meat by-products, and articles distributed by meat packinghouses (Subs 4, 5, 9, 10, 12, 13, 14, 15, 17, 20, 28, 35, 37, 39, 47, 49, 51, 52, 53, 58, 60, 63, 66, 68, 70, 72, 74, 77, 78, 79, 80, 86, 89, 97, 102F), food products and fresh meat, in vehicles equipped with mechanical refrigeration and advertising materials, supplies, display materials, and premiums, when moving at the same time and in the same vehicle (Sub 18), frozen meats (Subs 23 and 61), candy, confectionery, and confectionery products and advertising matter, premiums, prizes and display materials, when shipped in the same vehicle (Sub 24), non-frozen foodstuffs (Sub 26), foodstuffs and advertising matter, display racks and premiums, when moving at the same time and in the same vehicle (sub 32), foodstuffs in vehicles equipped with mechanical refrigeration (Subs 55 and 67), edible meats, canned goods, gelatines, tails, vegetable oils and vegetable oil shortenings, dairy products, and foodstuffs, in vehicles equipped with mechanical refrigeration (Sub 56), cheese products and meats, meat products and meat by-products (Sub 57), frozen foods (Sub 62), food and foodstuffs, in vehicles equipped with mechanical refrigeration (Sub 83), meat, meat products, and meat by-products (Sub 91), shortenings, lards, tallow, cooking oils and oleomargarine, in packages (Sub 96), canned goods (Sub 99F), and foodstuffs (Sub 101F) to "food and related products" (b) plaster board, lime, and cement to "building materials" (sub 1); (c) stationery and paper or pulpboard school supplies, paper cups and paper wrappers, and paper products, and loose leaf binders or covers to "pulp, paper and related products" (Sub 1); (d) plastic articles to "rubber and plastic products" (Sub 22); (e) cosmetics, toilet preparations, perfumes, soap and advertising materials, and displays, in mechanically refrigerated equipment (Sub 34) and drugs and pharmaceuticals, in vehicles equipped with mechanical refrigeration (Sub 67) to "chemicals and related products"; and (f) general commodities, except those of unusual value, classes A and B explosives, livestock, household goods, commodities in bulk, and those requiring special equipment, to "general commodities, except classes A and B explosives, household goods, and commodities in bulk" (Sub 50); (2) remove the following restrictions; (a) except meat, fresh or frozen, dairy products, butter, cheese and oleomargarine (Sub 1); (b) except liquid commodities in bulk, in tank vehicles (Subs 2 and 4); (c) except hides and commodities in bulk, in tank vehicles (Subs 5, 9, 10, 12, 13, 14, 15, and 17); (d) except fresh meat (Sub 12); (e) except commodities in bulk (Subs 18, 32, 55, 56, and 67); (f) except hides and commodities in bulk (Subs 20, 28, 39, 47, 49, 51, 52, 53, 58, 60, 63, 66, 70, 72, 74, 77, 78, 79, 80, 81, 86, 89, 91, and 97); (g) except commodities in bulk, in tank vehicles (Subs 22, 24, 26, and 83); (h) except hides and liquid commodities in bulk (Sub 35); (i) except commodities in bulk, in tank vehicles, hides and pelts (Sub 37; (j) except hides and skins and commodities in bulk (Sub 102F); and (k) except Columbus Junction, Mason City, Waterloo, Fort Dodge, Ottumwa, Cherokee and Dubuque, IA (sub 14); (3) remove the facilities limitations (Subs 2, 3, 4, 5, 9, 10, 12, 13, 15, 20, 22, 23, 24, 26, 28, 32, 34, 35, 36, 37, 39, 47, 51, 52, 53, 55, 58, 60, 61, 62, 63, 66, 67, 68, 70, 72, 74, 77, 78, 79, 80, 81, 83, 86, 89, 91, 96, 99F, and 102F) and the originating at and/or destined to restrictions (Subs 3, 4, 5, 9, 10, 12, 13, 15, 17, 20, 23, 24, 26, 28, 32, 37, 39, 47, 49, 51, 52, 53, 55, 56, 57, 58, 60, 61, 62, 63, 66, 67, 68, 70, 72, 74, 77, 78, 79, 81, 83, 86, 89, 91, 96, 97, 99F, and 102F); (4) change one-way to radial authority (above applicable Subs); and (5) broaden cities to county-wide authority: (a) Altoona, PA (Blair County), Corning, NY (Steuben County), Genoa, OH (Ottawa County), Oakfield, NY (Genesee County), Huntingdom, PA (Huntingdom County), Bridgeport, Norwalk, and Stamford, CT (Fairfield County), Hartford, CT (Hartford County), Meriden, New Haven, and Waterbury, CT (New Haven County), Greensburg, IN (Decatur County), Vincennes, IN (Knox County), and Kokomo, IN (Howard County), Sub 1; (b) Rochelle, IL (Ogle County), Sub 2; (c) Bradley and Kankakee, IL (Kankakee County), Sub 3; (d) Momence, IL (Kankakee County), Sub 4; (e) Sterling, IL (Whiteside County), Sub 5; (f) Worthington, MN (Nobles County), Sub 9; Grand Island, NE (Hall County), Sub 10; (g) Monmouth, IL (Warren County), Sub 12; (h) Cherokee, IA (Cherokee County), Sub 13; (i) Garden City, KS (Finney County), Sub 15; (j) Sioux City, IA (Woodbury County), Sub 17; (k) East Rutherford, NJ (Bergen County), Sub 18; (l) Phelps City, MO (Atchison County), Sub 20; (m) Kenilworth, NJ (Union County), Danville, IL (Vermilion County), and Racine, WI (Racine County), Sub 22; (n) Worthington, MN (Nobles County), and Mankato, MN (Blue Earth County), Sub 23; (o) Duryea, PA (Luzerne County), Sub 24; (p) Milton, PA (Northumberland County), Sub 26; (q) Bureau, IL (Bureau County), Sub 28; (r) La Porte, IN (La Porte County), Sub 32; (s) Mountaintop, PA (Luzerne County), Sub 34; (t) South Kearny, NJ (Hudson County), and Delawanna, NJ (Passaic County), Sub 36; (u) Aurora, IL (Kane County), Sub 37;' (v) Beardstown, IL (Cass County), Sub 39; (w) Logansport, IN (Cass County), Sub 47; (x) Monmouth, IL (Warren County), Sub 49; (y) Newark, NJ, and points in NJ within 15 miles of Newark (Bergen, Passaic, Hudson, Essex, Union Middlesex, Monmouth, Somerset, Morris Counties), Sub 50; (z) Logansport, IN (Cass County), Sub 51; (aa) Harlan, IA (Shelby County), Sub 52; (bb) Clarinda, IA (Page County), Postville, IA (Allamakee County), and Storm Lake, IA (Buena Vista County), Sub 53; (cc) Lafayette, IN (Tippecanoe County), Sub 55; (dd) St. Cloud, MN (Stearns, Benton, and Sherburne Counties), Worthington, MN in Part 2 (Nobles County), St. Charles, MN (Winona County), Albert Lea and Twin Lakes, MN (Freeborn County), Faribault, MN (Rice County), Portage, WI (Columbia County), Marshfield, WI (Wood County), Monroe, WI (Green County), and Fairmont, MN (Martin County), Sub 56; (ee) Evansville, IN (Vanderburgh County), Indianapolis, IN (Marion County), and Washington, IN

(Daviess County), Sub 57; (ff) Omaha, NE (Douglas County), Sub 58; (gg) Cedar Rapids, IA (Linn County), Sub 60; (hh) Lafayette, IN (Tippecanoe County), Sub 61; (ii) Deerfield, IL (Lake County) and Chicago, IL (Cook County), Sub 62; (jj) Albert Lea, MN (Freeborn County), Sub 63; (kk) Sioux City, IA (Woodbury County), Sub 66; (ll) Champaign County), Mattoon, IL (Coles County), Park Forest and Glenwood, IL (Cook County), and Bradley, IL (Kankakee County), Sub 67; (mm) Hereford, TX (Deaf Smith County), Sub 68; (nn) Joslin, IL (Rock Island County), Sub 70; (oo) Omaha, NE (Douglas County), Glenwood, IA (Mills County), and Marshalltown, IA (Marshall County), Sub 72; (pp) Denison, IA (Crawford County) and Iowa Falls, IA (Hardin County), Sub 74; (qq) St. Charles, IL (Kane County), Sub 77; (rr) Denison, IA (Crawford County), Fort Dodge, IA (Webster County), Le Mars, IA (Plymouth County), Mason City, IA (Cerro Gordo County), Emporia, KS (Lyon County), Luverne, MN (Rock County), Dakota City, NE (Dakota County), and West Point, NE (Cuming County), Sub 78; (ss) Carroll, IA (Carroll County) and Omaha, NE (Douglas County), Sub 79; (tt) Fargo, ND (Cass County), Sub 80; (uu) Marshall, MO (Saline County), Sub 81; (vv) Fogelsville, PA (Lehigh County), Sub 83; (ww) Carroll, IA (Carroll County) and Omaha, NE (Douglas County), Sub 86; (xx) York, NE (York County), Sub 89; (yy) Hawarden, IA (Sioux County), Sub 91; (zz) Bradley, IL (Kankakee County), Sub 96; (aaa) Oakland, IA (Pottawattamie County), Sub 97; (bbb) Eau Claire, WI (Eau Claire and Chippewa County), La Crosse, WI (La Crosse County), and Superior, WI (Douglas County), Sub 99F; and (ccc) Omaha, NE (Douglas County), Sub 102F.

MC 148970 (Sub-2)X, filed December, 20, 1982. Applicant: BEACH PARK FREIGHT LINES, INC., 38433 North Holdridge Ave., Waukegan, IL 60085. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg. 421 South Second St., Elkhart, IN 46516. Lead permit: (1) Broaden to "building materials and clay, concrete, glass or stone products" from building and insulating materials, insulating board, and materials and supplies used in the manufacture and distribution of the above commodities; (2) remove the "commodities in bulk" restriction; and (3) broaden to "between points in the U.S. (except AK and HI), under continuing contract(s) with named shipper.

MC 163710 (Sub-2)X, filed December 16, 1982. Applicant: WESTERN LIQUID TRANSPORT, 2120 Harbor Street, Pittsburg, CA 94565. Representative: Eldon M. Johnson, 650 California St., Ste. 2808, San Francisco, CA 94108. Sub 1 permit: Broaden to (A)(1) "commodities in bulk" from (a) liquid paraffin wax, in bulk, in tank equipment or vehicles, parts 1 and 2; and (b) lubricating oils, used lubricating oils, oil additives and drain oil, part 3; and (B) "between points in the U.S. (except AK and HI), under continuing contract(s) with named shippers, all parts.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1534 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Friday February 11, 1983, starting at 9:00 a.m., at the Federal Correctional Institution, Old N. Carolina Highway 75, Butner, North Carolina, 27509.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 83-1524 Filed 1-19-83; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-7)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the forthcoming meeting of the NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: February 8-9, 1983, 9:00 a.m. to 5:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Building 31, Room 193, Houston, Texas 77058.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code EL-4, Washington, D.C. 20546 (202/755-8038).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the Council and to NASA. The committee is chaired by Dr. David Morrison and is composed of six other members of the Council and its standing committees, who will meet about 9 other invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including committee members and invited meeting participants). Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Agenda:

February 8, 1983

9 a.m.—Program Status/fiscal year 1984 Budget Plans.

1 p.m.—Galileo Saturn.

February 9, 1983

9 a.m.—Committee Report.

1 p.m.—Future Plans.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

January 14, 1983.

[FR Doc. 83-1510 Filed 1-19-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-8]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: February 17, 1983, 8:30 a.m. to 5:30 p.m.; and February 18, 1983, 8:30 a.m. to 3:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room B226-A,

600 Independence Ave. SW.
Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:
Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, D.C. 20546 (202/755-3653).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants.) Topics to be addressed at this meeting will include discussion of the Office of Space Science and Applications (OSSA) FY 1984 budget, status reports on the Solar System Exploration Committee, and Global Habitability activities, and a consideration of the issue of program prioritization and program balance.

Type of Meeting: Open.

Agenda:

February 17, 1983
- 8:30 a.m.—Introduction, Announcements, Meeting Logistics, Other Administrative Matters.
- 8:45 a.m.—OSSA FY 1984 Budget and Program Status.
- 10:30 a.m.—Solar System Exploration Committee Status Report.
- 11:30 a.m.—Global Habitability Status Report.
- 1:30 p.m.—NASA/University Study.
- 2:30 p.m.—Research and Analysis Program Status Report.
- 4:00 p.m.—Discussion.
- 5:30 p.m.—Adjourn.

February 18, 1983
- 8:30 a.m.—Space Station Program.
- 9:30. a.m.—Office of Technology Assessment (OTA) Report on Space Science.
- 10:30 a.m.—Program Prioritization and Program Balance.
- 1:00 p.m.—Arrangements for next meeting, assignments, general discussion, meeting summary.
- 3:30 p.m.—Adjourn.

Richard L. Daniels.

Director, Management Support Office, Office of Management.

January 14, 1983.

[FR Doc. 83-1511 Filed 1-19-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Council on the Arts; 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 National Council on the Arts will be held on Friday, February 4, 1983, from 9:00 a.m.-6:00 p.m. and on Saturday, February 5, 1983, from 9:00 a.m.-6:00 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., wWshington, D.C.

A portion of this meeting will be open to the public on Friday, February 4, 1983, from 9:00 a.m.-6:00 p.m. and on Saturday, February 5, 1983, from 9:00 a.m.-2:30 p.m. Topics for discussion will include Program Review and Guidelines for: Opera-Musical Theater, Inter-Arts, Orchestra, Chorus, Music Professional Training, Folk Arts, Touring/Presenting Initiative, and the Endowment Fellows Programs; Cross-Cutting Program Issues; International and Private Sector Activities; Touring/Presenting Policy; and Planning for Budget Development.

The remaining sessions of this meeting on Saturday, February 5, 1983, from 2:30 p.m.-6:00 p.m. are for the purpose of Council 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.

January 13, 1983.

[FR Doc. 83-1509 Filed 1-19-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Advisory Group on Crustal Studies; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Advisory Group on Crustal Studies

Place: National Science Foundation, 1800 G Street, NW.—Room 543, Washington, D.C. 20550

Date: Thursday, February 3 and Friday, February 4, 1983

Time: 9:00 a.m.-5:00 p.m.

Type of meeting: Open

Contact person: Dr. H. Frank Eden, Senior Science Associate, Astronomical, Atmospheric, Earth and Ocean Sciences Directorate, National Science Foundation, 1800 G Street, NW., Room 510, Washington, D.C. 20550, Telephone: (202) 357-7357

Purpose of advisory group: The purpose of the Advisory Group is to provide advice to the Assistant Director for Astronomical, Atmospheric, Earth and Ocean Sciences, National Science Foundation, on priorities for future research on the Earth's crust.

Summary minutes: May be obtained from the contact person at above stated address.

Agenda: The Advisory Group is asked to consider future research priorities for crustal studies within realistic budgetary constraints. Topics considered will cover both continental and oceanic research and include drilling programs.

M. Rebecca Winkler,

Committee Management Coordinator.

January 17, 1983.

[FR Doc. 83-1506 Filed 1-19-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. NPF-6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment allows modification to eliminate recirculation actuation signals to the minirecirculation valves controlling a limited bypass flow from the high pressure safety injection system pumps to the refueling water tank and changing actuation of these valves from automatic to manual. The Technical Specification requiring channel functional tests of certain functional units channelled through related plant protection system electrical cabinets is relaxed for the month of January 1983. The amendment also deletes the requirement for verification at intervals of at least every 18 months of the closing of the recirculation valve to the refueling water tank upon recirculation actuation test signals.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The applications for amendment dated January 5, 1983 (2 letters), as supplemented by letter dated January 6, 1983, (2) Amendment No. 39 to Facility Operating License No. NPF-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this seventh day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-1550 Filed 1-19-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

The amendment authorizes operation of Calvert Cliffs Nuclear Power Plant, Unit No. 2 during Cycle 5 at a rated thermal power of 2700 MWt. Our evaluation of Cycle 5 included the consideration of extended burnup, equivalent to approximately 18 months of plant operation, and also the use of new analytic methods in predicting fuel and thermal-hydraulic performance. In addition to Technical Specification changes associated with Cycle 5 operation, we have also approved a special test exception which will facilitate startup testing of the auxiliary feedwater system. Changes to the requirements for post-accident monitoring have also been approved.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Consideration of Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on December 8, 1982 (47 FR 55350). No request for a hearing or petition for leave to intervene was filed following notice of proposed action.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 15, 1982, as supplemented November 17, 1982, (2) Amendment No. 61 to License No. DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Pulic Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-1551 Filed 1-19-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The Technical Specification changes incorporate: (1) Revised position titles related to the plant and mangement organizations, (2) a change of the management official to which reportable occurrences are directed and (3) deletions of redundant sections in the technical specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 16, 1982, (2) Amendment No. 80 to License No. DPR-49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated January 7, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy to items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 7th day of January 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-1552 Filed 1-19-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Notice of Computer Matching Programs: U.S. Postal Service and Philadelphia School District, and advance notice of modification to an existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to conduct a computer matching program, and to propose the addition of a new temporary routine use to system USPS 050.020, Finance Records—Payroll System.

DATE: Any interested party may submit written comments regarding the matching program and the proposed new routine use. Comments on this notice must be received on or before February 21, 1983.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260, or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected in Room 8121 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, (202) 245-5568.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing a new temporary routine use for system USPS 050.020, Finance Records—Payroll System, in connection with its plans to begin identifying postal employees who are also on the employment rolls of the Philadelphia, Pennsylvania School District. The routine use, if adopted, will be in effect for a period of one year from its effective date. The purpose of this proposed action is to determine whether suspected violations of federal or state laws or Postal Service regulations have occurred in connection with the improper receipt of dual benefits by these employees. Of particular concern is the possible misuse of sick leave or the improper receipt of continuation of pay under the workers' compensation program.

Set forth below is the information required by the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Managment and Budget (47 FR 21656; May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Report of Computer Matching Program

In accordance with 39 U.S.C. 404, the Postal Service proposes to perform a match by computer of employees on the payroll of the Philadelphia Post Office against the Philadelphia School District's listing of its employees. At the request of the Postal Service, the Philadelphia School District (PSD) has tentatively agreed to provide a computer tape listing of its employees by name and social security number which the Postal Service will match against its Payroll System files for the purpose of identifying Postal Service employees common to both lists—i.e., "hits." Postal Service Payroll System files contain general payroll information, including name, social security number, salary, family compensations, benefit deductions, accounts receivable, leave data, addresses, records of attendance and other relevant payroll information.

Upon completion of the match, and after the list is compiled, the Postal Service will return to PSD its computer tape and will disclose to PSD only relevant details for the "hits" but not other information or names in its payroll system. All information obtained or utilized will remain under the control of the Postal Inspection Service and/or the investigative service for the PSD Internal Controller's Office. Except for any individual investigative case file that may be established within the parameters of system USPS 080.010, Inspection Requirements Investigative File System (last published in 47 FR 1208 of January 11, 1982), all other information compiled as a result of this matching effort will be destroyed as soon as the determination is made that it relates to a legitimate, non-fraud situation.

Proposed System Modification To Add New Routine Use

On a one-time basis, the Postal Service proposes to disclose a limited amount of information from the payroll records of certain postal employees to the Internal Controller's Office of the Philadelphia, Pennsylvania School District (PSD). This information will be used to identify postal employees who have fraudulently received compensation benefits from either the Postal Service or the PSD. The Postal Service believes that an integral part of the reason that employee payroll records are maintained is to protect the legitimate interests of the Government and, therefore, such a routine use is compatible with the purpose or maintaining these records. System 050.020 last appeared in 46 FR 1979 dated January 7, 1981. As provided in 5 U.S.C. 552a(e)(11) for new routine uses, interested persons are invited to submit written views or arguments on the routine use proposed. After any comments submitted have been considered, final notice of the routine use will be published. Accordingly, it is proposed to modify system USPS 050.020, Finance Records—Payroll System, to add a new temporary routine use to allow this disclosure as follows:

USPS 050.020, Finance Records—Payroll System

"26. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files. (Note.—This routine use will be in effect for a period of one year from its effective date.)"

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-1587 Filed 1-19-83; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19419; File No. SP-CBOE-82-20]

Self-Regulatory Organizations; Proposed Rule Change; Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 10, 1983, the Chicago Board Options Exchange, Incorporated, filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1 *Text of Proposed Rules Change.*

Rule 24.1 Definitions. (h) The term "covered" in respect of a short position in an index call option contract means that the writer holds in the same account a long position in an index call option for the same underlying index

with the same index multiplier as the short call where the expiration date of the long call is the same as or subsequent to the expiration date of the short call and the exercise price of the long call is equal to or less than the exercise price of the short call. The term "covered" in respect of a short position in an index call option contract means that the writer holds in the same account a long position in an index put option for the same underlying index with the same index multiplier as the short put where the expiration date of the long put is the same as or subsequent to the expiration date of the short put and the exercise price of the long put is equal to or greater than the exercise price of the short put.

Rule 24.2 Designation of the Index. The rules change previously approved by the Commission, SR-CBOE-82-11, in Securities Exchange Act of 1934 Release No. 19284, November 22, 1982, noted that the CBOE-100 Index had been set to equal 50 as of January 2, 1976, the start date of the index. In order to calculate the current market value, the aggregate market value is divided by the base value and multiplied by 50. The Exchange has decided to reset the current index value to 100 as of the start date and to adjust the subsequent index values accordingly. Under the old system, on December 1, 1982, the current index value was 67.74. Under the new system, on December 1, the current index value was 135.48.

The Exchange is making this change because of the relationship between the current index value and strike price intervals. The Exchange generally uses strike price intervals that are five points apart for securities trading below 100. However, this would be inappropriate for options on the CBOE-100 because it is a stable index, and with the index at 67.74 and strike prices of 65 and 70, it might take a very long time for a strike price to be reached. The Exchange believes it would improve depth and liquidity to increase the frequency with which strike prices may be reached. This will be accomplished by maintaining 5 point intervals but doubling the size at which the current index value is quoted. This is intended to facilitate trading by the public, which is accustomed to trading equity options with 5 point intervals.

At the same time, the Exchange has decided to change the index multiplier from 500 to 100 in order to increase the similarity of index options to equity options. In the initial filing, if the current index value was 70, the market value of a contract would be $35,000. Under the amended system, an index value previously quoted at 70 will be quoted at 140, and the market value of a contract would be $14,000. Thus, the price of an index options contract will be 100 times the current index value, similar to equity options in which the price of a contract is 100 times the quoted price of the options.

Rule 24.11 Margins. (a) This rule sets forth the minimum amount of margin which must be deposited and maintained in margin accounts of customers having positions in index option contracts dealt in on the Exchange. The Exchange may at any time impose higher margin requirements in respect of such positions when it deems such higher margin requirements to be advisable. The initial deposit of margin required under this rule must be made within seven full business days after the date on which a transaction giving rise to a margin requirement is effected. For purposes of this Rule, the term "current market value" of an index option shall mean the total cost or net proceeds of the option transaction on the day the option was purchased or sold and at any other time shall mean the closing price of that series of options on the Exchange on any day with respect to which a determination of current market value is made.

(b) For each put or call index option contract carried in a short position in the account, margin must be deposited and maintained equal to at least 100% of the current market value of the contract plus 10% of the current index value times the index multiplier.

(c) The requirement set forth in paragraph (b) hereof is subject to the following exceptions, which in each case may be applied at the discretion of the Member Organization with which the account is maintained.

(1) *Short option offset by long option where long option expires with or after short option.* This subparagraph (c)(1) applies to accounts carrying positions in long call index options (or long put index options) which are offset by positions in short index call options (or short put index options) for the same underlying index with the same index multiplier, provided that the expiration date of the long calls (or long puts) is the same as or subsequent to the expiration date of the offsetting short calls (or short puts).

(A) When the exercise price of the long call index option (or short put index option) is less than or equal to the exercise price of the offsetting short call index option (or long put index option), no margin is required.

(B) When the exercise price of the long call index option (or short put index option) is greater than the exercise price of the offsetting short call index option (or long put index option) margin is required equal to the difference in aggregate exercise prices.

(2) *Short put and short call.* This subparagraph (c)(2) applies to accounts carrying positions in short put index options which are offset by positions in short call index options for the same underlying index with the same index multiplier. The margin required for such a position shall be the margin required for the short put option contract or the margin required for the short call option contract (pursuant to paragraph (b) of this Rule), whichever is greater, as determined by (b) above, increased by the amount of any unrealized loss on the other option contract.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement for the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Rules 24.1 and 24.11 "Cover" and Margin. The rules approved by the Commission did not contain a definition of "cover" and the margin rules for the index options. Following the discussions with other exchanges that intend to offer index options for trading, CBOE is filing a proposal that is substantially similar to the proposals that have been or will be filed by the other Exchanges.

Rule 24.2 Designation of the Index. The changes to the CBOE-100 Stock Index proposed herein are designed to decrease the size of the contract in order to make it more useful to the public, and the change the index multiplier from 500 to 100 in order to increase the similarity to equity options.

The statutory basis for the proposed rules change is Section 6(b)(5) under the Securities Exchange Act of 1934 in that the rules are designed to facilitate transactions in stock index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed amendment were neither solicited not received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for the Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

Dated: January 11, 1983.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1540 Filed 1-19-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-1]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion 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: February 9, 1983.

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 January 12, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23477	Experimental Aircraft	14 CFR 103.1(a)	To permit two-place ultralight vehicles to be used for the purpose of training persons in the operation of ultralight aircraft.
23439	AOPA Air Safety Foundation	14 CFR 103.1(a), (b) & (e)(1)	To permit petitioner to operate powered ultralight vehicles of not more than 330 pounds empty weight with two occupants for the purpose of flight instruction.
23440	Bar Harbor Airlines	14 CFR 91.171(a)(3), & 91.172(b)	To permit petitioner to operate its aircraft for a period of 50 flight hours for scheduling purposes until it is able to obtain air traffic control (ATC) transponder test equipment.
23466	CAA of United Kingdom on Behalf of Pilatus Britten-Norman.	14 CFR 23.1303(e)(1)	To permit type certification of the Pilatus Britten-Norman Model BN-2T airplane without complying with the requirements of the section, which requires a speed-warning device for turbin-engine powered airplanes.
23461	Flying Carpet Marketing Company	14 CFR 103.1	To permit petitioner to operate ultralight aircraft for purposes other than sport or recreation, specifically banner towing.
18920)	World Airways, Inc.	14 CFR Part 121	To extend Exemption 2947, as amended, to permit petitioner to conduct scheduled passenger service authorized by the CAB over certain routes utlizing the flight following/dispatch system procedures, communication procedures for pilots, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers.
23460	Rocky Mountain Helicopters, Inc.	14 CFR 135.261	To permit petitioner to operate its Cessna Conquest in an air ambulance and rescue service without complying with the duty time limitations.
23411	John M. Houston	14 CFR 121.411(a)(1)	To permit petitioner to exercise the privileges of a check airman in a simulator or other training device that meets the requirements of § 121.407 even though petitioner does not possess a valid medical certificate.

Petitions for Exemption—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23448	Coastal Aviation Services, Inc.	14 CFR 135.261	To permit petitioner to operate helicopters from Tallahassee Memorial Regional Medical Center, Tallahassee, FL, without complying with duty-time limitations.
18920	Transamerica Airlines, Inc.	14 CFR Part 121	To extend Exemption 2947, as amended, to permit petitioner to conduct scheduled passenger service, authorized by the CAB over certain routes utilizing the flight control dispatch procedures, communications procedures, airport and route qualification procedures of Part 121 that are applicable to supplemental air carriers.
23412	Jack O'Neill	14 CFR Part 61	To permit petitioner to apply for a private pilot certificate although he has not obtained instruction in certain areas of aeronautical knowledge appropriate for a helium type airship. The aircraft he operates is a hot air airship.
23462	Amway Corp.	14 CFR Parts 21 & 91	To permit petitioner to utilize the British Aerospace Corp's master minimum equipment list for its two BAC 1-11 aircraft.
23481	Air Continental, Inc.	14 CFR 135.89(b)(3)	To permit petitioner to operate Learjet 23, 24, & 24D aircraft up to and including flight level (FL) 410 (41,000 feet) without one pilot having to wear and use an oxygen mask.
23483	Reeder Air, Inc.	14 CFR 43.3(h)	To permit petitioner to train certain of its pilots to inspect Bell Model 206B airframe and Allison Model 250C engine magnetic chip detectors under certain circumstances in remote locations.
23458	McDonnell Aircraft Co.	14 CFR 91.70(a)	To allow the operation of test flights at speeds in excess of 250 knots (288 mph) IAS below 10,000 feet MSL. Test flights would be flown in specified areas within 200 nm of St. Louis, MO and 90 nm of Whiteman AFB, MO.
23464	Richard L. Wyatt	14 CFR 103.1, 103.7, & 103.15	To permit petitioner to operate ultralight vehicles in congested areas for purposes other than sport and recreation.
ASW-83-3-E	Bell Helicopter Textron, Inc.	14 CFR 29.855(a), & portions of § 29.855(d)	To allow carriage of flammable and nonflammable cargo in the passenger compartment and to allow the passenger compartment to be an extension of the cargo compartment. Model 222 series helicopters are approved for single pilot operations. Protective breathing equipment and an extra crewmember would be available only while having flammable cargo.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22451	People Express Airlines, Inc.	14 CFR 121.613, 121.619, 121.625	To amend Exemption No. 3585 to permit petitioner to dispatch to a destination and list a first alternate when the main body of the weather forecast indicates that weather conditions of either or both are at or above minimums, as long as the pilot-in-command, while enroute, ensures by way of air-ground voice communication, that he is in receipt of the most current relevant weather reports and forecasts for the destination and alternate airports. *Partial Grant 12/20/82.*
23132	Interstate Airlines	14 CFR 121.311(b)	To permit petitioner to operate its modified aircraft for the purpose of transporting live animals, without each person on board occupying an approved seat or berth with a separate safety belt properly secured about him/her. *Granted 1/3/83.*
23422	Aeronaves De Puerto	14 CFR 121.3	To permit petitioner to operate as a domestic, flag, or supplemental air carrier without an air carrier operating certificate when using aircraft wet-leased from Guy America Airways, Inc. *Granted 12/13/83.*
22282	Regional Airline Assn., Inc.	14 CFR 135.261(b)	To delete condition Number 2 of Exemption 3535. Condition No. 2 limited the exemption to passenger-carrying flights scheduled to arrive at or after 1900 hours local time, at an airport which is not the crewmember's domicile, when scheduled departure time is before 0800 hours local time the following morning. *Granted 12/15/83.*
18114	Flying Tiger Line	14 CFR 121.547(c), 121.583(a)	Renewal of Exemption No. 2600 to permit petitioner to carry a reporter, photographer, or journalist aboard its B-747 and DC-8 airplanes without complying with the passenger-carrying requirements of Part 121. *Granted 12/22/82.*
23415	Joanne Yvonne Renne	14 CFR 61.83(a)	To permit the issuance of a student pilot certificate to petitioner to operate airplanes before her 16th birthday. *Denied 12/20/82.*
23225	Hughes Helicopters, Inc.	14 CFR 91.119(a)(2)	To permit petitioner to conduct Special VFR operations into and out of Hughes Airport when less than basic VFR weather conditions are reported within the Los Angeles Control Zone. *Granted 12/17/82.*
20779	The Department of Int'l Affairs of the Gen. Admin. Of CAAC & Pan Am World Airways, Inc.	14 CFR Portions of Parts 21, 43, & 121	To permit CAAC to operate two U.S. registered B-747SP aircraft using FAA-approved MEL and PAA's continuous airworthiness maintenance program. *Granted 12/29/82.*
23476	Eastern Airlines	14 CFR 121.581(a)	To permit petitioner to operate its Boeing 757 aircraft without meeting the observer's seat requirements. *Granted 12/29/82.*
23452	Alitalia Airlines	14 CFR 21.181	To permit petitioner to operate 9 leased U.S.-registered Douglas DC-9-30 aircraft, utilizing the FAA-approved minimum equipment list. *Granted 12/29/82.*
20894	Trans-Colorado Airlines, Inc.	14 CFR 135.181(a)(2)	Extension of Exemption No. 3078 to permit petitioner to use alternate means of compliance with the performance requirements, the use of procedures, and operations authorized by § 121.201(b) for compliance with the enroute limitations. *Granted 12/29/82.*
82-ANE-34	Garrett Turbine Engine Company, Phoenix, AZ	14 CFR 33.88	To permit petitioner to conduct the rotor test for only 5 minutes in lieu of the existing requirements. *Granted 12/23/82.*
20635	Beech Aircraft Corp.	14 CFR 21.197	Renewal of Exemption No. 3140 to permit the issuance of special flight permits to petitioner for ferrying aircraft, for purposes of completion and certification, between the various Beech Aircraft locations. *Granted 12/29/82.*
18104	FlightSafety Int'l	14 CFR 91.57(a)(1)	To renew Exemption No. 2592c to permit petitioner to permit pilots who accomplished a biennial flight review to count that review as the biennial flight review required subject to certain conditions and limitations. *Granted 12/13/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
19647	Eli Lilly Int'l Corp	14 CFR 61.58(c)	Renewal of Exemption No. 2935 to permit petitioner's pilots to complete a 24-month pilot-in-command check in on FAA-approved flight simulator. *Granted 12/13/82.*
23399	Aero Virgin Islands, Corp	14 CFR 121.311(f)	To permit petitioner to operate its DC-3 airplanes without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785. *Granted 8/31/82.*
20899	United Air Lines, Inc	14 CFR 121.311(f)	To extend Exemption No. 3242, as amended, to permit petitioner's required flight attendants to occupy passenger seats on B-727 and DC-8 airplanes, which do not meet requirements of § 25.785h, until March 6, 1983. *Granted 1/5/83.*
15691	Air Logistics	14 CFR 43.3(h)	To amend Exemption No. 2313 to also permit petitioner's appropriately trained and certificated pilots to remove, check and reinstall magnetic chip detector plugs on Allison 250C turbine engines, transmissions, and tail rotor gearboxes installed on Aerospatiale Model 355 series, and magnetic chip detector plugs in 42° and 90° tail rotor gearboxes installed on Bell Model 412 series helicopters. *Granted 1/4/83*
23438	AirLifeLine of Texas, Inc	14 CFR 61.118	To permit petitioner's volunteer pilots who hold private certificates to be reimbursed when serving on public-service missions. *Partial grant 1/5/83.*
23383	Braniff Airways, Inc	14 CFR 91.305(b)(2)(ii)	To allow petitioner to operate five Boeing 727 aircraft in the U.S. from January 1, 1983 until January 1, 1984 without meeting the operating noise limit requirements. *Denied 12/30/82.*
22567	Emerald Airlines	14 CFR 121.311(f)	To extend Exemption 3481, as amended, to June 1, 1983, to permit petitioner to operate certain transport category airplanes without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements of § 25.785. *Granted 1/6/83.*
22794	Best Airlines, Inc	14 CFR 91.307	Requests a service to small communities exemption for relief from the noise level requirements for civil, subsonic planes under Subpart E of Part 91. *Granted 1/4/83.*
23469	Jet Fleet Int'l	14 CFR 91.307	Requests a service to small communities exemption for relief from the noise level requirements for civil, subsonic planes under Subpart E of Part 91. *Granted 1/4/83.*

[FR Doc. 83-1319 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-13-M

Airport Traffic Control at Bethel, Alaska; Opening

Notice is hereby given that on or about January 16, 1983, the FAA will commission a visual flight rules Airport Traffic Control Tower at Bethel, Alaska. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313 (a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Anchorage, Alaska, January 6, 1983.

Franklin L. Cunningham,

Acting Director, Alaskan Region.

[FR Doc. 83-1318 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Licking County, Ohio

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) is being prepared for a proposed highway project in Licking County, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McBee, Division Administrator, or Mr. Lawrence J. Kastner, District Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215. Telephone (614) 469-6896 or 469-7443. Columbus, Ohio 43215. Telephone (614) 469-6896 or 469-7443.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (HWA), in cooperation with the Ohio Department of Transportation (ODOT), has been preparing a draft environmental impact statement (EIS) since 1977 on the proposed construction of approximately 1.34 miles of new four-lane, divided, limited access highway in the City of Newark and Licking County, Ohio. This proposed facility, a relocation of State Route 79, would have its northerly terminus at a partially completed interchange with State Route 16, an east-west expressway crossing the City of Newark. The southerly terminus would be a connection just south of Newark with existing State Route 79, the route providing access to and from Interstate Route 70.

All residences and businesses within the right-of-way for the proposed project have already been acquired and the clearing of the right-of-way has been virtually complete for several years. The proposed project will also require the use of land from Mound Builders State Memorial, a park and historic site, and from White Field, an athletic facility owned by the Newark Public Schools. Arrangements for the transfer of these lands have been concluded.

Because of the long history of planning for this project, the fixing of the northerly terminus by the partial construction of the interchange with State Route 16, the completion of right-of-way acquisition, and the constraints of existing urban development, only one build alternative and the no-build alternative are now under consideration.

The proposed project will complete the missing link in a planned freeway system, relieve traffic congestion on local streets, and improve local and regional access.

To date, there has been extensive federal, state, local and public involvement with the proposed project. It is envisioned that such involvement will continue throughout further development of the project and, therefore, a formal scoping meeting has not been scheduled.

Top insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be addressed to the FHWA at the address provided above.

(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: January 10, 1983.

James J. Steele,

Assistant Division Administrator and Engineering Coordinator.

[FR Doc. 83-1405 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-22-M

Federal Railroad Administration

[Waiver Petition Docket Nos. RSGM-81-48, -49, and -50 RSGM-82-1; RSGM-82-3 through RSGM-82-31]

Safety Glazing Standards; Petitions Submitted for Temporary or Permanent Waivers of Compliance

Notice is hereby given that thirty-three petitioners have submitted requests for temporary or permanent waivers of compliance with the Safety Glazing Standards (49 CFR Part 223). The Federal Railroad Administration (FRA) published a final rule on December 31, 1979, that requires all newly built and most existing railroad equipment to have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets. The regulations provide for the affected locomotives, passenger cars and cabooses to be equipped with certified glazing in all windows after June 30, 1983.

The individual petitions for a waiver of compliance with these standards are described below. The description of each petition indicates the nature and extent of the relief requested as well as the information that has been submitted in support of that petition.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comment. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA Waiver Petition Docket Number RSGM-82-1) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received befor Febuary 28, 1983, will be considered by the FRA before final action is taken. All comments will be available both before and after the closing date for comments, during regular business hours (8:30 a.m.-5:00 p.m.), in room 7321a, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Longview, Portland & Northern Railway Company

(Waiver Petition Docket No. RSGM-81-48)

The Longview, Portland & Northern Railway Company (LP&N) seeks a permanent waiver of compliance with Part 223 for its two locomotives. The LP&N, which has had no incidents of vandalism since it began operations in Douglas County, Oregon in 1951, states that the installation of the prescribed safety glazing on these locomotives would only add to their costs and would provide no benefit.

Chesapeake Western Railway Company

(Waiver Petition Docket No. RSGM-81-49)

The Chesapeak Western Railway Company (CW), a wholly owned but separately operated subsidiary of the Norfolk and Western Railway Company seeks a permanent waiver of compliance with part 223 for the three locomotives it operates over its 52 miles of track in rural and industrial switching areas. The locomotives will be moved in "designated service" as defined in § 223.5(m) whenever they leave the CW for repairs or servicing.

The Lowville and Beaver River Railroad Company

(Waiver Petition No. RSGM-81-50)

The Lowville and Beaver River Railroad Company (LBR) of Beaver Falls, New York, seeks a permanent waiver of compliance with the requirements of part 223 for its two locomotives. Both locomotives are now equipped with ¼ inch AS-40 and AS WS-17 safety glass mounted in rubber and steel frames. The cost of retrofitting each locomotive to comply with part 223 is estimated to be $2,600. No acts of vandalism such as gunfire or the throwing of rocks or other projectiles have been directed at LBR locomotives in the past 29 years. Crew members do not object to this waiver request.

Farmrail Corporation

(Waiver Petition No. RSGM-82-1)

The Farmrail Corporation (Farmrail) seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. Farmrail operates these locomotives over 34 miles of track in rural southwestern Oklahoma. It has experienced no incidents of vandalism, rock throwing or gunfire since it commenced operations on November 18, 1981. Farmrail contends that the retrofitting of its locomotives to comply with Part 223 to protect against situations that it does not encounter in its operations would impose an undue financial burden.

Valley & Siletz Railroad Company

(Waiver Petition No. RSGM-82-3)

The Valley & Siletz Railroad Company (V&S) seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. V&S operates one train per day over several miles of track in Polk County, Oregon. since it has never experienced any vandalism, it believes that the cost of complying with Part 223 would provide no safety benefit.

Canton Railroad Company

(Waiver Petition No. RSGM-82-4)

The Canton Railroad Company (Canton) seeks a permanent waiver of compliance with the requirements of Part 223 for its seven locomotives. Canton operates on 7.7 miles of main line in the southeastern area of Baltimore and the adjacent area of Baltimore County, Maryland. It has performed industrial switching for many years and has never experienced glass breakage caused by rock throwing or gunshot. Canton states that it would incur a cost of more than $2,500 to retrofit each locomotive to protect against situations that it does not encounter in its operations.

LaSalle & Bureau County Railroad

(Waiver Petition No. RSGM-82-5)

The LaSalle & Bureau County Railroad (L&BC) seeks a permanent waiver of compliance with the requirements of Part 223 for its three locomotives. One of these locomotives operates over seven miles of track through farmland in La salle County and the other two operate over Rock Island track from Blue Island to the Chicago International Port. L&BC has no history of vandalism of any kind.

Chattahoochee Valley Railway Company

(Waiver Petition No. RSGM-82-6)

The Chattahoochee Valley Railway Company seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. Both locomotives are operated over twelve miles of rail line in east central Alabama and west central Georgia. This railroad has experienced no shooting incidents or other vandalism. Its employees do not object to the waiver request; most noted that the locomotive windows were open most of the time. The cost of retrofitting each locomotive to protect against situations that are not encontered would exceed $3,000

East Jersey Railroad and Terminal Company

(Waiver Petition No. RSGM–82–7)

The East Jersey Railroad and Terminal Company seeks a permanent waiver of compliance with the requirements of Part 223 for two locomotives that are operated over 2.39 miles of track in Bayonne, New Jersey, which are within the confines of a walled-in industrial park that is patrolled by mobile, radio equipped guards. The railroad has experienced no vandalism and its employees do not object to the waiver request. The cost of modifications to accommodate the retrofit would exceed $5,000 for each locomotive.

Kansas City Terminal Railway Company

(Waiver Petition No. RSGM–82–8)

The Kansas City Terminal Railway Company (KCT) seeks a permanent waiver of compliance with the requirements of Part 223 for its ten locomotives. The locomotives are equipped with Viracon, Laminated Safety Glass, M 22–1–AS–2 DOT 129. Whenever it is necessary to replace glass, KCT uses Laminated Safety Glass .030. No KCT employee has ever been injured as a result of acts of vandalism against a locomotive.

St. Lawrence Railroad

(Waiver Petition No. RSGM–82–9)

The St. Lawrence Railroad, a 43 mile railroad in rural upstate New York, seeks a permanent waiver of compliance with the requirements of Part 223 for its three locomotives. It has experienced virtually no vandalism and wishes to avoid the high cost of retrofitting its locomotives.

Aliquippa and Souhthern Railroad Company

(Waiver Petition No. RSGM–82–10)

The Aliquippa and Southern Railroad Company (A&S), a terminal switching carrier located entirely in the city of Aliquippa, Pennsylvania, seeks a permanent waiver of compliance with the requirements of Part 223 for its entire fleet of 33 locomotives. The front and rear windows of its locomotives are equipped with two-ply glazing with a .030 inch vinyl interlayer and have a combined thickness of ¼ inch; the side windows have single sheet ¼ inch Lexan. No incidents of a locomotive window being struck or broken have occurred during the past ten years. Because the exposure of crew members to thrown objects and bullets is practically nil, A&S believes that little, if any, benefit would result from the costly retrofitting of its locomotives and the railroad believes that the costly retrofitting of these locomotives is not justified.

The Monongahela Connecting Railroad Company

(Waiver Petition No. RSGM–82–11)

The Monongahela Connecting Company of Youngstown, Ohio, seeks a permanent waiver of compliance with the requirements of Part 223 for nine locomotives. These locomotives, which are operated almost entirely within the confines of a steel plant, have ¼ inch PPG–ASI in all windows except sliding windows which have ¼ inch GE Lexan MR 4000. Since its locomotives and crews have not experienced vandal-related damage, the railroad contends that the costly retrofit of these locomotives would not provide any additional benefits.

The Mahoning Valley Railway Company

(Waiver Petition No. RSGM–82–12)

The Mahoning Valley Railway Company seeks a permanent waiver of compliance with the requirements of Part 223 for eight locomotives. This railroad is a terminal switching carrier. The glazing on the front and rear of its locomotives is two-ply with a .030 inch vinyl interlayer and has a combined thickness of ¼ inch; the side windows have single sheet, ¼ inch Lexan, MR 4000. Since the risk or exposure of crew members to thrown objects or bullets in their operating environment is practically nil, the benefits of the costly retrofit of these locomotives would be minimal.

The Cuyahoga Valley Railway Company

(Waiver Petition No. RSGM–82–13)

The Cuyahoga Valley Railway Company seeks a permanent waiver of the requirements of Part 223 for fifteen locomotives. This railroad operates entirely within a series of connecting yards at a steel mill facility and is surrounded by that facility and other railroad yards. Its locomotives have two-ply glazing with a .030 inch vinyl interlayer that has a combined thickness of ¼ inch. No locomotive window has been struck or broken by vandals during the past six years.

Metropolitan Transportation Authority & Connecticut Department of Transportation

(Waiver Petition No. RSGM–82–14)

The Metropolitan Transportation Authority (MTA) and the Connecticut Department of Transportation (CDOT) have requested a temporary waiver of compliance with the requirements of Part 223. They seek to operate 178 M–1 cars and 244 M–2 cars with existing glazing until those cars receive routine heavy repairs or overhaul. As an alternative, they request that the compliance date for the retrofit of these cars be extended to June 30, 1985. The principal reasons for these requests are: severe budgetary restraints resulting from reduced Federal and State financial support and the transfer of commuter service operation from Conrail mandated by the Northeast Rail Service Act of 1981; the serious passenger car shortage that inhibits the removal of these cars from service for retrofitting; the significant level of protection provided to passsengers and employees by the existing Lezan glazing as evidenced by the absence of data on injuries due to the breaking of windows; and the unavailability of suitable emergency escape window units for installation.

Southern Pacific Transportation Company

(Waiver Petition No. RSGM–82–15)

The Southern Pacific Transportation Company (SP) seeks a temporary waiver of compliance with the requirements of Part 223 for 427 SP and 43 St. Louis Southwestern Railway Company (SSW) cabooses and 2226 SP and 292 SSW locomotives. Because of a shortage of resources and materials, SP requests that the compliance date for retrofitting these cabooses and locomotives with certified glazing be extended three years to June 30, 1986.

The Western Pacific Railroad Company

(Waiver Petition No. RSGM–82–16)

The Western Pacific Railroad Company (WP) seeks a temporary waiver of complance with the requirements of Part 223 for 50 percent of its locomotives and 73 percent of its cabooses. Because the severe economic climate places heavy restraints on its expenditures, WP request at least another 12 months to complete this retrofit program.

Chessie System Railroads

(Waiver Petition No. RSGM–82–17)

The Chessie System Railroads (Chessie), which consists of the Chesapeake and Ohio Railway Company, the Baltimore and Ohio Railroad Company, and Western Maryland Railway Company, seek a temporary waiver of compliance with the requirements of Part 223 for an estimated 352 cabooses of its fleet of

1,250 cabooses. Chessie requests that the compliance date for completing its caboose retrofit program be extended to October 31, 1984. It contends that acceleration of its current retrofit program would be disruptive and may even decrease safety since it would require reallocation of scarce resources from more efficacious safety related programs.

The Turtle Creek Industrial Railroad

(Waiver Request No. RSGM–82–18)

The Turtle Creek Industrial Railroad seeks a permanent waiver of compliance with the requirements of Part 223 for its one engine and one caboose. This railroad operates once or twice weekly over ten miles of track between Trafford and Export, PA. It contends that the retrofitting of its locomotive and caboose would place a very burdensome cost on it.

General Electric Company

(Waiver Petition No. RSGM–82–19)

The General Electric Company, Pittsfield, Massachusetts, seeks a permanent waiver of compliance with the requirements of Part 223 for two locomotives it uses for industrial switching service. These locomotives are operated almost entirely on seven miles of track within the General Electric plant and are only occasionally operated over adjacent Conrail track. GE is seeking this waiver because of the limited exposure of these locomotives and their crews to acts of vandalism.

El Dorado and Wesson Railway Company

(Waiver Petition No. RSGM–82–20)

The El Dorado and Wesson Railway Company (EDW) seeks a waiver of compliance with the requirements of Part 223 for two switcher locomotives until they are removed from service for general overhaul or rebuilding. These locomotives operate over 5.5 miles of industrial and rural track in and adjacemt to the city of El Dorado, Arkansas. EDW has not experienced any incidents of objects striking a locomotive since 1950. Accordingly, it believes that the thousands of dollars that would be spent to retrofit these locomotives can be better utilized for other purposes.

Dow Chemical U.S.A.

(Waiver Petition No. RSGM–82–21)

The Dow Chemical Company U.S.A., Texas Division, at Freeport, Texas, (Dow) seeks a permanent waiver of compliance with the requirements of Part 223 for three locomotives. These locomotives are used exclusively in captive service to perform switching within two plants and are also operated over two short segments (one 800 feet and the other one-half mile in length) of Missouri Pacific Railroad track (Mopac). Except for this Mopac trackage, the locomotives are operated entirely within the confines of the Dow plants, which are always under the surveillence of the Dow Industrial Security Department. Since these locomotives are not exposed to acts of vandalism, Dow believes that the requirement to retrofit them should be waived.

Mary Lee Railroad

(Waiver Petition No. RSGM–82–22)

The Mary Lee Railroad of Birmingham, Alabama, seeks a permanent waiver of compliance with the requirements of Part 223 for its four locomotives. These locomotives are operated primarily inside a Jim Walters Resources installation but are also operated over 13 miles of Louisville and Nashville Railroad track. The Mary Lee Railroad has not experienced any damaged windows due to vandalism since it began operations in 1924.

Amherst Industries, Inc.

(Waiver Petition No. RSGM–82–23)

Amherst Industries, Inc. of Landisville, Pennsylvania, seeks a permanent waiver of compliance with Part 223 for its single locomotive. The locomotive operates over less than two miles of track in a rural area of Lancaster County, Pennsylvania. Since this area has a limited vandalism history, Amherst believes the retrofitting of this locomotive with safety glazing is not necessary for safety and would not be cost beneficial.

Maryland Midland Railway Company

(Waiver Petition Docket No. RSGM–82–24)

The Maryland Midland Railway Company seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives and two passenger cars, which are operated in a rural area over 18 miles of track owned by the State of Maryland. No acts of vandalism have been experienced.

Terminal Railroad Association of St. Louis

(Waiver Petition No. RSGM–82–25)

The Terminal Railroad Association of St. Louis (TRRA) seeks a permanent waiver of compliance with Part 223 for forty cabooses. During the past twenty years, TRRA has experienced only four minor personal injuries due to foreign objects penetrating a caboose window or door and none during the past eight years. TRRA contends that it cannot afford the expenditure of more than $40,000 to retrofit these cabooses and intends in the near future to phase out the use of cabooses in its operations. Moreover, its employees and their labor representatives prefer the old glazing over the required safety glazing that has been installed on two cabooses.

Pocono Northeast Railway, Inc.

(Waiver Petition No. RSGM–82–26)

The Pocono Northeast Railway seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. These locomotives are operated in Luzerne County, Pennsylvania, over lines formerly operated by Conrail. The railroad has a low operating budget. The cost of retrofitting these locomotives with safety glazing would be high and no benefits would be realized since the railroad has no vandalism problem.

Roblin Steel Company

(Waiver Petition Docket No. RSGM–82–27)

The Robin Steel Company of North Tonawanda, New York seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. Except for a weekly movement over ¼ mile of Conrail track, these locomotives are operated exclusively within a facility that is completely fenced and patrolled by a security service. Roblin contends that modifying these locomotives is economically infeasible and would not produce any safety benefit.

The Apache Railway Company

(Waiver Petition No. RSGM–82–28)

The Apache Railway Company of Snowflake, Arizona, seeks a permanent waiver of compliance with the requirements of Part 223 for three of its seven locomotives. These locomotives are operated in consists of up to five units over 45 miles of track located in a rural area that has a very low population and has no history or rock throwing or firearm related vandalism. The three locomotives are older locomotives and are usually placed in the middle of the consist. Since the lead or controlling locomotive unit of each train is one of the four locomotive units equipped with safety glazing, the crew members are provided the protection prescribed in Part 223.

Batten Kill Railroad

(Waiver Petition No. RSGM–82–29)

The Batten Kill Railroad of Greenwich, New York, seeks a permanent waiver of compliance with the requirements of Part 223. Its operations are confined to a rural area in Washington County of upstate New York where acts of vandalism are very rare. It contends that it cannot afford the cost of a retrofit.

Green Bay & Western Railroad Company

(Waiver Petition No. RSGM–82–30)

The Green Bay & Western Railroad Company requests an indefinite temporary waiver of compliance with the requirements of Part 223 because of financial difficulties and shortage of labor force. Installation of cab safety glass has been completed in seventeen units and safety glass side windows have been installed in all of its twenty-four units.

Soo Line Railroad Company

(Waiver Petition No. RSGM–82–31)

The Soo Line Railroad Company (Soo Line) seeks a permanent waiver of compliance with the requirements of Part 223 for four locomotives used exclusively in snow plow service. Since it plans to retire these locomotives in a few years, Soo Line believes that "the benefit received from the expense of installing new safety glazing would not be realized".

(Sec. 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 97 (45 U.S.C. 431) and § 1.49(m) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(m))

Issued in Washington, D.C., on January 14, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83–1586 Filed 1–19–83; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Public Proceeding Regarding Defect Investigation: 1980 X-Body Front Wheel Drive Vehicles Manufactured by General Motors Corporation

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93–492, 88 Stat. 1470; October 2, 1974), 15 U.S.C. 1412 (the Act), the Associate Administrator for Enforcement, National Highway Traffic Safety Administration (NHTSA), has made an initial determination that a safety-related defect exists in the rear braking system of certain Chevrolet Citation, Pontiac Phoenix, Oldsmobile Omega and Buick Skylark vehicles also know as X-body vehicles, manufactured by General Motors Corporation in the 1980 model year. A NHTSA investigation indicates that the subject vehicles' rear brakes tend to lock up in moderate to hard braking action which may cause the vehicles to spin out of their lanes or otherwise lose control. The initial determination includes all such vehicles equipped with automatic transmissions and manufactured prior to May 1, 1979; and all 1980 vehicles equipped with manual transmissions. Both of these groups of vehicles are equipped with similar rear brake shoe linings which may contribute to the apparent defect. In addition, a recall compaign conducted by General Motors, which covered the 1980 manual transmission vehicles manufactured prior to August 29, 1979, may not have met the statutory requirements for notification and remedy. The number of that recall campaign is 81V-095.

NHTSA will hold a public proceeding pursuant to sections 152 and 156 of the Act at 10:00 a.m. on February 14, 1983, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street, SW., Washington, D.C. 20590, at which time General Motors Corporation will be afforded an opportunity to present data, views and arguments regarding the initial determination of defect and the apparent inadequacy of campaign number 81V-095.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joyce Tannahill, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5326, Washington, D.C., 20590 (telephone (202) 426–2850) before close of business on January 31, 1983.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued on January 14, 1983.

(Secs. 152, 156, Pub L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412, 1416); delegation of authority at 49 CFR 1.51 and 49 CFR 501.81)

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 83–1451 Filed 1–14–83; 1:43 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period January 7 through January 13, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

• OMB Number: 1545–0060
Form Number: 3672 and 3672A
Title: Application for Approval of Master or Prototype Defined Contribution Plan for Self-employed Individual/Defined Benefit Plan
OMB Reviewer: Michael Abrahams, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Alcohol, Tobacco and Firearms

• OMB Number: 1512–0061
Form Number: ATF F 703 (5120.23)
Title: Transfer of Wine in Bond
• OMB Number: 1512–0175
Form Number: ATF F 4327 (5150.11)
Title: Limited Withdrawal Permit to Produce Specially Denatured Alcohol or Tax-Free Alcohol
• OMB Number: 1515–0199
Form Number: ATF F 5110.30
Title: Drawback on Distilled Spirits Exported
• OMB Number: 1512–0158
Form Number: ATF F 3019 (5130.13)
Title: Process for Concentration or Reconstitution of Beer
• OMB Number: 1512–0124
Form Number: ATF F 2051 (5130.5)
Title: Record of Brewer Operations
• OMB Number: 1512–0188
Form Number: ATF F 5100.1
Title: Signing Authority for Corporate Officials
• OMB Number: 1512–0077
Form Number: ATF F 1512 (5150.14)
Title: Application Permit to Produce Sample of Specially Denatured Spirits
• OMB Number: 1512–0079
Form Number: ATF F 1534 (5000.8)

Title: Power of Attorney
• OMB Number: 1512–0186
Form Number: ATF F 5000.12
Title: Application for Enrollment to Practice Before ATF
• OMB Number: 1512–0218
Form Number: ATF F 5120.38
Title: Withdrawal of Wine Spirits to Bonded Wine Cellar
• OMB Number: 1512–0156
Form Number: ATF F 2987 (5210.8)
Title: Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars and Cigarettes
OMB Reviewer: Arnold Strasser, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joy Tucker,

Departmental Reports Management Officer.

January 14, 1983.

[FR Doc. 83-1568 Filed 1-19-83; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Book and Library Advisory Committee Meeting

The third meeting of the Book and Library Advisory Committee, originally scheduled for January 28, 1983, has been postponed until Friday, February 25. The meeting will be held in Conference Room 600, 1750 Pennsylvania Ave. NW., Washington, D.C., from 9:00 a.m. to 1:00 p.m. The agenda will include a review of the FY 1983 budget, the Five-Year Plan, the Agency's library collections, and a discussion of the book selection process. (The first hour will be devoted to old business.)

Mary Jane Winnett,

Management Assistant, Management Plans, Analysis, and Directives Staff, Bureau of Management.

[FR Doc. 83-1578 Filed 1-19-83; 8:45 am]

BILLING CODE 8230-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Services Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Services Policy Advisory Committee (SPAC) (the Advisory Committee) to be held Friday, January 28, 1983, from 9:30 a.m. to 12:00 noon at the Federal Home Loan Bank Board, Board Room, will involve a review and discussion of the current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act); information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives; information the disclosure of which would be likely to significantly frustrate implementation of proposed government action; and information properly classified pursuant to Executive Order 12356 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Services Policy Advisory Committee will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 83-1542 Filed 1-19-83; 8:45 am]

BILLING CODE 3190-01-M

VETERANS ADMINISTRATION

240-Bed Nursing Home Care Unit, Veterans Administration Medical Center, Lyons, New Jersey; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of a 240-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC) Lyons, New Jersey. The VAMC at Lyons is eligible for listing on the National Register of Historic Places.

The NHCU project will provide new construction for 240 beds for long term care. The proposed project will aid in meeting the identified need for additional and replacement beds within VA Medical District 4. The proposed action will consist of a two-story structure built with associated parking for possibly 80 automobiles. A limited amount of exterior recreational area would also be constructed as identified within the project scope. The NHCU will be developed based on the latest projections for need in the demographic area.

Project alternatives have been considered in the project planning to date. Two different project locations were analyzed along with the "No Action" alternative. Location No. 1 involves a large expanse of gently sloping land southeast of Building No. 1 with a small grove of trees nearby. Site Location No. 2 includes open, slightly rolling fields with a few minor trees.

The "No Action" alternative would sustain all facilities as they are with only continued yearly maintenance. No offsite construction alternative was considered, primarily because available site area for development exists at the VAMC.

Development of the project will have impacts on the human and natural environment affecting open space and air quality. Additionally, architectural significance of existing structures, near the project locations, will require consideration be given to the project's visual impact. Consultation will occur with the State Historic Preservation Officer (SHPO) and this agency.

Mitigation will occur during project development. Construction contract documents will include Environmental Protection specifications, section EP, which specifically addresses the action which will be undertaken to avoid adverse environmental effects and the impacts identified above. Design compatibility of both building form and materials will be achieved.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs, (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202–389–3316). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 14, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-1548 Filed 1-19-83; 8:45 am]

BILLING CODE 8320-01-M

Pay and Work Schedules for Nurses and Certain Other Health-Care Personnel

AGENCY: Veterans Administration.

ACTION: Public notice and request for comment.

SUMMARY: The Veterans Administration is publishing for public notice and comment a proposed VA Circular to implement section 2 of the Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982 (Pub. L. 97-251) concerning the pay and work schedules for nurses and certain other health-care personnel. Under the law, the Administrator of Veterans' Affairs may take the following actions in order to obtain or retain the services of certain health-care personnel in the Department of Medicine and Surgery: (1) Increase rates of additional pay, commonly referred to as premium pay, for nurses and certain other health-care personnel on a nationwide, local, or other geographic basis; (2) Extend additional pay for Sunday work to all or part of a Saturday tour of duty for nurses and certain other health-care personnel on a nationwide, local, or other geographic basis; and (3) Provide that nurses who work two regularly scheduled 12-hour tours of duty in the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered, for most purposes, to have worked a full 40-hour basic workweek. Section 2(d) also requires the Administrator to publish policies in the Federal Register to implement subsection (g) of section 4107 of title 38, United States Code, which grants the Administrator authority to increase the minimum, intermediate, or maximum rates of basic pay for Department of Medicine and Surgery employees providing direct patient care or services incident to direct patient care, in order to obtain or retain services which would not otherwise be available to veterans.

DATE: Comments must be received on or before February 22, 1983.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed circular to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Services Unit, Room 132, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until March 8, 1983.

FOR FURTHER INFORMATION CONTACT: Charles J. Kelley, Director, Salary and Wage Administration Service, (202) 389-2226.

SUPPLEMENTARY INFORMATION: This publication contains a proposed VA Circular entitled "Pay and Work Schedules for Nurses and Certain Other Health-Care Personnel." The proposed circular is to be implemented after public comments have been received and VA has met its labor relations obligations under chapter 71 of title 5, United States Code. However, notwithstanding the above, the policies in this circular when finalized shall be effective on or before July 5, 1983, as required by section 2(d)(2) of Pub. L. 95-251. Veterans Administration Department of Medicine and Surgery nurses, physician assistants, and expanded-function dental auxiliaries receive additional pay for overtime service, for service on night tours of duty, for on-call service outside of regular duty hours, and for service on Sundays and holidays in accordance with section 4107(e) of title 38, United States Code. Sections (2) (a) and (b) of Pub. L. 97-251 allow the Administrator to increase these additional rates of pay and extend additional pay for Sunday service to all or part of a Saturday tour of duty on a nationwide, local, or other geographic basis when such actions are necessary to obtain or retain the services of the above personnel. Under Pub. L. 97-251, additional rates of pay may be increased to an amount competitive with, but not exceeding, the same type of pay that is paid to the same category of employees at non-Federal health-care facilities in the geographic area involved.

Extensions of additional pay for Sunday work to all or part of a Saturday tour of duty may be made when the Administrator determines that an extension is justified on the basis of a review of the need for such an extension in such geographic area. Section 4107(h) of title 38, United States Code also authorizes the Administrator, when necessary to obtain or retain the services of nurses, to provide, within specific limitations, that nurses who work two regularly scheduled 12-hour tours of duty commencing at midnight Friday and ending at midnight the following Sunday shall be considered, for most purposes, to have worked a full 40-hour basic workweek. This is commonly referred to as the "Baylor Plan." The Administrator may also increase the minimum, intermediate, or maximum rates of basic pay for Department of Medicine and Surgery employees who provide direct patient care or services incident to direct patient care in order to obtain or retain services which would not otherwise be available to veterans. These rates may be approved on a nationwide, local, or other geographic basis in accordance with section 4107(g) of title 38, U.S.C. (Section 112, Pub. L. 96-330, August 26, 1980, 94 Stat. 1037). Typically, salary rates above the regular pay schedules are authorized when non-Federal pay levels affect the ability of the VA to recruit and retain well-qualified employees.

The policies contained in this proposed circular are not being proposed for inclusion in the Code of Federal Regulations, since they only regulate internal pay administration and work scheduling practices within the Department of Medicine and Surgery. In addition, these matters relate to Agency management and personnel, and as such are generally exempt from the Administrative Procedures Act (5 U.S.C. 551, et seq.).

Approved: January 14, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

Circular 00-83-———

Date:———

Pay and Work Schedules for Nurses and Certain Other Health-Care Personnel

1. Purpose. The Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982 (Section 2(d), Public Law 97-251) requires the VA to issue policies concerning its authority to approve higher additional rates of pay (i.e. premium pay) and additional pay for Saturday work under 38 U.S.C. 4107(e)(10), increased minimum intermediate and maximum rates of basic pay for Department of Medicine and Surgery employees under 38 U.S.C. 4107(g), and policies concerning use of the Baylor Plan under 38 U.S.C. 4107(h).

2. Definitions. For the purposes of this circular, the following definitions shall apply:

a. "Above-minimum entrance rate" means an increase in the minimum rate of basic pay for a grade with no corresponding increase in higher intermediate rates or the maximum rate of pay for the grade.

b. "Additional pay" means an additional rate of pay authorized under 38 U.S.C. 4107(e) (2) through (8) and (10). These are night pay, Sunday pay, holiday pay, overtime pay, Saturday pay, and pay for employees scheduled to be on-call outside their regular duty hours or on a holiday.

c. "Additional pay for Saturday work" means additional pay for all or part of a tour of duty within the period commencing at midnight Friday and ending at midnight Saturday.

d. "Baylor Plan" means two regularly scheduled 12-hour tours of duty contained entirely within the period commencing at midnight Friday and ending at midnight the following Sunday.

e. "Hourly rate of pay" means:

(1) For service on the Baylor Plan, the hourly rate of pay equals the annual rate of basic pay to which the employee is entitled divided by one thousand two hundred and forty-eight (1,248).

(2) For all other service, the hourly rate of basic pay equals the annual rate of basic pay to which an employee is entitled divided by two thousand and eighty (2,080).

f. "Nurse" means a nurse or nurse anesthetist appointed under 38 U.S.C. 4104(1) or 4114(a)(1)(A).

g. "Special salary rate range" means the increased minimum, intermediate and maximum rates of basic pay for a grade established under 38 U.S.C. 38 U.S.C. 4107(g).

h. "Workweek" means a period of seven (7) consecutive calendar days which shall coincide with the calendar week, Sunday through Saturday.

3. ABOVE MINIMUM ENTRACE RATES AND SPECIAL SALARY RATE RANGES FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES

a. Scope. The Administrator mey increase minimum, intermediate and maximum rates of basic pay for:

(1) Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries appointed under 38 U.S.C. 4104(1) or 4114(a)(1)(A);

(2) Department of Medicine and Surgery employees paid under the General Schedule who are providing direct patient care services or services incident to direct patient care.

b. Applicability. Increased minimum, intermediate, or maximum rates of basic pay may be approved on a nationwide, local or other geographic basis and may only be used to:

(1) Assist in the recruitment and retention of well-qualified employees where there is evidence of recruitment and retention problems which are being cause by higher non-Federal rates of pay;

(2) Provide basic pay in amounts competitive with, but not exceeding, the amount of the same types of pay to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

(3) Achieve adequate staffing at particular facilities; or

(4) Recruit personnel with specialized skills, especially those which are difficult or demanding.

c. Submission of Requests and Approval Authority

(1) Requests for above-minimum entrance rates and special salary rate ranges will be submitted, approved, adjusted or terminated in accordance with criteria established by the Administrator.

(2) If the Administrator proposes to increase the minimum, intermediate or maximum rates of basic pay for DM&S General Schedule employees, that proposal shall be forwarded to the President, or designee, who has 90 days to review such proposed approvals.

d. Review of Adjustments. Above-minimum entrance rates and special salary rate ranges authorized under this paragraph shall be reviewed for continued need in accordance with criteria established by the Administrator.

4. Increase in Additional Rates of pay and Additional Pay for Saturday Work

a. Scope and Applicability. The Administrator is authorized to increase additional rates of pay (i.e., premium pay) and extend additional pay for Sunday work to all or part of a Saturday tour of duty, for nurses, physician assistants, and expanded-function dental auxiliaries, or any category of these employees, when necessary to obtain or retain their services. Such increases may be approved for any specific Veterans Administration health-care facility and may be made on a nationwide, local, or other geographic basis.

b. Submission of Requests and Approval authority. Increased rates of additional pay, and extensions of additional pay to all or part of a Saturday tour of duty, shall be requested, approved, adjusted and discontinued in accordance with criteria established by the Administrator.

5. Baylor Plan

a. Scope and Applicability. The Administrator is authorized to provide that nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered to have worked a full 40-hour workweek (except for the computation of FTEE for personnel ceiling purposes). The Administrator may futher provide that nurses working under the Baylor Plan may be paid overtime for all or part of the actual hours of officially ordered and approved service in excess of 40 hours in a workweek, if such an action is necessary to recruit and retain nurses.

b. Submission of Requests and Approval Authority

(1) Requests to use the Baylor Plan, and requests for nurses on the Baylor Plan to receive overtime pay for all or part of the actual hours of officially ordered or approved service in excess of 40 hours in a workweek, are to be submitted by facility Directors through appropriate channels to the Administrator for approval.

(2) The Administrator may:

(a) Authorize the use of the Baylor Plan when necessary to obtain or retain the services of nurse;

(b) Authorize the payment of overtime for all or part of the actual amount of officially ordered and approved overtime service in excess of 40 hours in a workweek. Tours of duty under the Baylor Plan will be computed on an hour-for-hour basis in computing the actual amount of service under this subparagraph;

(c) Discontinue the use of the Baylor Plan at any Veterans Administration health-care facility.

c. Miscellaneous Provisions

(1) Holidays. A nurse on the Baylor Plan shall not excused from duty as result of a holiday.

(2) Hourly Rate of Basic Pay. The hourly rate of basic pay for employees covered by this paragraph shall be computed in accordance with paragraph 2(e) above.

(3) Leave Charges. A nurse on the Baylor Plan who is on approved annual or sick leave during a regularly scheduled 12-hour weekend tour of duty shall be charged five hours of leave for each three hours of absence. A nurse on the Baylor Plan shall not, however, be charged leave for absences on any other tour of duty.

(4) Additional Rates of Pay:

(a) A nurse is not entitled to any additional pay for service performed on a regularly scheduled 12-hour tour of duty under the Baylor Plan;

(b) A nurse is entitled to overtime pay under 38 U.S.C. 4107(e)(5), or other applicable law, for performing officially ordered and approved service as follows:

1. Service in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

2. Service in excess of eight (8) hours on a day other than Saturday or Sunday.

3. Service in excess of 40 hours in a workweek when authorized under this paragraph.

(c) A nurse who performs service outside a regularly scheduled 12-hour weekend tour of duty under the Baylor Plan shall be entitled to additional pay under 38 U.S.C. 4107(e)(2) through (4), (6) through (8) and (10).

(d) Computation of additional rates of pay under subparagraphs (2) and (3) of this paragraph shall be based on the hourly rate of pay as defined in paragraph 2(e).

6. Effective Date. This circular shall not be effected until public comments have been received and the VA has met its labor relations obligations under chapter 71, title 5, United States Code. However, notwithstanding the above, this circular shall be effective on or before July 5, 1983, as required by section 2(d)(2) of Public Law 97-251.

7. Rescission: This circular expires July 31, 1984.

[FR Doc. 83-1547 Filed 1-19-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

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

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, January 17, 1983, 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 United Mutual Savings Bank, Tacoma, Washington, for consent to transfer certain assets to Tri-Cities Savings & Loan Association, Kennewick Washington, in consideration of the assumption of liabilities for deposits made in the Richmond, Walla Walla and Yakima branches of United Mutual Savings Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,568-L-Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,569-NR (Amended)—United States National Bank, San Diego, California

Memorandum and Resolution re: United States National Bank, San Diego, California

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)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the"Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-78-83 Filed 1-18-83; 3:39 pm]

BILLING CODE 6714-01-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, January 17, 1983, 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 matter:

Request of Suburban Bank, Bethesda, Maryland, for an exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks."

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

By the same majority vote, the Board also voted to withdraw from the agenda for consideration in open session and to add to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, the following matter:

Application of Bossier Bank and Trust Company, Bossier City, Louisiana, for consent to establish a branch at 2950 East Texas Street, Bossier City, Louisiana.

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-80-83 Filed 1-18-83; 3:39 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 2097, Monday, January 17, 1983.

PLACE: Board room sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled Thursday, January 20, 1983 at 10 a.m.:

Branch Office Approval

[No. 4, January 18, 1983]

[S-81-83 Filed 1-18-83; 3:42 pm]

BILLING CODE 6720-01-M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION

[Meeting Notice No. 2-83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time and Subject Matter

Oral hearings on objections to decisions issued under the second Czechoslovakian Claims Program:

Monday, January 31, 1983 at 9:30 a.m.
- CZ-4346—Frederick Wyman/Thomas G. Wyman
- CZ-4349—Frederick Wyman/Frank H. Wyman
- CZ-4352—Hans Wyman/Henry, Ralph and Russell
- CZ-4347—Ella and Frank H Wyman
- CZ-4348—Ella and Thomas G. Wyman
- CZ-3548—Francis L. Frybergh (Estate); Geraldine F. Yarroll, Administratrix

Monday, January 31, 1983 at 2:00 p.m.
- CZ-2977—Eric Walter Weinmann
- CZ-4113—Mary Dayton
- CZ-4123—Paul Dayton

Tuesday, February 1, 1983 at 9:30 a.m.
- CZ-2382—Frank P. Lester
- CZ-2383—Elizabeth Weinberger
- CZ-4190—Eric K. Petschek
- CZ-4191—Ruth Petschek Stein
- CZ-2454—Joseph Saxton, Andrew Barton and Stephen J. Kuffler

Tuesday, February 1, 1983 at 2:00 p.m.
- CZ-3362—Blanka Maria Neumann
- CZ-2117—Gertrude Dennis
- CZ-2118— Estate of Elsa Pollak, Deceased
- CZ-3891—Estate of Ernest T. Smolka, Deceased; William W. Reiner, Successor Executor

Wednesday, February 2, 1983 at 9:30 a.m.
Consideration of decisions issued under the Vietnam Prisoner of War Claims Program.

Wednesday February 2, 1983 at 9:30 a.m.
Hearing on the Record:
- CZ-4406—Emmy Molles
- CZ-4419—Edith Durand
- CZ-3687—Gertrude M. Farno

Wednesday, February 2, 1983 at 9:30 a.m.
Petition to Reopen:
- CZ-3015—Gordon Atter Poppere
- CZ-2666—Walter L. Speyer
- CZ-2667—Ernest A. Speyer

Wednesday, February 2, 1983 at 2:00 p.m.
- CZ-2368—Estate of Charles Stiassni, Deceased
- CZ-2369—Joseph Stiassni
- CZ-4834—Susan Martin, Assignee of Alfred and Hermine Stiassni
- CZ-3384—Marie Kreysa Melvin

Thursday, February 3, 1983 at 10:00 a.m.
- CZ-4809—Estate of William Petschek, Deceased; Charles Petschek and Ralph E. Lowenberg, Executors
- CZ-4810—Estate of Frank C. Petschek, Deceased; Maria Smith, Janina Petschek and Elizabeth De Picciotto Executrixes
- CZ-4811(a)—Charles Petschek, Deceased; Charles, Max, Thea and Thomas Petschek, Trustees
- CZ-3812—Estate of Ernest Petschek, Deceased; Annelise Fitzgerald, Successor Executrix
- CZ-4811—Estate of William Petschek, Deceased
- CZ-4813—Charles Petschek and Ralph E. Lowenberg, Executrixes, Estate of Frank C. Petschek and Elisabeth De Picciotto, Executrixes, Trust Under article "third" of the Will of Charles Petschek, Deceased; Charles I. Petschek, Max L. Petschek, Thea and Thomas Petschek, Trustee.

Thursday, February 3, 1983 at 2:00 p.m.
Friday, February 4, 1983 at 9:30 a.m.
Completion of hearings on objections and matters continued from previous agendas and matters under submission.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111—20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653-6155.

Dated at Washington, DC, on January 18, 1983.

Judith H. Lock,

Administrative Officer.

[S-78-83 Filed 1-18-83; 2:30 pm]

BILLING CODE 4410-01-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-01A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 370 January 4, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 19, 1983.

CHANGES IN THE MEETING: Emergency notice of change in location of the meeting.

By action Jacket SE-83-01, approved January 18, 1983, the United States International Trade Commission, voted to change the location of the meeting for Wednesday, January 19, 1983, from room 117 to the Hearing Room due to public interest in the briefing and vote on Item No. 5 (Investigation TA-201-47 (Motorcycles and Motorcycle Power Train Subassemblies)—briefing and vote). There are no other changes to the agenda.

Commissioners Eckes, Stern, and Haggart determined by recorded vote that Commission business requires the change in scheduling, affirmed that no earlier announcement of this change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-82-83 Filed 1-18-83; 3:48 pm]

BILLING CODE 7020-02-M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-1]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 1143, January 10, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, January 11, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was deleted from the agenda:

3. *Board Position* on Ultralight Vehicle Accedents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

January 17, 1983.

[S-74-83 Filed 1-17-83; 4:54pm]

BILLING CODE 4910-58-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-2]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 769, January 6, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, January 13, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was discussed in open session:

3. *Board Position* on Ultralight Vehicle Accidents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

January 17, 1983.

[S-75-83 Filed 1-17-83; 4:54 pm]

BILLING CODE 4910-58-M

8

PAROLE COMMISSION

[3P0401]

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE: 9:30 a.m. to 2:30 p.m., Wednesday, January 26, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: 1. Appeals to the Commission of approximately 8 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S-79-83 Filed 1-18-83; 2:29 pm]

BILLING CODE 4410-01-M

9

PAROLE COMMISSION

[3P0401]

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE:

2:30 p.m.—5:30 p.m., Wednesday, January 26, 1983;

9:00 a.m.—5:30 p.m., Thursday and Friday, January 27 and 28, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting of October 21 and 22, 1982.
2. Reports from the Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Case Operations, and Administrative Section.
3. Consideration of a proposed revision of the Commisson's rules at 28 CFR 2.40 concerning search and seizure.
4. Consideration of a proposed rule at 28 CFR 2.61 concerning inmate representatives.
5. Workload and Delegation Report.
6. Original Jurisdiction decisions following Statutory Interim Hearings.
7. Designation of Orignial Jursidiction Cases.
8. Waiver of Hearings.
9. Procedures at 28 CFR 2.24–08 concerning duplicate reasons.
10. Community Service.
11. Feedback from recent training sessions.

CONTACT PERSON FOR MORE INFORMATION: Mr. Peter B. Hoffman, Director of Research, United States Parole Commission (301) 492–5980.

[FR Doc. S-77-83 Filed 1-19-83; 2:29 pm]

BILLING CODE 4410-01-M

federal register

Thursday
January 20, 1983

Part II

Department of Transportation

Research and Special Programs Administration

Exemption and Enforcement Procedures and Related Miscellaneous Provisions

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 106, 107, 171, and 173

[Docket No. HM-138A; Amdt. Nos. 106-4, 107-11, 171-70, 173-161]

Exemption and Enforcement Procedures and Related Miscellaneous Provisions

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: The amendments adopted herein make changes, both substantive and editorial, in the procedures used by MTB in administering its exemption and enforcement programs. Principal changes involve enhancing the enforcement of exemptions; recodifying the enforcement procedures to remove redundancies and improve the process for both respondents and MTB; and clarifying definitions, statements of applicability, and key terms, prohibitions, and sanctions.

DATE: The changes adopted in these amendments are effective on March 1, 1983.

FOR FURTHER INFORMATION CONTACT: George W. Tenley, Jr. Office of the Chief Counsel, Research and Special Programs Administration, Washington, D.C. 20590, Telephone (202) 755-4973.

SUPPLEMENTARY INFORMATION: These amendments are based on proposals made in Notice 81-6 (46 FR 47091; September 24, 1981). A Total of 21 commenters responded to the Notice, representing 10 trade associations, 7 corporations, 3 Federal agencies, and one state agency. The majority of the comments were well developed and in several cases offered alternative approaches or language. Consequently, several important changes have been made to the proposals in the Notice. These changes take the form of additional clarifying information, or a return to previous provisions in lieu of specific proposals. The following section-by-section analysis discusses the comments, the changes made in response to them, and reason for not making some of the changes suggested.

Part 107

Subpart A—General Provisions

Section 107.13. One commenter suggested that the reference in paragraph (a) to the "official designated to preside over a hearing" be changed to include a reference to an administrative law judge. The change has not been made since § 107.13 is a general section which includes other proceedings, in addition to enforcement hearings, which would not necessarily be conducted by an administrative law judge.

The same commenter stated that paragraph (h) should provide that an application to quash or modify an administrative subpoena issued under § 107.13 be submitted to an official other than the person who issued the subpoena. MTB does not agree. The person who issued the subpoena is in the best position to correctly and expeditiously weigh the reasons to quash or modify against the reasons on which he or she relied in issuing the subpoena.

Subpart B—Exemptions

Section 107.109. In responding to paragraph (c)(1), three commenters expressed concern that MTB's efforts to cull out at the application stage exemption requests based on false or misleading statements could lead to denials where the statements or omissions were the result of inadvertency or were so inconsequential as to have no bearing on the merits of the application. MTB agrees that the proposed language could be misunderstood and has adopted the change suggested by two commenters that the words "false" and "misleading" be qualified by the word "materially," so that an exemption will be denied under paragraph (c)(1) only when the information in question relates directly and substantially to the requirements prescribed in § 107.103.

Section 107.119. Of all the proposals in the Notice, none received more adverse comments than those relating to exemption amendment and suspension (paragraph (b)(2)) and exemption termination (paragraph (c)(4)). After reviewing the 11 comments received, in light of the intent of the proposals and the enforcement needs of MTB, § 107.119 has been changed substantially from the proposals in the Notice.

Recognizing, as the comments point out, the potential unfairness and operational hardship that could result from action against an exemption holder based on enforcement actions not necessarily involving the exemption or not yet resolved, proposed paragraphs (b) and (c) have been redone to substantially reflect current language. A new paragraph (e) has been added to provide the Associate Director for HMR with the enforcement tool which MTB still believes is necessary for oversight of operations conducted under exemptions. As adopted, paragraph (e) permits the Associate Director for HMR to refer an exemption to the Associate Director for OOE for initiation of an enforcement case based on that exemption. If the enforcement case results in a finding of violation against the holder or a party to the exemption, the Associate Director for HMR could use that finding as a basis for amending, suspending, or terminating the exemption as to the exemption holder or party involved.

This approach should be an appropriate response to those commenters who felt that paragraphs (b) and (c) would have permitted the Associate Director for HMR to take action against one exemption for alleged failure to comply with other exemptions or other unrelated regulatory provisions.

Subpart D—Enforcement

Section 107.229. Although only four comments were addressed to the proposed definition of "knowledge" or "knowingly," they reflect generally a disagreement either as to the need for the definition or the approach used. Two commenters stated that basing the definition in part on *United States v. International Minerals and Chemical Corporation*, 402 U.S. 558 (1971), was improper because, as one commenter argued, under that case ignorance could be a defense, or as stated by the other commenters, the Hazardous Materials Transportation Act was not involved in the *International Minerals* case.

Notwithstanding those comments opposed to the definition, MTB believes that it is appropriate to include a definition of this critical concept in the enforcement procedures. However, MTB recognizes that modification of the proposed definition is necessary. Accordingly, these amendments to Part 107 adopt a definition of these key terms which is simpler than that proposed while still addressing a point raised in the vast majority of enforcement proceedings held to date, i.e., the respondent's inadvertency and lack of intent to violate the regulations.

Section 107.301. Although the proposed change to paragraph (e) was not discussed in the preamble to the Notice, and was only provided to describe the jurisdiction of the various modal administrations in DOT having hazardous materials enforcement responsibilities, three commenters opposed its adoption. The proposal was included to reflect the fact that MTB has an overlapping and secondary jurisdiction over shipments which move by more than one mode of transportation. Although the range of this jurisdiction is theoretically large due to the fact that a large number of

hazardous materials shipments move by more than one mode of transportation, in fact and in practice the overlap is quite small, and through coordination with other DOT elements, does not burden regulated persons unreasonably. In response to the comments, and to clarify the enforcement jurisdiction of the MTB, this section has been changed to reference the delegation of authority cited in 49 CFR Part 1 (§ 1.53).

Section 107.305. One commenter contended that paragraph (a) relating to the authority of OOE to conduct investigations was overboard in its statement of OOE's investigative jurisdiction. In linking the actual extent of OOE's investigative jurisdiction with OOE's enforcement jurisdiction, the commenter states that OOE cannot investigate what it is not authorized to enforce. Although paragraph (a) was intended to reflect the investigation-enforcement relationship suggested by the commenter, MTB agrees that the clarity of this relationship could be improved. Accordingly, paragraph (a) has been emended to make specific reference to the delegations cited in 49 CFR Part 1.

Another suggestion by the same commenter concerning termination of an investigation under paragraph (d) also has been adopted. As amended, paragraph (d) requires OOE to notify a person who has been the subject of an investigation when the investigation is terminated.

Four comments were received concerning the confidentiality provision of paragraph (e). Three of those comments stated that the protection afforded respondents during the pendency of a case is undermined by the statement that confidentiality will be granted "unless otherwise determined by the OOE." Despite the fact that this language is currently in paragraph (e) and was thus not a part of the Notice, MTB agrees with the commenters that the provision should be amended to remove any reference to a discretion in OOE to deny confidentiality of information or persons identified in an investigation. However, it should be noted that OOE could be directed by a court in a given case to reveal information or identities granted confidentiality under paragraph (e).

Finally, MTB rejects the suggestion of one commenter that reference should be made in paragraph (e) to 18 U.S.C. 1905 concerning criminal sanctions for government employees who unlawfully disclose information arising out of investigations such as those authorized by § 107.305. It is not appropriate to place in these procedural requirements a citation to sanctions against Federal employees where such requirements apply independently of the enforcement program of MTB.

Section 107.307. MTB's reference in paragraph (a) to violation of an approval as a basis for enforcement action was criticized by two commenters. Arguing that failure to comply with the requirements of an approval is in essence noncompliance with the underlying regulation requiring the approval, these commenters contend that a person does not violate the approval and thus cannot be the subject of an enforcement action for an alleged failure to comply with an approval. MTB has reevaluated this proposal in light of these comments and believes that there is merit to their position. Recognizing that there is a fundamental difference between exemptions and approvals, MTB is persuaded that they cannot be treated in the same manner. As noted by one commenter, an approval is merely an extension of the regulation that establishes it, and as such the responsibility to comply is based on the regulation not the approval. Accordingly, it is appropriate as recommended by these commenters to delete the reference to approvals where appropriate throughout the proposals, and these changes have been adopted herein. However, it is important to note that failure to comply with a condition or term prescribed in an approval would be considered failure to comply with the underlying regulation requiring the approval, and could be the basis for an enforcement action.

Another commenter objected to paragraph (a) because "The revision essentially permits OHMR (sic) to assess a civil penalty or issue an order directing compliance without first taking the time to evaluate the nature of the violation." The point raised by this comment does not address a revision to paragraph (a), but rather deals with existing language. In addition, the commenter is incorrect in its view of what paragraph (a) authorizes the Associate Director for OOE to do. The paragraph merely authorizes the conduct of proceedings by which appropriate sanctions are determined and applied. Section 110(a) of the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1809(a)) mandates the consideration of several assessment criteria before an order imposing a civil penalty may be issued. It is the proceeding which establishes the record on which a sanction is based.

Section 107.309. Only one commenter expressed any reservation concerning the proposal dealing with the issuance of warning letters. The commenter contends that the proposal is deficient because it provides no guidance to regulated persons as to circumstances under which warning letters would be issued in lieu of compliance orders or civil penalties. The preamble discussion of this proposal in the Notice gave an example of a typical situation in which a warning letter is frequently used. MTB believes that the preamble language is sufficient to describe generally how warning letters are used, and accordingly, has not made any changes to the proposal.

Section 107.311. One commenter recommended that this section be amended to include language requiring issuance of notices in a timely manner. The commenter states that delays between inspection and issuance of notices can exceed a year, and that such delays are per se prejudicial to the respondent. MTB disagrees strongly that delay between inspection and notice is "per se prejudicial." Clearly if a delay does adversely affect a respondent's ability to respond, that fact would be a relevant part of the respondent's defense to the allegations in the notice. At the conclusion of every inspection, the person inspected is put on notice during an exit interview as to any probable violations noted and the possible sanctions that could result. Given the small staff available to conduct inspections and the technical nature of the subject matter, delays are inevitable, but the OOE strives to keep them to a minimum. Accordingly, the suggested change to § 107.311 has not been made.

Another commenter argued that under paragraph (c), amendments to notices should be allowed only where the new information relates directly to the allegations in the original notice. In all other cases, OOE should have to issue a new notice based on new allegations. MTB believes this recommendation has merit, and paragraph (c) has been changed accordingly.

Section 107.313. As noted in the preamble to the Notice, one of the primary features of the proposals was elimination of redundancies between the procedures applicable to compliance orders and civil penalties. One aspect of that consolidation was the combining in one enforcement case of both a civil penalty and a compliance order. However, that proposal in paragraph (b) was objected to by a commenter who argued that even if such action was legal (which the commenter doubted), use of the proposed standard "where appropriate" was unclear and unreasonable. Furthermore, the commenter argued that in no event "should it be deemed 'appropriate' to

assess a civil penalty if the notice of probable violation has not proposed such penalty."

The decision as to which enforcement sanction to apply in a given matter can only be determined on a case-by-case basis. The responsibility of MTB in each case is to provide an adequate basis in the notice of probable violation to inform the respondent of the nature of the allegations and sanctions selected so he can respond effectively. As to the commenter's second point, the intent of the proposal was to provide for a double sanction in the notice, and MTB agrees that it should be made clear that in no case should a double sanction be applied at the order stage without having first been proposed at the time of the notice (or amended notice under § 107.311). Accordingly, a clarification has been added to paragraph (b).

Another commenter, noting the variation in enforcement procedures between the five administrations in DOT having enforcement responsibility under the HMTA, contends that the enforcement procedures proposed in Notice 81-6 do not make it clear that failure to request a hearing under this section and § 107.319 constitutes a waiver of the right to request a hearing. The commenter is correct in stating that any reply other than under paragraph (a)(3) and § 107.319 constitutes a waiver of the right to request a hearing. To clarify this fact, express waiver language has been added to paragraph (b).

Section 107.315. The only comment addressed to this proposal argued that it was deficient because it failed to deal with the possibility that a respondent may wish to admit some probable violations while denying others. MTB believes that a respondent in this position could, and is encouraged to, respond under §§ 107.313(a)(2) and 107.317 by making an informal response, or under §§ 107.313(a)(3) and 107.319 by requesting a hearing. Under either course, the case would proceed only with respect to those probable violations put at issue by the respondent.

Section 107.317. Although not specifically identifying the proposal, one commenter apparently opposed the provision that would require a respondent, as part of its request for an informal conference, to state which allegations are admitted and which are denied, as well as the issues that will be raised at the conference. The commenter stated that this requirement would frustrate what the commenter described as "settlement conferences."

It should be noted that the informal conference is not intended to be a settlement conference, although the discussion of that point could be relevant. Rather, the informal conference is an aspect of the informal response that is designed to allow an effective and less costly alternative to a hearing. However, MTB does believe that this purpose could be served without a need for the respondent to state which allegations are admitted or denied, and that proposal has been deleted. The proposal to require a statement of the issues to be raised has been retained, however.

Finally, pursuant to a comment received, language has been added to paragraph (c) enabling a respondent to request that an informal conference be held by telephone.

Section 107.319. As proposed in the Notice, paragraph (b)(2) of this section contained a typographical error which stated that issues in a case that was to be the subject of hearing had to be admitted or denied. Under current language to which no proposed change was to be made, paragraph (b)(2) requires that a respondent requesting a hearing "state with respect to each allegation (made in the Notice) whether it is admitted or denied."

In commenting on this erroneous proposal, one commenter pointed out the burden it would place on a respondent at the notice stage of the proceeding. Because the comment deals primarily with what the commenter believes to be an unfair demand for detail at the earliest stage in the proceeding, it is relevant to paragraphs (b)(2) and (b)(3) which do require the respondent to "state with particularity the issues to be raised by the respondent at the hearing." MTB believes that there is merit to the points raised by the commenter to the extent they suggest changes that would enable MTB to know generally with what issues the hearing will deal, while at the same time not prejudicing the respondent's case at the hearing. Accordingly, the language or paragraphs (b)(2) and (b)(3) has been modified to require the respondent to identify which allegations of violation, if any, it admits, generally what issues it will raise at the hearing, and provides that issues not raised in the hearing request will not be barred from presentation later.

Section 107.321. In response to the points made by one commenter, two important changes have been made to the procedural requirements of this proposal. In order to achieve the consistency between cases, cited by the commenter as being valuable in establishing precedents and providing a more uniform record, paragraph (b) has been modified to require that all hearings are held in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence. Authority has been granted the Administrative Law Judge (ALJ) to modify their application where the ALJ determines modification is necessary in a given case. As noted by the commenter, this change will avoid problems that have arisen where non-DOT ALJs, with varying backgrounds, use procedures with which they are familiar but which may appear awkward for practitioners who are not familiar with them.

Another change recommended by the commenter, and adopted herein, is deletion of the requirement that all testimony be given orally. To the extent that written testimony can contribute to a more orderly process, more effective determination of the issues and facts in a case, and a better record for appellate review, its use should not be discouraged. Accordingly, the procedures have been amended to remove the provision, and thereby leave to the ALJ and parties the determination as to the type of testimony to be used.

Proposed paragraph (c) has been modified to remove, as superfluous, the reference to OOE offering information "necessary to fully inform the presiding officer * * *." Reference to OOE having the burden of proof is all that is necessary in addressing its responsibility to provide information in support of its allegations.

Another commenter suggested that the phrase "in defense of the allegations" appearing in paragraph (d) be changed to reflect the fact that the repondent is not providing a defense of the allegations, but rather is disputing those allegations. MTB agrees with this point and an appropriate change to paragraph (d) has been made.

Section 107.323. One commenter noted that paragraph (a) states that the decision by an ALJ in a hearing proceeding represents "the final decision" in the proceeding. The commenter questions how the decision of the ALJ can be considered final when an appeal to the Director, MTB is available to both parties under proposed § 107.325. The commenter's point is well taken and an appropriate change to paragraph (a) has been made to remove the reference to "final decision."

The same commenter noted what it considered other inappropriate language in paragraph (a). The commenter contends that the reference to "the relief sought by the OOE" should be changed to more accurately reflect what OOE seeks to obtain through the proceeding. MTB agrees that the language should be

clarified, and accordingly, the word "relief" has been changed to "sanction."

Section 107.325. The proposal to permit the OOE to appeal an adverse ruling by an ALJ to the Director, MTB was objected to by three commenters. Basing their opposition primarily on the view that since OOE is in effect a "prosecutor," and should not, therefore, be able to appeal an adverse ruling, these commenters argue that if an appeal is to be granted due process dictates that the appeal be to someone other than the person who has ultimate responsibility over OOE's program.

As to the contention that OOE should not be able to appeal an adverse ruling by an ALJ, MTB does not agree that due process considerations preclude this right of appeal. The enforcement program of the OOE is clearly civil in nature—both in practice and as contemplated by Congress in passage of the HMTA, and consequently, OOE is not precluded from appealing adverse rulings.

The commenter's argument against OOE's right to appeal to the Director, MTB, however, is sound. To avoid, to the degree practicable, the appearance of a conflict of interest, these amendments adopt the approach used by the Federal Railroad Administration, and permit an aggrieved party to appeal an adverse decision of an ALJ to the administrator, Research and Special Programs Administration. This action elevates consideration of issues on appeal to the highest level in the agency and represents a desired separation between the office presenting the case and the ultimate decision maker on appeal. In non-hearing cases, the Director, MTB would continue to decide all appeals.

Another commenter argued that the proposal in paragraph (f) to make violation of the terms of a compliance order the basis for an enforcement proceeding, was contrary to the HMTA. A review of the HMTA and the comment confirms the correctness of the commenter's argument, and the proposal has been deleted accordingly. Also, the identical language in § 107.327(b)(3) has been deleted.

The same commenter objected to language in proposed paragraph (e) authorizing the Director, MTB to maintain an order in effect despite an appeal to the order if he determines that action to be necessary "in the public interest." MTB agrees with the commenter that standards for making that decision should be stronger, and has adopted the commenter's suggestion that it be based on a finding of "immediate danger to the public."

Section 107.327. Two commenters objected to the failure of the compromise procedures to provide for settlement of an enforcement proceeding with no admission by the respondent of violation. One commenter argued that without a provision for settlement resulting in no finding of violation, amicable resolutions of enforcement proceedings will be frustrated and respondents will be required to bear the expense of fighting allegations of violations to conclusion. The other commenter contended that without a provision for settlement accompanied by no finding of violation, respondents will be unreasonably exposed to "private challenges based upon an admission of guilt."

To the extent that these arguments establish a need for providing for the settlement of cases without a finding of violation, MTB believes they have merit. In fact, settlements of the type contemplated by the commenters have been reached in a few cases. However, these amendments retain the concept of compromise currently in use in MTB's hazardous materials enforcement program. In the vast majority of cases to date, the facts upon which the allegations of violation have been based have not been in dispute. As such, the commission of those violations is pertinent under the assessment criteria in the HMTA and the HMR in subsequent cases involving the same respondent.

On the other hand, there have been cases where a settlement involving only the payment of money by the respondent is the most reasonable solution. Consequently, these amendments adopt a specific provision for settlement without a finding of violation. However, discretion remains with the Associate Director for OOE to reject settlement offers, and this discretion would most likely be exercised in cases where only the amount of civil penalty is in dispute.

In response to comments, two other changes have been made to this section. The proposal that a compromise offer be in the form of a certified check or money order submitted prior to an agreement accepting the offer has been deleted, since the language of new paragraph (a)(1) now speaks to the compromise offer being initiated by either respondent or OOE. The requirement that the respondent include, as part of a proposed consent agreement, an acknowledgement that the notice of probable violation may be used to construe the terms of the compliance order resulting from the agreement, has been deleted as being unnecessary as a rule of general applicability.

Section 107.329. Although not representing a new proposal in Part 107, this section was objected to by one commenter who contended that provision in the HMR for a compliance order for immediate compliance has no legal basis in the HMTA. Viewing § 107.329 as a means of addressing imminent hazard situations through the administrative process, the commenter argues that the HMTA provides for imminent hazard situations in section 111(b) (49 U.S.C. 1810(b)) by requiring DOT to proceed judicially, either on its own motion or through the Attorney General. Consequently, this section, which enables the waiving by OOE of the administrative procedures otherwise applicable to compliance order proceedings, represents, argues the commenter, a denial of due process.

MTB agrees that, with respect to cases involving imminent hazard situations as defined in section 111(b) of the HMTA, use of § 107.329 would operate to abrogate the due process rights of the respondent by denying it the right to be heard. However, § 107.329 was designed to reach cases falling short of the imminent hazard standard, but which are of sufficient potential safety impact to warrant extraordinary treatment.

Notwithstanding the purpose and intent of § 107.329, experience does not indicate a need to retain it. With the range of legal and equitable remedies available under the HMTA, particularly the imminent hazard provisions of section 111(b), as implemented in § 107.341, all factual situations likely to occur are provided for. Accordingly, § 107.329 has been deleted.

Section 107.331. (§ 107.329, as adopted). The proposal to amend the maximum penalty provision applicable to container manufacturers, reconditioners, repairers, and retesters received numerous adverse comments due to the interpretation given the proposal in the preamble. Although the amendment to this section merely adopts the language of section 110(a) of the HMTA, the preamble noted that ". . . each violation means each container found to have been in violation of an applicable requirement."

A common thought expressed in most of the comments was that the above view was not possible under the HMTA, since Congress has applied the concept of a continuing violation only to violations involving shippers and carriers of hazardous materials and not to the manufacturers, rebuilders, reconditioners, and retesters of the containers in which those materials are transported. Consequently, those commenters argue that it would be

unlawful for MTB to cite, for example, each of 200 cylinders in a given lot for a violation common to that lot, e.g., improper marking. To do so would be to cite a continuing violation.

MTB has reviewed thoroughly the questions posed by the commenters regarding this issue, particularly the contention that to cite each container in a lot would be to cite a continuing violation, and although not agreeing totally with the analyses offered by the commenters, does believe that adjustments to its interpretation are warranted. Moreover, these changes will not, based on experience gained under the HMTA, frustrate the purposes of the enforcement policy, since the actual amendment merely reflects the language of the HMTA.

Throughout the container specifications in Part 178, there are numerous requirements for sample testing where one container, or a portion of one container, is authorized to represent the compliance status of all other containers of the same lot. Similarly, there are certain testing requirements which must be performed at regular intervals, e.g., every four months or at the start or restart of production. Violations involving groups of containers which are permitted to be certified, marked, and sold based on representative functions being performed on a certain number of samples of those groups, are considered as a single violation. Thus, if a leakage test for 17E drums under § 178.116–13 is improperly performed and constitutes the basis for a violation, only one violation has been committed regardless of how many 17E drums of a given size and type are produced during the four months covered by the leakage test. Similarly, the physical test requirements of § 178.37–16, if improperly performed, would result in one violation for each type of test and not for each of the 200 cylinders for which the sample (coupon) is representative.

In stating this enforcement position on the issue, it is MTB's intent to reflect a level of regulation appropriate to observed enforcement needs. If in the future it should appear that those needs require the expanded civil penalty authority possible under section 110 of the HMTA, that authority would be asserted through additional rulemaking.

Part 171

Section 171.2. Several changes have been made in the proposals in this section based on the views of a commenter. First, as noted in the discussion of § 107.307, the references to approvals have been deleted, since, as the commenter pointed out, an approval is merely an aspect of an underlying substantive regulation, and any failure to comply with the terms of an approval would constitute a failure to comply with the underlying regulation.

Secondly, paragraph (d)(4) has been deleted as being vague. Should cases of misleading marking involving marks other than those described in subparagraphs (d)(1), (d)(2), and (d)(3) arise, such marks could be identified in subsequent rulemaking. Finally, paragraph (e) has been deleted as superfluous because the provisions of paragraphs (c) and (d) adequately address container manufacturers, reconditioners, repairers, fabricators, and retesters.

Section 171.8. The proposal to amend the definition of person to include governmental entities received several comments, each of them opposed to the provision as proposed. The two Federal agencies that responded to the expansion of the definition both argued that since the HMTA did not define the term person, the regulations cannot create a definition. Furthermore, since the current definition in § 171.8 was carried over from predecessor regulations adopted pursuant to 18 U.S.C. 831 *et seq.*, where the statutory definition did not include governmental entities, there is no basis in law to include them in this rulemaking. In light of the comments received, and based on a review of interpretative difficulties that have arisen over the absence of a definition of "person" in the HMTA, the MTB has decided to withdraw the proposal to adopt one in this rulemaking, and pursue instead a statutory amendment to the HMTA. This effort will commence with a proposal in the Department's legislative initiatives submitted to the 98th Congress.

Miscellaneous changes. In addition to the amendments discussed above, two other changes have been adopted in this rulemaking. These changes, neither of which appeared in the Notice, are designed to facilitate activities under the HMR and impose no regulatory burden on persons operating thereunder.

Section 171.19 has been amended to delete the termination date applicable to approvals and authorizations issued by the Bureau of Explosives of the Association of American Railroads. Section 171.19 was adopted pursuant to MTB's phased program to withdraw preexisting approvals and authorizations issued by the Bureau of Explosives, and recognized the need to provide for transition between the elimination of such approvals and authorizations and the issuance thereof by MTB. However, it now appears that numerous Bureau of Explosives approvals and authorizations were issued without termination dates. Consequently, to withdraw them on December 31, 1984, would place a prohibitive administrative burden on MTB, and a concomitant burden on affected industries. Accordingly, in lieu of the current termination date, MTB has adopted all written approvals previously issued by the Bureau of Explosives as if they had been issued by MTB. This action in no way precludes MTB from taking future rulemaking action to terminate specific classes of approvals and authorization if it determines that conditions of safety and administrative efficiency warrant. It must be stressed that as conditions to the conduct of operations under such preexisting approval, the approval must be in writing, be available for inspection by personnel from the Department on demand, and must have been issued without a termination date. If any or all of these conditions are not met, the approval is a nullity and operations under the invalid "approval" would subject the person conducting them to all applicable sanctions under the HMTA. Furthermore, it should be noted that these approvals are viewed as equivalent to MTB issued approvals from an enforcement standpoint, and enforcement action may be taken against a person who fails to comply with all terms and conditions prescribed in the approval.

Another change, to § 173.22, has been made to enable a shipper to rely on exemption or approval markings in discharging its responsibility under that section to determine that a packaging or container is in compliance with an applicable specification in Part 178 or 179, or, as adopted herein, an approval or exemption. This change is necessary to clearly articulate the shipper's duty, while enabling it to rely on the most immediate evidence of compliance. Absent this change, the shipper would be technically in violation if he used a packaging or container, that bore no specification marking under Parts 178 and 179 (this does not abrogate any exception authorized by this subchapter). It should be noted, however, that compliance with these requirements, and reliance on the actions of others permitted by this section do not in any way relieve a person from complying with all other applicable requirements or conditions of use.

In addition, the shipper may also rely on specification markings which were, at the time of manufacture of the container, the appropriate markings,

although at the time of the offering for transportation are no longer in effect.

List of Subjects

49 CFR Part 106

Rulemaking procedures.

49 CFR Part 107

Hazardous materials program procedures.

49 CFR Part 171

Hazardous materials transportation, regulations and definitions.

49 CFR Part 173

Hazardous materials transportation, packaging and containers.

In consideration of the foregoing, 49 CFR Parts 106, 107, 171, and 173 are amended as follows:

PART 106—RULEMAKING PROCEDURES

1. In § 106.17, a new paragraph (c) is added to read as follows:

§ 106.17 Particpation by interested persons.

* * * * *

(c) For the purposes of this part, an interested person includes any Federal or State government agency or any political subdivision of a State (as defined in § 107.201(b) of this subchapter).

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

2. The table of Contents for Part 107 is amended by revising Subpart D to read as follows:

* * * * *

Subpart D—Enforcement

Sec.

107.299 Defintions.
107.301 Delegated authority for enforcement.
107.303 Purpose and scope.
107.305 Investigations.

Compliance Orders and Civil Penalties

107.307 General.
107.309 Warning letters.
107.311 Notice of probable violation.
107.313 Reply.
107.315 Admission of violations.
107.317 Informal response.
107.319 Request for a hearing.
107.321 Hearing.
107.323 ALJ's decision.
107.325 Appeals.
107.327 Compromise and settlement.
107.329 Maximum penalties.
107.331 Assessment considerations.

Criminal Penalties

107.333 Criminal penalties generally.
107.335 Referral for prosecution.

Injunctive Action

107.337 Injunctions generally.
107.339 Imminent hazards.

Subpart A—General Provisions

3. In § 107.13, the portion of the first sentence through the word "hearing" of paragraph (a), and paragraph (h) are revised to read as follows:

§ 107.13 Subpoenas, witness fees.

(a) The Director, MTB, the Chief Counsel, Research and Special Programs Administration, or the Official designated to preside over a hearing * * *

* * * * *

(h) Any person to whom a subpoena is directed may apply no later than 10 days after service thereof, to the person who issued the subpoena to quash or modify it. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein. The person who issued the subpoena may:

* * * * *

Subpart B—Exemptions

4. In 107.109, paragraph (c) is revised to read as follows:

§ 107.109 Processing of application.

* * * * *

(c) The Associate Director for HMR denies an application in accordance with the following:

(1) The application is denied if it does not contain adequate justification or if it contains any materially false or materially misleading statements, or fails to state a material fact.

(2) If the Associate Director for HMR denies an application under this paragraph, he notifies the applicant in writing of his reason therefore and publishes notice of the denial in the Federal Register.

* * * * *

5. Section 107.119 is revised to read as follows:

§ 107.119 Amendment, suspension, termination, and referral for enforcement action.

(a) An exemption and any renewal thereof terminates according to its terms but not later than two years after the date of issuance unless terminated sooner under paragraph (c) of this section.

(b) The Associated Director for HMR may amend or suspend an exemption if—

(1) He determines that an activity under the exemption is not being performed in accordance with the terms of the exemption; or

(2) On the basis of information not available at the time the exemption was granted or renewed, such action is necessary to protect against risk to life or property.

(c) The Associate Director for HMR may terminate an exemption if—

(1) He determines that the exemption is no longer consistent with the public interest;

(2) The exemption is no longer necessary because of an amendment to the regulations; or

(3) The exemption was granted on the basis of false or misleading material information.

(d) Unless the Associate Director for HMR determines that immediate amendment, suspension, or termination of an exemption is necessary to abate the risk of an imminent hazard, he notifies the holder of the exemption or a party thereto in writing of the reasons therefore and provides that person an opportunity to show cause why the exemption should not be amended, suspended, or terminated under paragraph (b) or (c) of this section.

(e) Notwithstanding paragraphs (b), (c) and (d) of this section, the Associate Director for HMR may refer an exemption to the Associate Director for OE for initiation of an enforcement case under Subpart D of this part. If, as the result of the enforcement proceeding, the holder of the exemption or a party thereto is determined to have violated the terms of the exemption, the Associate Director for HMR may amend, suspend, or terminate the exemption.

Subpart C—Preemption

6. In Subpart C, the designations "OE" and "OOE" are changed to read "HMR" and "OHMR", respectively, wherever they appear.

§§ 107.203 and 107.215 [Amended]

7. In §§ 107.203 and 107.215, paragraph (b)(1) is amended by changing the words "Office of Operations and Enforcement" to read "Office of Hazardous Materials Regulation."

8. Subpart D is revised to read as follows:

Subpart D—Enforcement

§ 107.299 Definitions.

In this subpart, and in enforcement actions initiated thereunder, "Investigation" includes investigations authorized under 49 U.S.C. 1809(a) and inspections authorized under 49 U.S.C. 1809(c).

"Knowledge" or "knowingly" means that a person who commits an act which is a violation of the Act or of the

requirements of this subchapter or Subchapter C of this chapter commits that act with knowledge or knowingly when that person (1) has actual knowledge of the facts that give rise to the violation, or (2) should have known of the facts that give rise to the violation. A person knowingly commits an act if the act is done voluntarily and intentionally. Knowledge or knowingly means that a person is presumed to be aware of the requirements of the Act and this subchapter and Subchapter C of this chapter. Knowledge or knowingly does not require that a person have an intent to violate the requirements of the Act or the requirements of this subchapter or Subchapter C of this chapter.

§ 107.301 Delegated authority for enforcement.

Under redelegation from the Administrator, Research and Special Programs Administration, the MTB exercises its authority for enforcement of the Act, this subchapter, and Subchapter C of this subchapter, in accordance with § 1.53 of this Title.

§ 107.303 Purpose and scope.

This subchapter describes the various enforcement authorities exercised by the OOE and the associated sanctions and prescribes the procedures governing the exercise of those authorities and the imposition of those sanctions.

§ 107.305 Investigations.

(a) *General.* In accordance with its delegated authority under Part 1 of this title, the OOE may initiate investigations relating to compliance by any person with any provisions of this subchapter or Subchapter C of this chapter, or any exemption, approval, or order issued thereunder, or any court decree relating thereto. The OOE encourages voluntary production of documents in accordance with and subject to § 107.13, and hearings may be conducted, and depositions taken pursuant to section 109(a) of the Act. The OOE may conduct investigative conferences and hearings in the course of any investigation.

(b) *Investigators.* Investigations under Section 109(a) of the Act are conducted by MTB personnel duly authorized for that purpose by the Director, MTB. Inspections under Section 109(b) of the Act, are conducted by OOE Hazardous Materials Enforcement Specialists who are duly designated for that purpose. Each official so designated may administer oaths and receive affirmations in any matter under investigation by the MTB.

(c) *Notification.* Any person who is the subject of an OOE investigation and who is requested to furnish information or documentary evidence is notified as to the general purpose for which the information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the person being investigated is notified and the investigative file is closed without prejudice to further investigation by the OOE.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential under the investigatory file exception, or other appropriate exception, to the public disclosure requirements of 5 U.S.C. 552.

Compliance Orders and Civil Penalties

§ 107.307 General.

(a) When the OOE has reason to believe that a person is knowingly engaging or has knowingly engaged in conduct which is a violation of the Act or any provision of this subchapter or Subchapter C of this chapter, or any exemption, or order issued thereunder, for which the OOE exercises enforcement responsibility, and if time, the nature of the violation, and the public interest permit, the OOE may conduct proceedings to assess a civil penalty or to issue an order directing compliance, or both, or seek any other remedy available under the Act.

(b) In the case of a proceeding initiated for failure to comply with an exemption, the allegation of a violation of a term or condition thereof is considered by the OOE to constitute an allegation that the exemption holder or party to the exemption is failing, or has failed to comply with the underlying regulations from which relief was granted by the exemption.

§ 107.309 Warning letters.

(a) In addition to the initiation of proceedings under § 107.307 for the imposition of sanctions or other remedies, the OOE may issue a warning letter to any person whom the OOE believes to have committed a probable violation of the Act or any provision of this subchapter, Subchapter C of this chapter, or any exemption issued thereunder.

(b) A warning letter issued under this section includes—

(1) A statement of the facts upon which the OOE bases its determination that the person has committed a probable violation;

(2) A statement that the recurrence of the probable violations cited may subject the person to enforcement action; and

(3) An opportunity to respond to the warning letter by submitting pertinent information or explanations concerning the probable violations cited therein.

§ 107.311 Notice of probable violation.

(a) The OOE begins an enforcement action under § 107.307, by serving a notice of probable violation on a person alleging the violation of one or more provisions of the Act, this subchapter, or Subchapter C of this chapter, or any exemption issued thereunder.

(b) A notice of probable violation issued under this section includes the following information:

(1) A citation of the provisions of the Act, this subchapter, Subchapter C of this chapter, or the terms of any exemption issued thereunder which the OOE believes the respondent is violating or has violated.

(2) A statement of the factual allegations upon which the demand for remedial action, a civil penalty, or both, is based.

(3) A statement of the respondent's right to present written or oral explanations, information, and arguments in answer to the allegations and in mitigation of the sanction sought in the notice of probable violation.

(4) A statement of the respondent's right to request a hearing and the procedures for requesting a hearing.

(5) In addition, in the case of a notice of probable violation proposing a compliance order, a statement of the proposed actions to be taken by the respondent to achieve compliance.

(6) In addition, in the case of a notice of probable violation proposing a civil penalty—

(i) A statement of the maximum civil penalty for which the respondent may be liable;

(ii) The amount of the preliminary civil penalty being sought by OOE, which constitutes the maximum amount OOE may seek throughout the proceeding; and

(iii) A description of the manner in which the respondent makes payment of any money due the United States as a result of the proceeding.

(c) The OOE may amend a notice of probable violation at any time before issuance of a compliance order or an order assessing a civil penalty. If OOE alleges any new material facts or seeks new or additional remedial action or an increase in the amount of the proposed

civil penalty, it issues a new notice of probable violation under this section.

§ 107.313 Reply.

(a) Within 30 days of receipt of a notice of probable violation, the respondent must either—

(1) Admit the violation under § 107.315;

(2) Make an informal response under § 107.317; or

(3) Request a hearing under § 107.319.

(b) Failure of the respondent to file a reply as provided in this section constitutes a waiver of the respondent's right to appear and contest the allegations and authorizes the Associate Director for OE, without further notice to the respondent, to find the facts to be as alleged in the notice of probable violation and issue an order directing compliance or assess a civil penalty, or, if proposed in the notice, both. Failure to request a hearing under paragraph (a)(3) of this section constitutes a waiver of the respondent's right to a hearing.

(c) Upon the request of the respondent, the OOE may, for good cause shown and filed within the 30 days prescribed in the notice of probable violation, extend the 30-day response period.

§ 107.315 Admission of violations.

(a) In responding to a notice of probable violation issued under § 107.311, the respondent may admit the alleged violations and agree to accept the terms of a proposed compliance order or to pay the amount of the preliminarily assessed civil penalty, or, if proposed in the notice, both.

(b) If the respondent agrees to the terms of a proposed compliance order, the Associate Director for OE issues a final order prescribing the remedial action to be taken by the respondent.

(c) Payment of a civil penalty must be made by certified check or money order payable to the Treasurer of the United States and sent to the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, S.W., Room 8420, Washington, D.C. 20590.

§ 107.317 Informal response.

(a) In responding to a notice of probable violation under § 107.311, the respondent may submit to the OOE official who issued the notice, written explanations, information, or arguments in response to the allegations, the terms of a proposed compliance order, or the amount of the preliminarily assessed civil penalty.

(b) The respondent may include in his informal response a request for a conference. Upon the request of the respondent, the conference may be either in person or by telephone. A request for a conference must set forth the issues the respondent will raise at the conference.

(c) Upon receipt of a request for a conference under paragraph (b) of this section, the OOE, in consultation with the Chief Counsel's Office, arranges for a conference as soon as practicable at a time and place of mutual convenience.

(d) The respondent's written explanations, information, and arguments as well as the respondent's presentation at a conference are considered by the Associate Director for OE in reviewing the notice of probable violation. Based upon a review of the proceeding, the Associate Director for OE may dismiss the notice of probable violation in whole or in part. If he does not dismiss it in whole, he issues an order directing compliance or assessing a civil penalty, or, if proposed in the notice, both.

§ 107.319 Request for a hearing.

(a) In responding to a notice of probable violation under § 107.311, the respondent may request a formal administrative hearing on the record before an Administrative Law Judge (ALJ) obtained by the Office of the Chief Counsel.

(b) A request for a hearing under paragraph (a) of this section must—

(1) State the name and address of the respondent and of the person submitting the request if different from the respondent;

(2) State which allegations of violations, if any, are admitted; and

(3) State generally the issues to be raised by the respondent at the hearing. Issues not raised in the request are not barred from presentation at the hearing.

(c) After a request for a hearing that complies with the requirements of paragraph (b) of this section, the Chief Counsel obtains an ALJ to preside over the hearing and notifies the respondent of this fact. Upon assignment of an ALJ, all further matters in the proceeding are conducted by and through the ALJ.

§ 107.321 Hearing.

(a) To the extent practicable, the hearing is held in the general vicinity of the place where the alleged violation occurred or at a place convenient to the respondent. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim.

(b) Hearings are conducted in accordance with the Federal Rules of Evidence and Federal Rules of Civil Procedure; however, the ALJ may modify them as he determines necessary in the interest of a full development of the facts. In addition, the ALJ may:

(1) Administer oaths and affirmations;

(2) Issue subpoenas as provided by § 107.13;

(3) Adopt procedures for the submission of motions, evidence, and other documents pertinent to the proceeding;

(4) Take or cause depositions to be taken;

(5) Rule on offers of proof and receive relevant evidence;

(6) Examine witnesses at the hearing;

(7) Convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;

(8) Hold conferences for settlement, simplification of the issues, or any other proper purpose; and

(9) Take any other action authorized by, or consistent with, the provisions of this subpart and permitted by law which may expedite the hearing or aid in the disposition of an issue raised therein.

(c) The OOE official who issued the notice of probable violation, or his representative, has the burden of proving the facts alleged therein.

(d) The respondent may appear and be heard on his own behalf or through counsel of his choice. The respondent or his counsel may offer relevant information including testimony which he believes should be considered in opposition to the allegations or which may bear on the sanction being sought and conduct such cross-examination as may be required for a full disclosure of the facts.

§ 107.323 ALJ's decision.

(a) After consideration of all matters of record in the proceeding, the ALJ shall issue an order dismissing the notice of probable violation in whole or in part or granting the sanction sought by the OOE in the notice. If the ALJ does not dismiss the notice of probable violation in whole, he issues an order directing compliance or assessing a civil penalty, or, if proposed in the notice, both. The order includes a statement of the findings and conclusions, and the reasons therefore, on all material issues of fact, law, and discretion.

(b) If, within 20 days of receipt of an order issued under paragraph (a) of this section, the respondent does not submit in writing his acceptance of the terms of an order directing compliance, or, where appropriate, pay a civil penalty, or file an appeal under § 107.325, the case may be referred to the Attorney General with a request that an action be brought in the appropriate United States District Court to enforce the terms of a

compliance order or collect the civil penalty.

§ 107.325 Appeals.

(a) *Hearing proceedings.* A party aggrieved by an ALJ's decision and order issued under § 107.323, may file a written appeal in accordance with paragraph (c) of this section with the Administrator, Research and Special Programs Administration (RSPA), 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) *Non-Hearing proceedings.* A respondent aggrieved by an order issued under § 107.317, may file a written appeal in accordance with paragraph (c) of this section with the Director, MTB, 400 Seventh Street, S.W., Washington, D.C. 20590.

(c) An appeal of an order issued under this subpart must—

(1) Be filed within 20 days of receipt of the order by the appealing party; and

(2) State with particularity the findings in the order that the appealing party challenges, and include all information and arguments pertinent thereto.

(d) If the Administrator, RSPA or Director, MTB, as appropriate, affirms the order in whole or in part, the respondent must comply with the terms of the decision within 20 days of the respondent's receipt thereof, or within the time prescribed in the order. If the respondent does not comply with the terms of the decision within 20 days of receipt, or within the time prescribed in the order, the case may be referred to the Attorney General for action to enforce the terms of the decision.

(e) The filing of an appeal stays the effectiveness of an order issued under § 107.317 or § 107.323. However, if the Administrator, RSPA or the Director, MTB, as appropriate, determines that it is in the public interest, he may keep an order directing compliance in force pending appeal.

§ 107.327 Compromise and settlement.

(a) At any time before an order issued under § 107.317 or § 107.323 is referred to the Attorney General for enforcement, the respondent or the OOE may propose a compromise as follows:

(1) In civil penalty cases, the respondent or the OOE may offer to compromise the amount of the penalty by submitting an offer for a specific amount to the other party. An offer in compromise by the respondent shall be submitted to the Chief Counsel who may, after consultation with OOE, accept or reject it.

(i) A compromise offer stays the running of any response period then outstanding.

(ii) If a compromise is agreed to by the parties, the respondent is notified in writing. Upon receipt of payment by OOE, the respondent is notified in writing that acceptance of payment is in full satisfaction of the civil penalty proposed or assessed, and OOE closes the case with prejudice to the respondent.

(iii) If a compromise cannot be agreed to, the respondent is notified in writting and is given 10 days or the amount of time remaining in the then outstanding response period, whichever is longer, to respond to whatever action was taken by the OOE or the Director, MTB.

(2) In compliance order cases, the respondent may propose a consent agreement to the Associate Director for OE. If the Associate Director for OE accepts the agreement, he issues an order in accordance with its terms. If the Associate Director for OE rejects the agreement, he directs that the proceeding continue. An agreement submitted to the Associate Director for OE must include—

(i) A statement of any allegations of fact which the respondent challenges;

(ii) The reasons why the terms of a compliance order or proposed compliance order are or would be too burdensome for the respondent, or why such terms are not supported by the record in the case;

(iii) A proposed compliance order suitable for issuance by the Associate Director for OE;

(iv) An admission of all jurisdictional facts; and

(v) An express waiver of further procedural steps and all right to seek judicial review or otherwise challenge or contest the validity of the order.

(b) Notwithstanding paragraph (a)(1) of this section, the respondent or OOE may propose to settle the case. If the Associate Director for OE agrees to a settlement, the respondent is notified and the case is closed without prejudice to the respondent.

§ 107.329 Maximum penalties.

(a) A person who knowingly violates a requirement of the Act, this chapter or an exemption issued under Subchapter B of this chapter applicable to the transporting of hazardous materials or the causing of them to be transported or shipped is liable for a civil penalty of not more than $10,000 for each violation. When the violation is a continuing one, each day of the violation constitutes a separate offense.

(b) A person who knowingly violates a requirement of the Act, this chapter or an exemption issued under Subchapter B of this Chapter applicable to the manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container which is represented, marked, certified or sold by that person as being qualified for use in the transportation of hazardous materials in commerce is liable for a civil penalty of not more than $10,000 for each violation.

§ 107.331 Assessment considerations.

In assessing a civil penalty under this subpart, the Associate Director for OE takes into account:

(a) The nature and circumstances of the violation;

(b) The extent and gravity of the violation;

(c) The degree of the respondent's culpability;

(d) The respondent's history of prior offenses;

(e) The respondent's ability to pay;

(f) The effect on the respondent's ability to continue in business; and

(g) Such other matters as justice may require.

Criminal Penalties

§ 107.333 Criminal penalties generally.

Section 110(b) of the Act (49 U.S.C. 1809(b)) provides a criminal penalty of a fine of not more than $25,000 and imprisonment for not more than five years, or both, for any person who willfully violates a provision of the Act or a regulation issued under the Act.

§ 107.335 Referral for prosecution.

If the OOE becomes aware of a possible willful violation of the Act, this chapter, Subchapter C of this chapter, or any exemption, or order issued thereunder, for which the OOE exercises enforcement responsibility, it shall report it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

Injunctive Action

§ 107.337 Injunctions generally.

Whenever it appears to the OOE that a person has engaged, or is engaged, or is about to engage in any act or practice constituting a violation of any provision of the Act, this subchapter, Subchapter C of this chapter, or any exemption, or order issued thereunder, for which the OOE exercises enforcement responsibility, the Director, MTB, or his delegate, may request the Attorney General to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or

prohibitive injunctive relief, interim equitable relief, and punitive damages as provided by section 111(a) of the Act.

§ 107.339 Imminent hazards.

Whenever it appears to the OOE that there is a substantial likelihood that death, serious illness, or severe personal injury will result from the transportation of a particular hazardous material or hazardous materials container, before a compliance order proceeding or other administrative hearing or formal proceeding to abate the risk of that harm can be completed, the Director, MTB, or his delegate, may bring an action under section 111(b) of the Act in the appropriate United States District Court for an order suspending or restricting the transporation of that hazardous material or those containers or for such other equitable relief as is necessary or appropriate to ameliorate the hazard.

PART 171—HAZARDOUS MATERIALS TRANSPORTATION, REGULATIONS AND DEFINITIONS

9. Section 171.2 is revised to read as follows:

§ 171.2 General requirements.

(a) No person may offer or accept a hazardous material for transportation in commerce unless that material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by this subchapter (including §§ 171.11, 171.12, and 176.11), or

(b) No person may transport a hazardous material in commerce unless that material is handled and transported in accordance with this subchapter, or an exemption issued under Subchapter B of this chapter.

(c) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter or an exemption issued under Subchapter B of this chapter, governing its use in the transportation in commerce of a hazardous material, whether or not it is used or intended to be used for the transportation of a hazardous material, unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired, or retested, as appropriate, in accordance with this subchapter, an approval issued thereunder, or an exemption issued under Subchapter B of this chapter.

(d) The representations, markings, and certifications subject to the prohibitions of paragraph (c) of this section include:

(1) Specification identifications that include the letters "DOT" or "UN";

(2) Exemption, approval, and registration numbers that include the letters "DOT;" and

(3) Test dates displayed in association with specification, registration, approval, or exemption markings indicating compliance with a test or retest requirement of this subchapter, an approval issued thereunder, or an exemption issued under Subchapter B of this chapter.

10. Section 171.19 is revised to read as follows:

§ 171.19 Approvals or authorizations issued by the Bureau of Explosives.

Unless otherwise specifically restricted by other requirements of this subchapter, any written approval or authorization issued by the Bureau of Explosives that is valid at the time the Bureau of Explosives authority to issue that approval or authorization is withdrawn or assumed by the Associate Director for HMR and which is available for inspection by representatives of the Department of Transportation, will be considered as having the same validity as if issued by the Associate Director for HMR, and remains valid under the conditions and for the period established by the Bureau of Explosives.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

11. In § 173.1, paragraph (a) is revised to read as follows:

§ 173.1 Purpose and scope.

(a) This part includes—

(1) Definitions of hazardous materials for transportation purposes;

(2) Requirements to be observed in preparing hazardous materials for shipment by air, highway, rail, or water, or any combination thereof; and

(3) Inspection, testing, and retesting responsibilities for persons who retest, recondition, maintain, repair and rebuild containers used or intended for use in the transportation of hazardous materials.

* * * * *

12. In § 173.22, paragraph (a) is revised, paragraphs (b) and (c) are redesignated (c) and (d) respectively, and a new paragraph (b) is added, to read as follows:

§ 173.22 Shipper's responsibility.

(a) Except as otherwise provided in this part, a person may offer a hazardous material for transportation in a packaging or container required by this part only in accordance with the following:

(1) The person shall class and describe the hazardous material in accordance with Parts 172 and 173 of this subchapter, and

(2) The person shall determine that the packaging or container has been manufactured, assembled, and marked in accordance with—

(i) Part 178 or 179 of this subchapter;

(ii) A specification of the Department in effect at the date of manufacture of the packaging or container;

(iii) An approval issued under this subchapter; or

(iv) An exemption issued under Subchapter B of this chapter.

(3) In making the determination under paragraph (a)(1) of this section, the person may accept—

(i) The manufacturer's certification, specification, approval, or exemption marking (see §§ 178.0–2 and 179.1 of this subchapter); or

(ii) With respect to cargo tanks provided by a carrier, the manufacturer's identification plate or a written certification of specification or exemption provided by the carrier.

(b) When a person performs a function covered by or having an effect on a specification prescribed in Part 178 or 179 of this subchapter, an approval issued under this subchapter, or an exemption issued under Subchapter B of this chapter, that person must perform the function in accordance with that specification, approval, or exemption, as appropriate.

* * * * *

(49 U.S.C. 1803, 1804, 1808, and 1809; 49 CFR 1.53, App. A. to Part 1)

Note.—Because these amendments relate to: (a) Agency practices and procedures; or (b) clarifications of existing regulations and policies, the Materials Transportation Bureau has determined that these amendments: (1) Are not "major" under Executive Order 12291; (2) are not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1976); (3) do not warrant preparation of a regulatory evaluation as the anticipated impact would be so minimal; (4) will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act; and (5) do not require an environmental impact statement under the National Environment Policy Act (49 U.S.C. 4321 et seq.)

Issued in Washington, D.C., on January 11, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

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Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Basic Oxygen Process Furnaces

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2200-2]

Standards of Performance for New Stationary Sources; Basic Oxygen Process Furnaces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would establish a new Subpart Na that limits secondary emissions (those not captured by the primary capture system) of particulate matter from new, modified, and reconstructed basic oxygen process furnaces (BOPF's), hot metal transfer stations, and skimming stations in iron and steel plants. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that the previously promulgated standards for BOPF's no longer reflect application of the best demonstrated technology (BDT) for these facilities. The intent is to require new, modified, and reconstructed BOPF's hot metal transfer stations, or skimming stations in BOPF shops to be equipped with the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts. Also proposed are revisions to the existing standard for primary emissions of particulate matter from BOPF's in iron and steel plants (40 CFR 60.140, Subpart N).

A public hearing will be held to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 5, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 24, 1983, a public hearing will be held on March 8, 1983, beginning at 10 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 3, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-79-6, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone requests a public hearing, it will be held on March 8, 1983, at the Office of Administration Auditorium, Research Triangle Park, N.C. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777.

Please refer to "Revised Standards for Basic Oxygen Process Furnaces—Background Information for Proposed Standards," (EPA-450/3-82-005a).

Docket. Docket No. A-79-6, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect" * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)]." for convenience, this system will be referred to as "best demonstrated technology" (BDT).

The proposed standards would limit secondary emissions of particulate matter from certain basic oxygen process steelmaking facilities, the construction, modification, or reconstruction of which commences after January 20, 1983. Under the proposed rulemaking, existing Subpart N would also be revised to clarify the definition of BOPF, specify a shorter sampling time for determining compliance, and adjust the mass emission limit to compensate for the shorter sampling time. These proposed revisions are discussed in the section of this preamble entitled "Review of the Primary Standard." The proposed revisions to the new source performance standard (NSPS) for primary emissions of particulate matter from a BOPF (40 CFR 60/140, Subpart N) would also apply to any BOPF, the construction, modification, or reconstruction of which commences on or after January 20, 1983.

The basic oxygen process steelmaking facilities that would be affected by the proposed standards are the BOPF, hot metal transfer station, and skimming station. To ensure the proper capture of secondary emissions from these facilities, the proposed standards would establish limits for visible emissions from the BOPF shop roof monitor. During operation of a top blown furnace, no 3-minute average of visible emissions from the shop roof monitor could exceed an opacity of 10 percent, except that one 3-minute average greater than 10 percent opacity, but not exceeding 20 percent opacity, could occur once per steel production cycle. During operation of a bottom blown furnace, no 3-minute average of visible emissions from the shop roof monitor could exceed an opacity of 30 percent, except that two 3-minute averages greater than 30 percent opacity, but not exceeding 60 percent opacity, could occur once per steel production cycle.

To ensure the collection of captured emissions, a mass concentration standard of 23 mg/dscm (0.010 gr/dscf) and an opacity standard of 5 percent based on 3-minute averaging are proposed for emissions from a device used solely to collect secondary emissions from an affected facility.

For the control of secondary emissions from a top blown furnace, BDT is considered to be the use of the open hood primary emission control system to also control secondary emissions. For a bottom blown furnace, BDT is considered to be the use of a furnace enclosure with local hooding ducted to a baghouse. For the control of emissions from hot metal transfer and skimming stations, BDT is considered to be the use of local hooding ducted to a baghouse. However, the proposed standards are performance standards and therefore do not require the use of specific control equipment. Any control

equipment that would meet the performance standards could be used.

Compliance with the proposed opacity standards for emissions from the shop roof monitor and from the secondary emission control device would be determined by a series of visible emissions observations using the observational techniques specified in EPA Reference Method 9. However, compliance would be based on 3-minute averaging rather than the 6-minute averaging specified by Reference Method 9. Compliance with the proposed limits for mass emissions from the secondary emission control device would be determined by the results of a performance test using EPA Reference Method 5. Process monitoring would be required during all tests. The proposed standards would require the installation and operation of a device to monitor continuously and record the rate of exhaust ventilation through any gas cleaning equipment used to achieve the proposed standards for each phase of steel production cycle.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of the proposed standards were estimated and compared to the impacts that would occur in the absence of the standards, referred to as "baseline" impacts. The results of this analysis are presented for a typical new BOPF shop that would install BDT to meet the standards. The results of the impact analysis for facilities other than the typical new shop may be found in the BID. Included also are the industry-wide impacts of the proposed standards for the 5-year period from 1981 to 1986. This information is included to provide an indication of the longer term impacts of the proposed standards and to provide a basis for comparison with other standards. The choice of a 5-year period is not meant to imply that the benefits or impacts of the standards are limited to 5 years.

Particulate emissions from a typical new BOPF shop operating two 272-Mg (300-ton) top blown furnaces, each equipped with a closed hood and scrubber, would total about 1,374 Mg/yr (1,515 tons/yr) without the proposed standards. Implementation of the proposed standards would cause a reduction in particulate emissions from this shop of about 978 Mg/yr (1,078 tons/yr) to about 396 Mg/yr (437 tons/yr) with the use of BDT, a 71-percent reduction from the baseline.

It is estimated that the construction of three BOPF shops will commence during the period 1981 to 1986. Particulate emissions from facilities at these shops would total about 3,221 Mg/yr (3,551 tons/yr) in the absence of the proposed standards. Under implementation of the proposed standards, these emissions would be reduced to about 929 Mg/yr (1,024 tons/yr).

Implementation of the proposed standards could cause an increase in the level of solid waste at a typical new shop by about 978 Mg/yr (1,078 tons/yr), or about 2 percent. The level of solid waste generated industrywide for the control of primary and secondary emissions would rise by about 2,292 Mg/yr (2,526 tons/yr), also about a 2-percent increase.

Electrical energy requirements for air pollution control at a typical new shop would increase by about 9.7 million kWh/yr. Industrywide electrical energy requirements would increase by about 22.8 million kWh/yr.

Implementation of the proposed standards would result in an increase in capital costs for air pollution control at a typical new shop of about $7.8 million over a baseline level of approximately $187.5 million. Annualized costs would increase by about $2.4 million/yr. The cost of fugitive particulate removal would thus be about $2,475/Mg ($2,245/ton). Industrywide capital costs for emission control would increase approximately $18.2 million due to the proposed standards, and annualized costs would increase by about $5.6 million/yr. Economic analysis indicates that the price of raw steel would increase less than two-tenths of a percent due to the proposd standards and that the effect on employment and steel imports would be minor as well. These impacts are considered reasonable and are not expected to prevent or hinder expansion of BOPF steelmaking facilities in the future.

The impacts presented above are based on the assumption that secondary emissions from a new BOPF shop would be uncontrolled in the absence of the proposed standards. This may not be the case. Even after primary emissions are well controlled, BOPF shops are large sources of particulate emissions, and they tend to be located in urban areas where particulate emissions to the atmosphere from other industrial sources are also high. It is therefore likely that some secondary control at a new shop would be required by other programs designed to protect air quality on a local basis. However, control of secondary emissions from new sources in this manner would be done on a case-by-case basis. Determinations regarding control technology, costs, and other impacts would have to be made repeatedly as new sources are built.

In contrast, the establishment of standards of performance on a national basis is a more efficient way of achieving long-term air quality goals as well as industrial growth. These standards provide documentation that includes the identification and comprehensive analysis of alternative emission control technologies, the development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided for an economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

The development of such a technical and cost basis for standards reduces uncertainty for industry and regulatory agencies in determinations of best available control technology (BACT) for facilities located in attainment areas and of lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This gives industry a better basis for long-term planning and reduces delay in permitting new sources. In addition, the standards establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States.

The rulemaking process that implements a performance standard ensures adequate technical review and promotes participation of representatives of the industry being considered for regulation, the Government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which Government resources are applied in a well publicized national forum to reach a decision on a pollution emmission level that allows for a dynamic economy and a healthful environment.

Rationale

Background

The United States iron and steel industry is composed of approximately 200 companies operating throughout 38 States. Of the 200 companies, approximately 19 have BOPF steelmaking facilities, with an estimated production capacity of 100 million Mg/yr (100 million tons/yr) of finished steel industry wide. A geographical concentration of large integrated steel plants has developed in five States: Illinois, Michigan, Indiana, Ohio, and Pennsylvania. The plants located in these States account for about 80 percent of domestic steel production.

The iron and steel industry is the largest single industrial category of those producing particulate emissions from primary metal manufacture. Particulate matter generated from the iron and steel industry during 1979 totaled approximately 470 Gg/yr (0.58 million tons/yr), or about 5.5 percent of the 9.5 Tg (10.5 million tons) generated nationwide. The BOPF segment of the steel industry accounts for about 64.9 thousand Mg/yr (71.5 thousand tons/yr), or about 13 percent of the steel industry total.

New source performance standards applicable to primary particulate emissions from BOF's in the iron and steel industry were promulgated gy EPA in 1974 (39 FR 9318, March 8, 1974). The Clean Air Act Amendments of 1977 require that the Administrator review, and if appropriate, revise established standards of performance for new stationary sources at least every 4 years. Review of the standards of performance for BOF's at iron and steel plants (40 CFR 60.140, Subpart N) was completed in 1979. The review of the primary standard result in the conclusion that secondary emissions from BOPF's represent a major air pollution source and stated that EPA would initiate a project to revise the existing NSPS to include standards for secondary emissions. The review also recommended that the definition of a BOPF and of the sampling period used to determine compliance with the primary standard be clarified. These clarifications would remove ambiguity in the applicability and compliance provisions of the existing standard. A notice of review, including an invitation for comments regarding the results of the review, was published on March 21, 1979 (44 FR 17460). No comments were received opposing the conclusions of the review. EPA has completed the background work necessary to support the revisions recommended in the 1979 review and the action proposed today would implement them.

Selection of Affected Facilities for Secondary Emission Standards

The existing NSPS limits primary mass emissions of particulate matter to 50 mg/dscm (0.022 gr/dscf) at the outlet of the primary emission control device for the BOPF. The standard also requires that visible emissions from the pollution control device not exceed and opacity level of 10 percent, although visible emissions may reach 20 percent opacity once per steel production cycle (40 CFR 60.140). However, a significant amount of fugitive or "secondary" emissions are not captured by the primary emission control system. For example, uncontrolled secondary emissions at a shop operating two 272-Mg (300-ton) top blown furnaces equipped with a closed hood primary emission control system are estimated at about 1,331 Mg/yr (1,467 tons/yr), while uncontrolled secondary emissions from a similar shop operating bottom blown furnaces are estimated at 2,596 Mg/yr (2,862 tons/yr).

Particulate matter is generated in varying quantities during each step in the basic oxygen process (BOP) steelmaking operation. The first step of the process necessarily occurring at the BOPF shop involves the transfer of molten iron from railroad torpedo cars to the shop ladle at the ladle transfer or "hot metal transfer" station. Uncontrolled secondary emissions of particulate matter from hot metal transfer are estimated at 89.5 g/Mg (0.179 lb/ton) of raw steel produced at shops with top or bottom blown furnaces. Before the molten iron is charged to the vessel, the mixture may be "skimmed" with a mechanical rake to remove slag from the surface of the hot metal. This may be done at the hot metal transfer station or at a separate location.

When the BOPF vessel is ready for charging, it is tilted from beneath the hood system (generally 26° to 30° from the vertical) toward the charging aisle. The charging box containing scrap metal is then lifted and dumped into the vessel. The ladle of molten iron is then poured into the vessel over the scrap. The charging of molten iron in the vessel results in a dense cloud of emissions that may be particularly severe if the scrap is dirty or wet. Unless specific control measures are adopted, tilting the vessel for hot metal charging operations allows fugitive emissions, estimated at 189 g/Mg (0.38 lb/ton) of steel for a top blown vessel and 310 g/Mg (0.62 lb/ton) of steel for a bottom blown vessel, to escape collection by the primary control system.

After the charging operation, the vessel is turned upright under the primary hood. In a top blown vessel, a lance is lowered into the vessel through which oxygen is blown into the hot metal. In a bottom blown vessel, also known as a quality basic oxygen process (Q-BOP) furnace, oxygen and natural gas are injected through concentric tuyeres in the bottom of the vessel or through tuyeres in the bottom and sides of the vessel (KMS conversion furnace). Particulate emissions from the oxygen blowing operation, estimated at about 14.3 kg/Mg (28.5 lb/ton) of steel, are controlled mainly by the primary hood.

When the primary oxygen blow is completed, the vessel is again tilted for testing of the heat. Emissions generated from a bottom blown vessel during turndown may be particularly severe, because a flow of nitrogen must be maintained in the bottom tuyeres in order to prevent clogging by molten metal or slag. If testing shows that the steel meets specifications, the vessel is tapped. If not, the vessel is returned to the upright position and more oxygen is blown. For about two-thirds of the production cycles, no reblow is necessary. The primary blow lasts about 12 to 20 minutes, while the duration of reblows varies from a few seconds to as long as several minutes.

Between the sampling and deslagging operations, the vessel is tilted toward the teeming aisle, and the molten steel is poured into the steel ladle. This "tapping" operation results in uncontrolled secondary emissions of particulate matter estimated at 146 g/Mg (0.29 lb/ton) of steel for a top blown vessel and 460 g/Mg (0.92 lb/ton) of steel for a bottom blown vessel.

After tapping, the vessel is tilted away from the teeming aisle and toward the charging aisle. The residual slag is poured from the vessel into a slag pot located below the BOPF vessel.

After the deslagging operation has been completed, a transfer car moves the steel ladle into the teeming aisle, where the ladle is picked up by a crane and carried to a train of ingot molds or to a continuous casting machine for the teeming operation. The teeming of molten steel results in estimated particulate emissions of 35 g/Mg (0.07 lb/ton) of steel for a top blown or a bottom blown furnace. However, uncontrolled particulate emissions observed during the teeming operation at two plants did not result in measurable levels of visible emissions from the shop roof monitor.

The remaining ancillary operations include scrap handling, flux handling, skull burning, and slag disposal. Total particulate emissions from these operations account for only 8 percent of the identified fugitive emissions from BOPF shops. These ancillary operations may vary widely from plant to plant. In addition, the operations may be distributed at various locations within a plant and may not necessarily be conducted within the confines of the shop.

Technology has been demonstrated for the control of secondary emissions emanating from the operation of the BOPF vessel, the hot metal transfer station, and the hot metal skimming station. Uncontrolled fugitive emissions

from these sources account for at least 92 percent of the identified fugitive emissions from BOPF shops. For these reasons, the BOPF vessel, hot metal transfer station, and hot metal skimming station have been selected as affected facilities under the proposed standards. Although technology is available for the control of emissions from other ancillary operations, the costs of control would be highly disproportionate to the amount of particulate captured. Therefore, ancillary operations were not selected as affected facilities for control under the proposed standards.

Selection of the Basis of the Proposed Standards

In the development of new source performance standards, applicable emission control technologies are first examined. Regulatory alternatives, based on the control techniques identified and representing different levels of overall emission control, are then developed. The environmental, economic, and energy impacts of each alternative on individual model plants and the industry as a whole are compared. One alternative is selected on the basis of this comparison as representing BDT. The following is a summary of this development process for the proposed standards for BOPF steelmaking operations.

Control Technologies

The control technologies available for the capture of secondary emissions from the furnace are determined by the method of primary emission control. Therefore, secondary control cannot be discussed without also discussing primary control methods.

Primary emissions can be captured by an open hood or a closed hood system. In the open hood system, the off-gases that are generated during the primary oxygen blow, comprised largely of CO with a small portion of CO_2, are drawn into a water-cooled hood located over the vessel mouth. The gases are burned in the hood and then enter a hood cooling section where much of the heat generated by CO combustion is absorbed. If an electrostatic precipitator (ESP) is used as the control device, the gases pass through a conditioning chamber, where they are cooled to the required temperature and humidified for proper operation of the ESP. Because the CO is combusted under the open hood, there is little explosion danger, and all of the vessels in the shop may be connected to a common gas cleaning system. Controlled particulate primary emissions from an open hood system during the primary oxygen blow are estimated to be about 2.35 g/min/Mg (0.0047 lbs/min/ton) of steel produced.

A open hood primary emission capture system can also be used for the capture of secondary emissions from charging and tapping operations, if certain equipment changes and operating modifications are made. Equipment such as flanges from the primary hood into the charging and tapping aisles and an extension of the pouring spout on the charging ladle help direct the open hood draft closer to the points of emission. A full or partial furnace enclosure also aids capture of confining emissions in the furnace area. The use of operating practices conducive to lesser fume generation is also very important. The use of clean scrap, the slow pouring of hot metal into the furnace, the careful positioning of the hot metal ladle with respect to the hood face and furnace mouth, and the proper furnace tilt angle are all means of reducing secondary emissions. However, this technique has only been demonstrated for top blown furnaces.

In a closed hood primary control system, the lower portion of the hood is equipped with a movable skirt that is dropped nearly onto the mouth of the vessel during the oxygen blow, reducing the space between the hood and the vessel. The CO generated is not burned prior to treatment but is flared when it is discharged from the stack. By limiting the excess air and cleaning only the CO and CO_2 gases, the gas volume to be handled and cleaned is reduced by as much as 75 percent, in comparison to the open hood system. This means that less fan power, smaller ductwork, and smaller collection devices are required, resulting in cost savings relative to the open hood system. A high-energy venturi scrubber is used to clean the combustible gases because of the explosion hazard that could occur in a precipitator due to the presence of CO. The use of a closed hood system to control primary emissions requires a separate scrubber system for each vessel because of the potential explosion danger resulting from air leakage into the system. Controlled primary emissions from a closed hood system during primary oxygen blow are estimated to be about 0.5 g/min/Mg (0.001 lbs/min/ton) of steel produced, or about one-fifth of the controlled emissions from an open hood system.

Mainly due to the lower air flow capability, the use of a closed hood primary system to also control secondary emissions from the furnace cannot be as effective as the open hood system. Therefore, to achieve a similar efficiency, a separate capture and collection system is required. An effective capture system in this case is a furnace enclosure evacuated using a hood system. The furnace enclosure is a structure that partially or fully encloses a furnace vessel and serves to confine secondary emissions in a small area around the furnace. Auxiliary hoods located inside the enclosure and activated during nonblowing operations capture the secondary emissions and exhaust them to a high-efficiency collection device such as a baghouse. The capture effectiveness of the auxiliary hooding depends largely on the fan capacity of the hood system and the location of each hood with respect to the emission generation points. An enclosure with hoods located over the charging and tapping areas may achieve a capture effectiveness of 90 percent or better. This control system has been demonstrated for both top and bottom blown furnaces.

For the control of emissions from hot metal transfer and skimming, operations that are conducted away from the furnace area, local hooding evacuated a baghouse is usually a completely effective system for fume capture. Again, the capture effectiveness depends on the fan capacity and the location of the auxiliary hooding. At shops where hot metal transfer and skimming are conducted at the same location, the same emission control system can be used for both operations.

Secondary emissions from all facilities can also be captured by a building evacuation system. In this system, air from the entire building is constantly evacuated and filtered through a control device to effect capture of the pollutant. Building evacuation systems may be characterized by the number of air changes over time. Although the capture efficiency of this system is high (theoretically up to 100 percent), the cost and energy requirements are higher than for auxiliary hooding. Although demonstrated at electric arc furnace (EAF) shops, building evacuation has not been demonstrated at existing BOPF shops. However, there is no technical reason why building evacuation could not be used at a new BOPF shop.

An alternative for the control of secondary emissions is to install an ESP system in the shop roof monitor of the emission sources. There are several advantages to roof-mounted ESP's. Chief among them is energy savings relative to other control systems. The roof-mounted ESP is a passive device that takes advantage of the thermal buoyancy of the escaping emissions and natural plant ventilation to carry the exhaust

gases to the control device located in the roof monitor. Little or no suction fanpower is required, resulting in substantial energy savings. A roof-mounted ESP may use as little as one-tenth the energy of a control system using forced suction. Other advantages of roof-mounted ESP's include lower capital costs and no noise or vibration.

Roof-mounted ESP's are used by the iron and steel industry in Japan (including installations at BOPF shops) but as yet have not been used by the iron and steel industry in the United States. No data are available at this time to assess the performance capabilities of this control technique. However, because of the advantages of roof-mounted ESP's, it is likely that the U.S. iron and steel industry will consider this technique as a control alternative in the future.

Emission Testing

The performance of secondary emission control systems was evaluated at eight plants. Of the systems evaluated, those at three top blown furnace shops and one bottom blown furnace shop were judged to represent the most effective systems of secondary emission control, based on roof monitor opacity observations. More detailed information regarding the control technologies employed at each of these four shops is presented in Chapter 4 of the BID.

Secondary emissions from two top blown furnaces, each equipped with an open hood primary emission control system ducted to an ESP, were observed at the Bethlehem Steel Corporation facility at Bethlehem, Pennsylvania. Each furnace is partially enclosed by side walls, with no enclosure on the charging or tapping sides. An awning-like structure has been constructed on the tapping side between the side enclosures that extends toward the teeming aisle. This awning acts as a flanged extension of the primary hood and helps direct tapping fumes into the primary hood. There is also an extension from the primary hood on the charging side of the furnace. Emissions from hot metal transfer and skimming are controlled by a hood system.

The capture effectiveness of the secondary emission control system was evaluated on the basis of visible emissions observed exiting the shop roof monitor over a number of steel production cycles. The opacities of roof monitor visible emissions were observed using the observation procedures of EPA Reference Method 9, with readings being taken at 15-second intervals. The data were analyzed by first computing the maximum 3-minute average opacity for each steel production cycle observed. Similarly, the second highest average opacity was computed for each cycle (without using any readings previously used in computing the maximum opacity). The means of the maximum and second highest averages were then determined. The data were analyzed according to 3-minute, rather than 6-minute, averages because a 3-minute average better reflects the brief duration of visible emissions characteristic of the BOPF steel production cycle. All of the 3-minute averages were segregated by furnace cycle. The data represent single-furnace operation and include slag pot dumping, ladle deskulling, hot metal transfer, and teeming emissions. Analysis of the data indicates a mean maximum opacity of 1.4 percent and a second highest mean maximum opacity of 0.30 percent.

Secondary emissions from three top blown furnaces, equipped with an open hood primary emission control system ducted to two ESP's, were also observed at the Jones and Laughlin (J&L) Steel Corporation shop at Aliquippa, Pennsylvania. Each furnace is enclosed on three sides. The front or charging side may be partially enclosed while the oxygen blow is in progress by means of a curtain mounted on a trolley rail.

The gas capture and cleaning system for the shop consists of open hoods above each furnace, an evaporation chamber for each furnace, downcomers to a common manifold and damper arrangement, two ESP's, an outlet manifold leading to a draft arrangement with seven fans, and two discharge stacks. In addition, a water ring and water sprays are used to reduce fugitive emissions from the hood during furnace puffing. Emissions from hot metal transfer and skimming are controlled by a hood system.

As previously described, emissions from the shop roof monitor were observed as specified by EPA Reference Method 9, but analyzed on the basis of 3-minute rather than 6-minute averages. The data are representative of simultaneous two-furnace operation and include hot metal transfer and teeming, which occurred during the tests. The overall mean maximum 3-minute average opacity was 3.9 percent, as compared to 1.4 percent for Bethlehem. The second highest mean opacity was 2.1 percent, as compared to 0.30 percent for Bethlehem.

Secondary emissions from a top blown vessel equipped with a closed hood primary emission control system and a separate secondary emission control system were observed at the Kaiser Steel BOPF facility at Fontana, California. This system captures secondary furnace emissions from charging, tapping, and vessel turndown by means of a full furnace enclosure equipped with charging and tapping hoods. The furnace enclosure can be evacuated at a rate of 17,000 acmm (600,000 acfm). Emissions from hot metal transfer and hot metal skimming operations are controlled by an auxiliary hood ducted to the baghouse collecting secondary emissions from furnace operations.

Emission were observed and the data analyzed in the same manner as for the previously described plants. The data represent single-furnace operation and include the effects of hot metal transfer, hot metal skimming, charging, tapping, teeming, and other secondary emission sources. Analysis of the data revealed a mean maximum opacity of 5.4 percent and a second highest mean opacity of 1.5 percent.

At present, only three plants in this country operate bottom blown furnaces, also known as Q-BOP vessels. The operation of the Q-BOP during charging and vessel turndown requires gas to be blown through the tuyeres to prevent them from being clogged by liquid metal, slag, or solids. More secondary emissions are generated during the operation of a bottom blown furnace than for a top blown furnace, and capture of the secondary emissions is more difficult.

The capture efficiency of the secondary emission control system was evaluated for the Republic Steel Corporation Q-BOP shop at South Chicago, Illinois. Secondary emission control at the Republic shop is effected by exhausting furnace enclosures to a common collection device at a rate of 10,500 acmm (370,000 acfm). Each furnace is also equipped with a supplementary charging hood that is evacuated to the furnace primary emission control system during hot metal and scrap charging. Emissions from hot metal transfer are ducted to a separate system.

Draft for the charging hood at the Republic plant is obtained from the closed hood primary control system. Each furnace has its own primary gas cleaning system and typically only one furnace is operated at a time. A crossover duct between the two furnaces permits the primary system for the nonoperating furnace to be used to evacuate the auxiliary charging hood on the operating furnace. During turndown and tapping, the charging hood is drafted by the scrubbing system of the nonoperating vessel. Fume capture during these latter operations is assisted

by drafting the primary hood. However, there are no tapping hoods.

Roof monitor visible emissions data representing single-furnace operation at the Republic shop were gathered and analyzed in the same manner as previously described. Analysis of the data indicated a mean maximum opacity of 17.5 percent, as compared to 5.4 percent for top blown furnace operation at the Kaiser shop where furnace enclosures and hooding are also used. The second highest mean opacity was 10.0 percent, as compared to 1.5 percent for Kaiser. The higher opacity of roof monitor emissions from the Republic BOPF shop is attributable to three factors: (1) emissions are more difficult to capture from a bottom blown furnace than from a top blown furnace; (2) the Kaiser facility includes both a charging and a tapping hood, as compared to only a charging hood at the Republic shop; and (3) the furnace enclosure evacuation rate capability is 17,000 acmm (600,000 acfm) as compared to 10,500 acmm (370,000 acfm) at the Republic bottom blown shop. It is not possible to estimate what the opacity of roof monitor emissions would be if the furnaces at the Republic shop were equipped with tapping hoods and the furnace enclosure exhaust ventilation rates were similar to those at the Kaiser shop.

Performance test data were also examined to evaluate the collection efficiency of secondary emission control devices. Baghouses are generally used to collect secondary emissions, although a few scrubbers are currently used for secondary emission control. Performance test data for baghouses as applied to EAF enclosures and to BOPF hot metal transfer stations were evaluated for seven plants. The data included 54 individual test runs made in accordance with EPA Reference Method 5. The range of all runs was from 2.28 to 22.8 mg/dscm (0.001 to 0.010 gr/dscf), with all except one run below 18.0 mg/dscm (0.0079 gr/dscf).

Visible emissions data for discharged gases leaving BOPF secondary emission baghouses have been obtained for three sources. Visible emissions were read during the performance testing of the Wheeling-Pittsburgh Steel hot metal transfer baghouse in Mingo Junction, Ohio. Similar data were obtained from two baghouses at the U.S. Steel Q-BOP facility in Fairfield, Alabama. One of the two baghouses serves the canopy hood above Furnace C for collecting fugitive hot metal charging emissions and the south hot metal mixer and transfer station. The other baghouse serves the north hot metal mixer and transfer station.

The test method used was EPA Reference Method 9. The data were analyzed, however, by computing 3-minute averages instead of 6-minute averages. Again, a 3-minute average was used for data analysis because a 3-minute average better reflects the brief duration of visible emissions characteristic of the BOPF steel production cycle. Of the 664 3-minute averages computed, all but 25 were less than 1 percent. There was one 3-minute average of 5 percent, which was the highest average. The next highest average was 4.2 percent.

Regulatory Alternatives

Based on the various technologies identified for the control of primary and secondary particulate emissions from BOPF steelmaking operations, four regulatory alternatives were selected for consideration as the basis for the proposed standards. Each regulatory alternative represents a different approach to setting standards for BOPF facilities and corresponds to a level of emission control demonstrated to be achievable with the use of a particular control technology.

Regulatory Alternative I corresponds to no additional Federal standards for emissions from BOPF steelmaking facilities. The level of emission control of this alternative is represented by the current NSPS that limits the mass and opacity of primary particulate emissions from an affected BOPF. These emission limits can be met with either an open or closed hood capture system in combination with a precipitator or scrubber for particulate collection. However, due to the advantages of closed hood control when only primary emission control is required, new BOPF shops would probably incorporate closed hood systems under this alternative.

Under Regulatory Alternative II, an additional NSPS would be proposed to limit secondary emissions from the BOPF, hot metal transfer station, and skimming station. Regulatory Alternative II would involve no change in the current NSPS for primary emissions, and thus would allow the use of either closed or open hood control of BOPF primary emissions. Standards for secondary emissions associated with this alternative would be achievable using auxiliary hooding ducted to a baghouse for the control of emissions from hot metal transfer and skimming and either of two methods for the control of top blown furnace emissions. If open hooding were used for the control of primary emissions from top blown furnaces, the primary control system could also be used to capture and collect secondary emissions as demonstrated at the Bethlehem/Bethlehem and J&L/Aliquippa shops. If closed hooding were the primary emission control method, a furnace enclosure with hooding evacuated to a baghouse could be used to meet the standards, as demonstrated at Kaiser/Fontana. The level of control for secondary emissions is comparable with either system. Use of the furnace enclosure and hooding system as at Republic/South Chicago is the only demonstrated technique for the control of secondary emissions from bottom blown furnaces and therefore would be the basis for standards for this type of furnace.

Because primary emissions are controlled to a greater degree with a closed hood system, total emissions (primary and secondary) to the atmosphere from a new BOPF shop would be less if closed hooding were used Due to this difference in total emissions to the atmosphere, an alternative was considered that would, in effect, require the use of closed hooding as the primary emission control method for furnaces at a new shop. Under Regulatory Alternative III, the existing NSPS for primary emissions would be revised to a limit that could only be achieved with the use of a closed hood system. Standards for secondary emissions would be based on the use of a furnace enclosure with hooding evacuated to a baghouse for the control of emissions from top or bottom blown furnaces plus auxiliary hooding ducted to a baghouse for the control of emissions from hot metal transfer and skimming.

Finally, under Regulatory Alternative IV, standards would be set for secondary emissions from the affected facilities based on the use of a total building evacuation system. The limits of the primary NSPS would not be changed, therefore allowing the use of either closed or open hooding for primary emission control.

Impacts of Regulatory Alternatives

EPA estimated the environmental, energy, and economic impacts of each regulatory alternative based on an analysis of "model plants." A model plant is a BOPF shop comprised of facilities of the size and type that could be affected by the regulatory action under consideration. Many plants were analyzed mainly to reflect the different sizes, types, and configurations of furnaces possible at a shop. An NSPS could apply to individual new, modified,

or reconstructed facilities within an existing ship; thus, in addition to entirely new shops, it was also necessary to analyze cases in which one or more facilities are required to have secondary emission control while other facilities at the same shop are not (e.g., the addition of a new furnace to an existing shop). The results of this analysis for all model plants are presented in the BID.

To assess the relative effect of the alternatives, the impacts of each alternative on the same "typical plant" were compared. A typical plant for this analysis was defined as a new BOPF shop with two 270-Mg (300-ton) top blown furnaces.

Under Alternative I, it is assumed that closed hooding would be used as the primary emission control method to meet the existing NSPS. Particulate emissions to the atmosphere from a typical plant with closed hood primary control on the furnaces and uncontrolled secondary emissions would be approximately 1,374 Mg/yr (1,515 tons/yr). Of these emissions, primary emissions controlled to the level required by the existing NSPS would be about 44 Mg/yr (48 tons/yr), while uncontrolled secondary emissions would be about 1,331 Mg/yr (1,467 tons/yr). EPA recognizes that individual States may require secondary emission control at new BOPF shops, even in the absence of new Federal standards. However, at this time it is not possible to identify where new plants will be built or to determine to what degree secondary control might be required. Therefore, for the purpose of this analysis, it is assumed that secondary emissions would be uncontrolled. The solid waste generated by the collection of primary particulate emissions would be approximately 41,325 Mg/yr (45,552 tons/yr). The electrical energy required for emission control under this alternative would be about 16 million kWh/yr for the typical plant. The capital cost of a typical new shop is estimated at $187.5 million (1980 dollars). Of this investment, approximately $13 million would be needed for the closed hood primary emission control system. An additional $5 million would be needed for water pollution control, if scrubbers were used with the closed hood system. Annualized costs (including the cost of capital, operation, and maintenance) for primary emission control at a typical new shop are estimated at about $5.4 million/yr. The cost of producing raw steel at a typical plant under Alternative I would be approximately $320/Mg ($353/ton). The estimated impacts of the other alternatives on a typical plant, as measured against the baseline impacts of Alternative I, as shown in Table 1.

TABLE 1.—IMPACTS OF REGULATORY ALTERNATIVES ON A TYPICAL NEW PLANT AS COMPARED TO ALTERNATIVE I

	Alternative II	Alternative III	Alternative IV
Environmental impacts:			
• Emission reduction	978 Mg/yr (1,078 tons/yr)	1,052 Mg/yr (1,160 tons/yr)	173 Mg/yr (191 tons/yr).
• Percent emission reduction	71	77	13.
• Percent increase in solid waste	2	3	1.
• Water pollution	No impact	No impact	No impact.
Energy impacts:			
• Electrical energy increase for emission control	9.7 million kWh/yr	20 million kWh/yr	118 million kWh/yr.
• Percent increase	61	125	738.
Economic impacts:			
• Increase in capital costs (1980$)	7.8 million	12.6 million	42.9 million.
• Increase in annual costs (1980$)	2.4 million	3.8 million	11.9 million.
• Cost of pollutant removal	$2,475/Mg ($2,245/ton)	$3,649/Mg ($3,310/ton)	$69,038/Mg ($62,360/ton).
• Percent increase in cost of producing raw steel.	0.3	0.5	n.p.

n.p.=Analysis not performed for this alternative.

The longer term effects of the alternatives were evaluated by estimating what would be the sum effect of each alternative on all BOPF steelmaking facilities for which construction was commenced during the period from 1981 to 1986. The computation of these industry wide impacts was based on an estimated increase in BOPF steelmaking capacity of 6.8 million Mg/yr (7.5 million tons/yr) by 1986. This projected new capacity is equivalent to the construction of approximately three new BOPF shops.

EPA is aware that there are other forecasts for growth in BOPF steelmaking capacity that differ from the one cited above. For instance, some forecasters claim that all demand for new steelmaking capacity will be accommodated by the construction of new electric arc furnaces (EAF's); the growth projection EPA used assumes a mix of new BOPF's and EAF's. Another possibility is that there could be an increase in BOPF capacity due to the conversion of existing open hearth furnaces to bottom blown BOPF's rather than, or in addition to, the building of new shops. Given the current economic climate, it is difficult to predict future growth in BOPF capacity. The public is specifically invited to comment on this issue.

Under Alternative I, EPA estimates that industry wide particulate emissions (controlled primary emissions plus uncontrolled secondary emissions) would be approximately 3,221 Mg/yr (3,551 tons/yr) for facilities commencing construction from 1981 to 1986. The solid waste to be handled due to the collection of emissions would be 96,855 Mg/yr (106,763 tons/yr). Industry wide electrical energy requirements under this alternative would be about 37.5 million kWh/yr. Industry wide capital and annualized costs for emission control would be $42 million and $12.6 million/yr, respectively. The market price of raw steel under this alternative is estimated to be $380/Mg ($418/ton), as measured in 1980 dollars.

The estimated industry wide impacts of the other alternatives, as measured against the baseline impacts of Alternative I, are shown in Table 2.

TABLE 2.—Industrywide Impacts of Regulatory Alternatives as Compared to Alternative I

	Alternative II	Alternative III	Alternative IV
Environmental impacts:			
• Emission reduction	2,292 Mg/yr (2,527 tons/yr)	2,466 Mg/yr (2,718 tons/yr)	404 Mg/yr. (445 tons/yr).

TABLE 2.—Industrywide Impacts of Regulatory Alternatives as Compared to Alternative I—Continued

	Alternative II	Alternative III	Alternative IV
• Percent emission reduction	71	77	13.
• Percent increase in solid waste	2	3	1.
• Water pollution	No impact	No impact	No impact.
Energy impacts:			
• Electrical energy increase for emission control	22.8 million kWh/yr	46.9 million kWh/yr	276 million kWh/yr.
• Percent increase	61	125	738.
Economic impacts:			
• Increase in capital costs (1980$)	18.2 million	29.4 million	99.4 million.
• Increase in annual costs (1980$)	5.6 million	3.0 million	28.0 million.
• Cost of pollutant removal	$2,245/Mg ($2,245/ton)	$3,649/Mg ($3,310/ton)	$69,038/Mg ($62,360/ton).
• Percent increase in market price of raw steel	0.2	0.4	n.p.

n.p.=Analysis not performed for this alternative.

Selection of Basis of the Proposed Standards

Based on the use of a building evacuation system, the costs associated with Regulatory Alternative IV, are significantly higher than the costs of the control systems described under Regulatory Alternatives II and III. The higher cost of this alterative cannot be justified since the emission reduction associated with it is much less than the reduction associated with Alternatives II and III. For this reason, Regulatory Alternative IV was not considered further as the basis of the proposed standards.

Under Regulatory Alternative II, combined primary and secondary emissions to the atmosphere at a typical new shop would total about 396 Mg/yr (434 tons/yr), an overall emission reduction of about 978 Mg/yr (1,078 tons/yr) from the baseline level. The cost per ton of pollutant removed of this alternative over Alternative I would be $2,475/Mg ($2,245/ton). In comparison, implementation of Regulatory Alternative III would result in combined primary and secondary emissions at a typical new shop of about 323 Mg/yr (354 tons/yr), an overall emission reduction of about 1,052 Mg/yr (1,160 tons/yr) from the baseline level. The cost per ton of pollutant removed over Alternative I would be $3,649/Mg ($3,310/ton). Although both alternatives can be characterized as affordable, the additional emission reduction of about 74 Mg/yr (82 tons/yr) that would be achieved by going from Alternative II to Alternative III would have an incremental cost of approximately $19,000/Mg ($17,300/ton). In addition, the selection of Regulatory Alternative III would result in an increase of about 20 million kWh/yr in electrical energy requirements for emission control at a typical new shop, as compared to an increase of about 9.7 million kWh/yr under Regulatory Alternative II. The other impacts of Alternatives II and III are considered acceptable.

Although implementation of Regulatory Alternative III would ensure the greatest total reduction in primary and secondary emissions, the additional cost required to achieve an additional emission reduction of about 74 Mg/yr (82 tons/yr) at a typical new shop in comparison to Regulatory Alternative II is considered exorbitant. For this reason, the Administrator considered it inappropriate to base the proposed standards on Alternative III, an alternative that would necessitate the use of the closed hood system in all cases. In comparison, Alternative II would also result in significant emission reduction, but at a potentially lower cost than Alternative III. Therefore, Regulatory Alternative II was selected as the basis for the proposed standards. Due to the lower cost, BDT at a typical new shop under this alternative corresponds to the use of the open hood primary control system to also control secondary emissions from the furnace and local hooding evacuated to a baghouse to control secondary emissions from hot metal transfer and skimming.

Due to the high capital cost and high cost per ton of BOPF secondary emission controls relative to the cost of controlling other sources of particulate emissions, the Administrator closely examined the benefits of requiring additional emission controls at BOPF shops. As noted earlier, BOPF shops are large sources of particulate emissions to the atmosphere, even after primary emissions are effectively controlled. For perspective, the typical emission rate is approximately double the particulate emission rate from a large (500 MW) coal-fired utility boiler and 10 to 15 times greater than the particulate emission rate of a typical cement plant. These emissions are predominately fine particulates. Considering that BOPF shops tend to be located near population centers and have a long operating life, the impacts of leaving secondary emission uncontrolled would be significant. Furthermore, the most efficient time to incorporate emission controls is at the time a source is built, both in terms of reducing emissions and minimizing the cost of the controls; to retrofit emission controls at a later time would be more costly. Given the magnitude of BOPF shops as sources of particulate emissions, any action now to defer the cost of secondary emission control would only result in higher costs in the future. Therefore, the Administrator believes it is reasonable to proceed with secondary emission standards for new sources at this time, despite the relatively high cost per ton of emission reduction.

Selection of Format of the Proposed Standards

Under Section 111 of the Clean Air Act, a standard of performance must be expressed in terms of an emission limit whenever possible. An emission limit is commonly based on the measurement of the mass of a pollutant in terms of concentration, mass emissions per unit of time, or mass emissions per unit of production. As an alternative or supplement to a standard of this type, an emission limit may be a restriction on visible emissions.

To implement Alternative II, two types of standards are required. First, a standard is necessary to ensure the capture of secondary emissions and second, a standard is necessary to ensure the collection of the captured emissions. No secondary emission control system has been demonstrated as 100 percent effective in the capture of primary or secondary particulate emissions. For any type of mass limit to be effective in ensuring the capture of secondary emissions, it would have to be possible to measure emissions that escape capture. Methodology does not exist to do this for BOPF steelmaking operations and, therefore, mass limits cannot be considered.

Emissions that escape capture by the primary and the secondary systems rise to the top of the BOPF shop and exit the shop roof monitor. Therefore, visible emissions observed exiting the shop roof monitor are a good indicator of the performance of the fugitive emission

capture systems on the affected facilities in the shop.

As previously discussed, EPA has gathered roof monitor visible emissions data from several BOPF shops in assessing the performance of various capture techniques. The Administrator considers these data to represent a reasonable basis for establishing visible emission limits for emissions exiting the roof monitor to ensure the effective capture of fugitive particulate emissions from the affected facilities within the shop. Therefore, the proposed standards for the capture of secondary emissions from the furnace, hot metal transfer station, and skimming station are expressed as opacity limits for visible emissions from the BOPF shop roof monitor.

Polluting emissions from collection devices are generally characterized by the concentration and flow rate of the pollutant stream. An emission limit for a pollutant exiting these devices is typically expressed in terms of an allowable mass emission rate (mass of pollutant per unit of time), an allowable concentration (mass of pollutant per volume of gas), or an allowable process weight limit (weight of pollutant per unit of product).

A process weight format was not considered appropriate for the determination of secondary emissions because this format assumes that there is a direct relationship between the quantity of particulate matter emitted from the secondary emission control device (in this case, a baghouse) and the amount of raw steel produced. This relationship would be difficult to establish for BOPF steelmaking operations, because particulate emissions from a wide range of operations would be captured and collected by the baghouse, a device not particularly sensitive to inlet concentrations (i.e., the outlet concentration remains fairly constant regardless of changes in inlet concentration).

Because of wide differences in operating procedures, such as the length of the steel production cycle, control technologies, vessel capacities, and other operating parameters between BOPF shops, a single emission rate that is uniformly applicable to the industry or to a specific type of vessel is not practicable and would not necessarily correspond to the performance of BDT. For these reasons, a format expressed in terms of an allowable emission rate was not selected for the proposed standards.

With Reference Method 5 techniques, it is comparatively simple to measure mass emissions per unit volume of gas sampled to determine compliance with a concentration standard. Since a concentration standard is consistent with the existing standard for the primary control device, it was selected as the format for the proposed mass emission limits for the secondary emission control device. An opacity standard is also proposed for emissions that exit the secondary emission control device to aid in enforcement and as an indicator of proper operation and maintenance of the device.

Selection of Emission Limits

To implement Alternative II, emission limits were selected based on the measured performance of control systems representative of BDT. The test results used to determine emission limits were for facilities considered representative of those that would be subject to the proposed standards.

Analysis of the roof monitor visible emission test results showed that emissions from the best controlled BOPF shops in this country equipped with top blown vessels are more effectively controlled than emissions from the best controlled shops equipped with bottom blown vessels. Bottom blown vessels are generally more difficult to control because it is necessary to purge the tuyeres in bottom blown vessels during charging and tapping to prevent plugging. The purge gases tend to move away from the furnace hood when the vessel is tilted, making it more difficult to capture particulates than when no purging is necessary, as in the case of top blown vessels. For this reason, the proposed standards would include separate roof monitor opacity standards for top blown and bottom blown furnaces.

To determine roof monitor opacity limits for facilities at shops with top blown furnaces, the performance of the secondary emission capture systems used for the control of secondary emissions was evaluated at the Bethlehem Steel BOPF shop at Bethlehem, Pennsylvania, the J&L BOPF shop at Aliquippa, Pennsylvania, and the Kaiser Steel BOPF shop at Fontana, California. The Bethlehem/Bethlehem and J&L/Aliquippa shops employ open hood primary control systems that are also used to control furnace secondary emissions. At Kaiser Fontana, closed hooding is the primary emission control method and enclosure/hooding systems are used to control furnace secondary emissions.

Visible emission data were gathered by using the observational techniques of EPA Reference Method 9 and analyzed on the basis of 3-minute average opacities (the average of 12 consecutive observations at 15-second intervals). Selection of the maximum 3-minute average opacity was made by computing moving averages for each steel production cycle. The highest moving average was chosen; then the second highest average was chosen in such a way that none of the individual readings used to compute either average were common.

The results of these computations for the Bethlehem/Bethlehem performance data revealed a mean maximum 3-minute average of 1.4 percent and a mean second highest average of 0.3 percent. At a 95-percent prediciton level, the maximum 3-minute average was 6 percent, and the second highest 3-minute average was 2 percent. A 95-percent prediction level indicated that there was a 5-percent probability (1 chance in 20) that a further observation at the plant or another plant performing equally well would exceed this value. In comparison, statistical analysis of the performance data for the J&L/Aliquippa shop revealed a mean maximum 3-minute average of 3.9 percent and a mean second highest 3-minute average of 2.1 percent. For a 95-percent prediction level, the maximum 3-minute average and the second highest 3-minute average were computed at 11 and 6 percent, respectively.

Statistical analysis of the Kaiser/Fontana roof monitor opacity data was based on an examination of 3-minute average opacities, using the same techniques as previously discussed for the Bethlehem/Bethlehem and J&L/Aliquippa data. Statistical analysis of the Kaiser/Fontana data revealed the mean of the maximum 3-minute average and the mean of the second highest 3-minute average to be 5.4 percent and 1.5 percent, respectively. At a 95-percent prediction level, the maximum 3-minute average was 16 percent, while the second highest average was 7 percent.

Due to the difference in the highest and second highest average opacities observed for the production cycles at the shops with top blown furnaces, one roof monitor opacity limit based on the highest average opacity observed would not adequately reflect the continuous performance of BDT on the affected facilities. Therefore, the Administrator proposes to set one basic limit on roof monitor opacity (based on the second highest average opacities observed) with one 3-minute average per cycle allowed up to a limit based on the highest average opacities observed.

In the selection of these limits, the Administrator considered proposing separate roof monitor opacity standards for facilities at open and closed hood BOPF shops. But while the observed

performance of the secondary emission control system at one of the open hood shops, Bethlehem/Bethlehem, was better than Kaiser/Fontana's the performance of the secondary control system at J&L/Aliquippa, also an open hood shop, was not significantly different from Kaiser/Fontana's. Analysis of the data shows that there is not a statistical basis for proposing a different set of roof minitor opacity limits for facilities at open and closed hood shops.

The Administrator has concluded that one basic and one upper limit, demonstrated to be achievable by facilities at open and closed hood shops, can be established that would result in the use of BDT or equivalent on new and modified facilities at both types of BOPF shops. Therefore, based on analysis of the roof monitor opacity data for all three effectively controlled BOPF shops, a proposed roof monitor opacity standard of 10 percent, with an upper limit of 20 percent opacity (one 3-minute average of up to 20 percent opacity during the steel production cycle), is proposed for facilities at BOPF shops equipped with top blown furnaces.

Test data reflecting the perfomance of secondary emission controls for bottom blown furnaces were obtained from the Republic Steel/South Chicago shop. Test data were available from 9 days of roof monitor observations conducted at the Republic Steel shop. Three-minute moving averages were computed in the same manner as described for top blown furnaces. The results of this computation revealed that the mean of the maximum 3-minute average was 17.5 percent. The means of the second and third highest 3-minute averages were 10.0 percent and 6.8 percent, respectively. Of the 42 individual test runs, a total of 15 of the maximum 3-minute averages exceeded 20 percent opacity, whereas none of the 3-minute averages for the closed hood, top blown furnace at Kaiser exceeded 20 percent opacity. Statistical analyses of the Republic data for 95 percent prediction limits for Kaiser yield 55 percent for the maximum 3-minute averages and 26 percent for the third highest 3-minute averages. Based on these data, a proposed roof monitor opacity limit of 30 percent (with two 3-minute averages of up to 60 percent during the cycle) was selected for bottom blown furnaces.

For the collection of emissions captured by a hooding system, a baghouse is considered BDT. Data on the effectiveness of baghouses for controlling particulates from steelmaking operations were used to select mass emission limitations for secondary emissions from BOPF's. The recommended mass emission limits are based on tests of nine different baghouses, with over 50 test runs. All of the test reports on baghouses applied for control of secondary emissions from steelmaking operations show that emission levels were well below the 23 mg/dscm (0.010 gr/dscf) limit selected.

Visible emissions test data were obtained for discharged gases exiting BOPF secondary emission baghouses. The data base is composed of three tests. Visible emissions measurements were taken according to EPA Reference Method 9 and analyzed on the basis of 3-minute averages. Results of these computations reveal that the majority (96 percent) of the 3-minute averages were below 1 percent opacity with the highest 3-minute average being 5 percent opacity. Thus, an emission limit of 5 percent opacity from the secondary emission control device was selected for inclusion in the proposed standards.

Roof-Mounted Electrostatic Precipitators

BDT involves the capture of secondary emissions close to the generation point. Emissions that escape local capture rise and exit the shop roof monitor without further control. Captured emissions are ducted to a collection device.

Based on the use of BDT, the proposed regulation would set limits on secondary emissions exiting the BOPF shop from two points: the shop roof monitor and the control device. Thus, the total emissions that would be allowed to escape to the atmosphere are the sum of those exiting the shop roof monitor and those exiting the control device. However, if a roof-mounted ESP were used, the capture and collection of secondary emissions would take place at the shop roof monitor, a configuration different than if BDT were used. If the limits for a secondary control device (23 mg/dscm and 5 percent opacity) were applied to a roof-mounted ESP, allowable emissions may be less than if BDT were used to control secondary emissions. In effect, a shop using a roof-mounted ESP could be required to control emissions to a greater degree than a shop using BDT. This might discourage the owner or operator of a new BOPF shop from using a roof-mounted ESP, a device that may be as efficient as, and more cost-effective than, BDT.

Due to the variables involved, it is not possible to make a direct comparison between allowable emissions from a roof-mounted ESP subject to the proposed secondary collector standards and allowable emissions from the same roof-mounted ESP subject only to the proposed roof monitor opacity standards. However, EPA estimates that the emission reduction achieved by a roof-mounted ESP would most likely be as good or better than BDT if it met the proposed roof monitor opacity limits. Therefore, the proposed standards would not require a roof-mounted ESP to meet the limits for a secondary control device. Rather, only the roof monitor opacity standards would apply.

The intent in this is to make the proposed standards as applied to RMESP's equivalent, in terms of allowable emissions, to what they would be as applied to BDT. EPA solicits comments on the issue of whether or not the proposed exception would accomplish this.

In general, it is the Administrator's intent to encourage the use of cost-effective, innovative technology such as the roof-mounted ESP. Section 111(j) of the Clean Air Act provides a mechanism whereby the Administrator may grant a temporary waiver of compliance with NSPS for an innovative technology that has not yet been demonstrated but which holds the promise of achieving continuous emission reduction greater than BDT or at least an equivalent reduction at lower cost in terms of energy, economic, or nonair quality environmental impact. An owner or operator who proposes to install an innovative technology should contact EPA to discuss the applicability of Section 111(j).

Selection of Monitoring Requirements

Section 302(l) of the Clean Air Act defines the term standard of performance to mean "a requirement of continous emission reduction, *including any requirement relating to the operation or maintenace of a source to assure continuous emission reduction*" (emphasis added). In general, requirements relating to the operation and maintenance of a source *are* included in NSPS in the form of monitoring requirements, if there are operating parameters related to the performance of the emission control system that can be monitored without an unreasonable burden on the owner or operator.

For BOPF steelmaking facilities, a good indicator of the effectiveness of the secondary emission capture system is the exhaust ventilation rate. Therefore, the proposed secondary emissions standards would require the owner or operator to install a monitoring device that continuously records, for each steel production cycle, the exhaust ventilation rate from each gas cleaning device. In addition, checks of the monitoring device would be required annually to

determine that the device is performing adequately. The cost of purchasing, installing, and maintaining this device is reasonable considering that the monitoring of exhaust ventilation would help ensure that the fume capture system continues to operate effectively after it is installed.

Under § 60.7(d) of the General Provisions, the owner or operator is required to maintain the monitoring records at the source for a minimum of 2 years and to make these records available for inspection, upon request, by Agency personnel or their representatives.

The existing NSPS for the control of primary emissions of particulate matter (40 CFR 60.140, Subpart N) requires the installation of a monitoring device to record the duration of each steel production cycle and continuous monitoring devices for the measurement of pressure loss through the primary control system and for the measurement of water supply pressure to the primary control equipment. These monitoring device requirements would continue to be applicable for primary emission control.

Selection of Test Methods

The method selected for determining compliance with the BOPF shop roof monitor standards is similar to EPA Reference Method 9, with certain modifications in how the data are evaluated. Visible emission observations would be made as specified by Method 9, with readings required every 15 seconds. Experience gained from six fugitive emissions test programs indicates that most of the emissions observed from roof monitors lasted well over 15 seconds and typically lingered for 1 to 2 minutes. Therefore, the requirement that readings be taken at 15-second intervals does not pose a problem to its application for roof monitor testing at BOPF shops. It is essential that visible emission observers should position themselves to read across the shortest dimension of the roof monitor and not through the long dimension from the end of the monitor. Failure to observe this precaution in positioning would result in a high bias in opacity determinations.

The steel production cycle was selected to characterize BOPF shop visible emissions rather than a given time period, such as on an hourly basis, because analysis of test data shows a correlation between opacity readings and specific operations during the steel production cycle such as charging, oxygen blowing, turndown, tapping, and deslagging. If a specific time span were specified, more than one production cycle may occur during the time period selected. Specifying the time of one production cycle would eliminate this problem.

Also, the data for characterizing roof monitor visible emissions from the Kaiser Steel/Fontana shop, the Republic Steel/South Chicago shop, and the Bethlehem Steel/Bethlehem shop were gathered during the operation of only one of the two vessels. Therefore, for BOPF shops where two vessels are normally operated at the same time, the owner or operator would have the option of operating only one vessel during observations of emissions existing the shop roof monitor. It should be noted that roof monitor visible emissions data were obtained at J&L/Aliquippa during two-furnace operation. The data indicated better performance than those for Kaiser. However, because it is an open hood shop and only one of four shops tested, it was not presumed to suggest that the proposed limits could be achieved during two-furnace operation at all shops.

In addition to the operation of the affected facilities, normal shop activities, such as teeming, deslagging, flux handling, skull burning, and slag disposal, were conducted during the evaluation testing at all shops. Consequently, the limits selected reflect the emission limitations that can be achieved by top blown and bottom blown systems under similar conditions.

Under the proposed secondary opacity standards, compliance would be determined on the basis of 3-minute average opacities rather than on the basis of 6-minute average opacities, as is done with Reference Method 9. This is because emissions are of such short duration that they are better characterized by a 3-minute average. To determine compliance with the proposed roof monitor opacity standards and the proposed opacity standard for secondary emission control devices, opacity observations would be recorded to the nearest 5 percent at 15-second intervals for a minimum of three steel production cycles. The steel production cycles need not be consecutive cycles. The opacity of the visible emissions would be determined as an average of 12 consecutive observations recorded at 15-second intervals. The observations for each steel production cycle would be divided into sets of 12 consecutive observations. A set would be composed of any 12 consecutive observations; sets would not need to be consecutive in time and in no case should any two sets overlap. The average for each set of 12 observations would be computed by summing the opacity of the 12 observations and dividing this sum by 12.

To determine compliance with the roof monitor opacity standards for shops with top blown furnaces, the sets yielding the highest and second highest 3-minute average opacities for each steel production cycle would be identified. Compliance would be achieved when the highest 3-minute average for each cycle observed does not exceed 20 percent and the second highest 3-minute average does not exceed 10 percent. For shops with bottom blown furnaces, the sets yielding the highest and third highest 3-minute average opacities for each cycle would be identified. Compliance would be achieved when the highest 3-minute average for each cycle observed does not exceed 60 percent, and the third highest 3-minute average does not exceed 30 percent. Compliance with the proposed opacity standard for the outlet of a secondary emission control device would be achieved when no 3-minute average exceeds 5 percent.

Emissions from particulate emission control equipment would be measured according to EPA Reference Method 5. Compliance with roof monitor emission limitations would be evaluated during steel production cycles. The rationale for selection of the production cycle is discussed in conjunction with regulatory alternatives.

Performance tests for secondary mass emission limitations from particulate emission control systems, such as baghouses, would be conducted only during the steel production cycle. Sampling would be conducted during a sufficient number of cycles to ensure a sampling volume of at least 2.27 dscm (80 dscf).

Costs for conducting performance tests of BOPF secondary emissions are estimated to range between $10,000 and $30,000. The higher estimate of $30,000 would include the cost of a performance test for hot metal transfer and skimming emissions. Variations in costs depend primarily upon the number of sources requiring testing at a given plant. Testing costs can be minimized if observations are limited to the BOPF shop roof monitor by Reference Method 9 alone. Related processes not under the same roof monitor would require separate testing.

Review of the Primary Standard

The Clean Air Act Amendments of 1977 require that the Administrator review and, if appropriate, revise established standards of performnce for new stationary sources at least every 4 years. Review of the standards of

performance for BOPF's at iron and steel plants (40 CFR 60.140, Subpart N) was completed in 1979 and a notice of review was published on March 21, 1979 (44 FR 17460). Further information regarding the review of the primary standard may be found in the EPA document, "A Review of Standards of Performance of New Stationary Sources—Iron and Steel Plants/Basic Oxgen Process Furnaces" (EPA–450/3–78–116).

Review of the primary standard resulted in recommendations for revisions to the standard in three areas: (1) The inclusion of controls for secondary emissions; (2) the clarification of the definition of a basic oxygen process furnace (BOPF); and (3) the clarification of the sampling period used to determine compliance.

Based on the first recommendation, a new Subpart Na has been proposed for the control of secondary emissions from BOPF's hot metal tranfer stations, and skimming stations in BOPF shops at iron and steel plants. The control of secondary emissions and the relationship between primary and secondary emissions are discussed under earlier sections of this preamble concerning the proposal of NSPS for secondary emissions from these sources.

Under the existing primary standard, a BOPF is defined as "any furnace producing steel by charging scrap steel, hot metal, and flux materials into a vessel and introducing a high volume of an oxygen-rich gas." This definition could also be used to describe an oxgen-lanced open hearth furnace, so any modifications of open hearth furnaces to include oxygen lancing could be subject to the current standard. The primary standard is based on the performance of emission controls on BOPF's. EPA has not assessed the achievability of the primary standard for open hearth furnaces and does not intend for it to apply to open hearths. In addition, the definition does not clearly indicate that top blown furnaces, bottom blown furnaces, and combination top and bottom blown furnaces are considered as BOPF's. Thus the current definition of a BOPF would be revised to mean any top blown, bottom blown, or top and bottom blown furnace with a refractory lining that produces steel by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and introducing a high volume of an oxygen-rich gas. The definition would also state that open hearth furnaces using oxygen lances were not considered as BOPF's.

The existing standard limits emissions of particulate at the outlet of the primary emission control device to 50 mg/dscm (0.022 gr/dscf). This emission limit is currently applicable to both open hood and closed hood systems. Compliance with the standard is determined by the sampling of emissions starting at the beginning of either the scrap preheat or the oxygen blow and ending immediately prior to tapping. This definition could allow one plant a longer sampling time than another when determining compliance. In addition, nonblowing periods in the BOPF steel production cycle may vary from plant to plant. For these reasons, and considering that the bulk of primary emissions (between 95 and 98 percent for top and bottom blown furnaces, respectively) occurs during the primary oxgen blow portion of the steel production cycle, the existing standard would be revised to specify that compliance be determined by the sampling of emissions only during the primary blow portion of the steel production cycle. Reblows would not be considered as part of the primary oxygen blow under the proposed revision because of their varying durations from plant to plant. Because this proposed revision would shorten the sampling period used to determine compliance, BOPF performance test data from the period between 1971 and 1978 were collected and analyzed to determine the capability of both open and closed hood systems to meet the curent emissions limit, as measured for the primary oxygen blow.

Performance data for well-controlled open hood furnaces were collected for a total of four plants, including a total of 23 individual test runs. Of these four plants, a scrubber is used as the collection device at one plant and an ESP is used as the collection device at each of the remaining three plants. At each of the four plants, emission testing was conducted according to EPA Reference Method 5, with emission measurements taken only during the oxygen blow.

Analysis of the open hood performance data revealed that none of the three-run averages exceeded 50 mg/dscm (0.022 gr/dscf), as measured for the oxygen blow. The highest individual run was at 50 mg/dscm. Further statistical analyses of these data were performed to obtain a 95-percent prediction limit for a three-run average. This limit for open hood furnaces was 39 mg/dscm (0.017 gr/dscf), which is below the present NSPS level. The Administrator believes that this data base provides a reasonable basis for concluding that the emission limit of 50 mg/dscm (0.022 gr/dscf), as measured for the primary below reflects the performance of BDT for open hood furnaces. For this reason, the existing emission limit, as applied to open hood furnaces, would not be adjusted to compensate for the proposed revision to the existing standard that would require that compliance be determined by the sampling of emissions produced only during the primary oxygen blow portion of the steel production cycle.

Performance data for closed hood furnaces were collected for a total of three plants (five control systems), incorporating a total of 15 individual test runs. Emission testing at each plant was conducted according to EPA Reference Method 5. Each of the plants was considered to be well controlled, with pressure drops on the primary scrubbers exceeding 60 inches. At one plant (two control systems), emission test measurements were taken only during the primary oxygen portion of the steel production cycle. At the remaining two plants (three control systems), emission test measurements were obtained by sampling over the period beginning with the oxygen blow and ending just prior to tapping. These data were adjusted to an oxygen blow basis by multiplying emissions measured during the whole sampling period by the quotient of the total sampling time divided by the total oxygen blow time.

Analysis of the performance data for one plant (two control systems) revealed that the three-run averages were 45 mg/dscm (0.020 gr/dscf) and 34 mg/dscm (0.015 gr/dscf), which are below the current emission limit of 50 mg/dscm (0.022 gr/dscf). Of the remaining two plants, analysis indicated that the three-run average for one plant was 55 mg/dscm (0.024 gr/dscf), which exceeds the current emission limit, while the three-run averages for the other plant (two control systems) were 50 mg/dscm (0.022 gr/dscf) and 49 mg/dscm (0.022 gr/dscf). The 95-percent prediction level for primary emissions from the closed hood collection devices was 66 mg/dscm (0.029 gr/dscf). The Administrator believes that these performance data provide a reasonable basis for concluding that well-controlled closed hood systems may not be capable of meeting the current emission limit, as measured for the primary blow only. For this reason, a separate standard of 68 mg/dscm (0.030 gr/dscf) for the control of primary emissions from closed hood systems has been included as a proposed revision to the existing NSPS.

The proposed emission limit of 68 mg/dscm (0.030 gr/dscf) as measured for the primary oxygen blow would apply to any BOPF controlled by a closed hood system for which construction, modification, or reconstruction occurs after January 20, 1983. A BOPF

controlled by an open hood system for which construction, modification, or reconstruction commences after this date would be required to meet the current limit of 50 mg/dscm (0.022 gr/dscf), but as measured for the primary oxygen blow. A BOPF controlled by either an open or closed hood system that is subject to the current NSPS but constructed, modified, or reconstructed before January 20, 1983, would not be affected by the proposed revisions.

On a concentration basis, the proposed emission limit for closed hood systems is higher than the emission limit applicable to open hood systems. However, when a mass emission rate of 12.4 g/Mg of steel for closed hood scrubber systems (based on 9.0 dscm/min/Mg of steel and a 20-minute oxygen blow) is compared to a mass mean emission rate of 31.2 g/Mg of steel for open hood scrubber systems (based on 31.2 dscm/min/Mg of steel and a 20-minute oxygen blow), it is evident that closed hood systems meeting the proposed new emission limit would continue to emit less mass emissions to the atmosphere than would open hood systems meeting the existing standard of 50 mg/dscm (0.022 gr/dscf). As discussed earlier, the Administrator concluded that it was inappropriate to preclude the use of open hood primary control, which may be more economically attractive than closed hood primary control.

Impacts of Reporting and Recordkeeping Requirements

Two types of reporting would be associated with the proposed standards. First, there would be notification requirements, which would enable EPA to keep abreast of facilities subject to the standards. Second, there would be reporting of the results of performance tests that would be conducted to determine compliance with the standards. These reports are required by the General Provisions of 40 CFR Part 60, which apply to all NSPS. No other reports would be required by the proposed standards.

In addition, as required by 40 CFR 60.7(d), any owner or operator subject to the proposed standards would have to maintain a file of the monitoring device measurements in a form suitable for inspection for at least 2 years.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96-511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR) before the reporting and recordkeeping requirements are promulgated as final reporting and recordkeeping requirements.

The reporting and recordkeeping requirements associated with the proposed standards do not qualify as an ICR and, therefore, are not required to be approved by OMB. Nevertheless, EPA has evaluated the burden of these requirements. During the first 2 years of effectiveness of the standards, the total industry wide burden of the reporting and recordkeeping requirements would be about 600 person-hours, based on one respondent in 2 years.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. To comply with this requirement, EPA determines if small businesses are likely to be affected by a proposed regulation and if so, performs a small business impact analysis.

For the purpose of the Regulatory Flexibility Act, a small business is one "which is independently owned and operated and not dominant in its field of operation." Small Business Act Section 3; 5 U.S.C. 601(3). A firm owning plants that operate basic oxygen steelmaking furnaces is classified in SIC 3312. The Small Business Administration has determined that any firm classified in SIC 3312 that employs less than 1,000 workers will be considered small in regard to the Small Business Act.

A total of 18 independently owned businesses that now operate basic oxygen process steelmaking shops can be identified. Of this total, the company that employed the fewest workers in 1979 employed a total of 5,862 workers. Thus, even the smallest BOPF firm does not qualify as a small company under the Small Business Act.

The proposed regulation would apply to new, modified, or reconstructed facilities. A modified or reconstructed facility affected by the regulation would be owned by an existing firm. In addition, it is likely that any new facility affected by the regulation would be built by one of the existing firms. If, however, a new firm were to enter the industry, it is unlikely that it would be a small business due to the capital required to build facilities in the steel industry. Also, any new BOPF shop would have to be part of an integrated steel mill.

Based on these considerations, it is the Administrator's determination that the proposed regulation would not have a significant economic impact on a substantial number of small businesses. Therefore, a small business impact analysis has not been prepared.

Miscellaneous

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods. Comments are specifically invited on the reporting requirements of the proposed regulation. Any comments submitted to the Administrator should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and should suggest alternative courses of action to avoid this impact. Recommended alternative reporting requirements should contain complete instructions and should state all the reasons the recommended requirements would be considered an improvement.

This regulation will be reviewed within 4 years from the date of promulgation, as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the

existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards, total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 122291. Any comments from OMB to EPA and any EPA response to those comments are included in Docket Number A-79-6. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Tires, Waste treatment and disposal, Zinc.

Dated: January 13, 1983.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

1. By revising paragraph (a) and adding paragraph (d) to § 60.141 as follows:

§ 60.141 Definitions.

(a) "Basic oxygen process furnace" (BOPF) means any top blown or bottom blown furnace with a refractory lining in which molten steel is produced by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and introducing a high volume of oxygen-rich gas. Open hearth, blast, and reverberatory furnaces are not included in this definition.

* * * * *

(d) "Primary oxygen blow" means the period in the steel production cycle of a basic oxygen process furnace during which a high volume of oxygen-rich gas is introduced to the bath of molten iron by means of a lance inserted from the top of the vessel or through tuyeres in the bottom or through the bottom and sides of the vessel. This definition does not include any additional or secondary oxygen blows made after the primary blow or the introduction of nitrogen through tuyeres in the bottom or bottom and sides of the vessel.

2. By amending § 60.142 as follows:

(a) By inserting the words "Except as provided under paragraph (b) of this section," at the beginning of paragraph (a);

(b) By adding paragraph (b) as follows:

§ 60.142 Standard for particulate matter.

(a) * * *

(b) On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of an affected facility constructed, modified, or reconstructed after January 20, 1983, and for which closed hooding is the primary emission control method, shall cause to be discharged into the atmosphere from the facility any gases that:

(1) Contain particulate matter in excess of 68 mg/dscm (0.030 gr/dscf).

(2) Exit from a control device and exhibit 10 percent opacity or greater except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

3. By revising paragraph (b) of § 60.144 as follows:

§ 60.144 Test methods and procedures.

(a) * * *

(b) For Method 5, the sampling time shall be as follows:

(1) For affected facilities that commence construction, modification, or reconstruction on or before January 20, 1983, the sampling for each run shall continue for an integral number of cycles with total duration of at least 60 minutes. The minimum sample volume shall be at least 9.9 dscm (32 dscf). Shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Administrator. A cycle shall start at the beginning of either the scrap preheat or the oxygen blow and shall terminate immediately prior to tapping.

(2) For affected facilities that commence construction, modification, or reconstruction after January 20, 1983, the sampling for each run shall continue for an integral number of primary oxygen blows with total duration of at least 60 minutes. The minimum sample volume shall be at least 0.9 dscm (32 dscf). Shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

* * * * *

4. By adding a new Subpart Na to 40 CFR Part 60 as follows:

* * * * *

Subpart Na—Standards of Performance for Secondary Emissions From Basic Oxygen Process Steelmaking Facilities for Which Construction Is Commenced After January 20, 1983.

Sec.

60.140a Applicability and designation of affected facilities.
60.141a Definitions.
60.142a Standards for particulate matter.
60.143a Monitoring of operations.
60.144a Test methods and procedures.
60.145a Compliance provisions.

Authority: Section 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

* * * * *

Subpart Na—Standards of Performance for Secondary Emissions From Basic Oxygen Process Steelmaking Facilities for Which Construction Is Commenced After January 20, 1983.

§ 60.140a Applicability and designation of affected facilities.

(a) The provisions of this subpart apply to the following affected facilities in an iron and steel plant: basic oxygen process furnace (BOPF), hot metal transfer station, and skimming station.

(b) This subpart applies to any facility identified in paragraph (a) of this section that commences construction, modification, or reconstruction after January 20, 1983.

(c) Any basic oxygen process furnace subject to the provisions of this subpart shall also be subject to the provisions of Subpart N of this part.

§ 60.141a Definitions.

All terms in this subpart not defined below are given the same meaning as in the Act or in Subpart A of this part.

"Basic oxygen process furnace" (BOPF) means any top blown or bottom blown furnace with a refractory lining which molten steel is produced by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and introducing a high volume of oxygen-rich gas. Open hearth, blast, and reverberatory furnaces are not included in this definition.

"Bottom blown furnace" means any basic oxygen process furnace in which oxygen and other combustion gases are introduced to the bath of molten iron through tuyeres in the bottom of the vessel or through tuyeres in the bottom and sides of the vessel (KMS conversion furnace).

"Hot metal transfer station" means the facility where molten iron is emptied from the railroad torpedo car or hot metal car to the shop ladle (or to any intermediate vessel where used). This facility may also be known as the reladling station or ladle transfer station.

"Primary oxygen blow" means the period in the steel production cycle of a basic oxygen process furnace during which a high volume of oxygen-rich gas is introduced to the bath of molten iron by means of a lance inserted from the top of the vessel or through tuyeres in the bottom or through the bottom and sides of the vessel. This definition does not include any additional or secondary oxygen blows made after the primary blow or the introduction of nitrogen through tuyeres in the bottom or bottom and sides of the vessel.

"Primary emissions" means particulate emissions from the BOPF generated during the primary oxygen blow and captured by the BOPF primary control system.

"Secondary emissions" means particulate emissions that escape capture from the BOPF primary control system.

"Skimming station" means the facility where slag is mechanically ranked from the top of the bath of molten iron.

"Steel production cycle" means the operations conducted within the BOPF steelmaking facility that are required to produce each batch of steel, and includes the following operations: scrap charging, hot metal charging, primary oxygen blowing, sampling (vessel turndown), reblowing (if needed), tapping, and deslagging. Hot metal transfer and skimming operations for the next steel production cycle are also included when the hot metal transfer station or skimming station is an affected facility.

"Startup" means the setting into operation for the first steel production cycle of a relined BOPF or a BOPF that has been out of production for a minimum continuous time period of 8 hours.

"Top blown furnace" means any basic oxygen process furnace in which oxygen is introduced to the bath of molten iron by means of an oxygen lance inserted from the top of the vessel.

§ 60.142a Standards for particulate matter.

(a) Except as provided under paragraphs (b) and (c) of this section, on and after the date on which the performance test under § 60.8 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any secondary emissions that:

(1) Exit from a control device and contain particulate matter in excess of 23 mg/dscm (0.010 gr/dscf).

(2) Exit from a control device and exhibit more than 5 percent opacity.

(3) Exit from the BOPF shop roof monitor or other building opening and exhibit more than 10 percent opacity during the operation of any top blown furnace; except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

(4) Exit from the BOPF shop roof monitor or other building opening and exhibit more than 30 percent opacity during the operation of any bottom blown furnace; except that an opacity of greater than 30 percent but less than 60 percent may occur twice per steel production cycle.

(b) A roof mounted electrostatic precipitator used to control secondary emissions from an affected facility is not subject to paragraphs (a)(1) and (a)(2) of this section.

(c) A device used to control both primary and secondary emissions from a BOPF is not subject to paragraphs (a)(1) and (a)(2) of this section.

§ 60.143a Monitoring of operations.

(a) Each owner or operator of an affected facility shall install, calibrate, operate, and maintain a monitoring device that continuously records during each steel production cycle the various rates of exhaust ventilation at each phase of the cycle through the system used to control secondary emissions. The monitoring device or devices are to be placed at appropriate locations to monitor adequately such flows or in alternative locations approved by the Administrator.

(b) All monitoring devices are to be certified by the manufacturer to be accurate to within ±10 percent as compared to EPA Reference Method 2. The owner or operator shall recalibrate and check the device annually in accordance with the written instructions of the manufacturer and by comparing the device against EPA Reference Method 2 and at such other times as the Administrator may require. [Section 114 of the Clean Air Act as amended (42 U.S.C. 7414).]

§ 60.144a Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided under § 60.8(b) shall be used to determine compliance with § 60.142a as follows:

(1) Method 1 for sample and velocity traverses;

(2) Method 2 for volumetric flow rate;

(3) Method 3 for gas analysis; and

(4) Method 5 for concentration of particulate matter and associated moisture content;

(5) Method 9 for visible emissions except as provided in paragraph (b) of this section.

(b) For Method 9 the following instructions for recording observations and reducing data shall apply instead of Sections 2.3, 2.4, and 2.5 of Method 9:

(1) *Section 2.3.* Opacity observations shall be made at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. The observer shall not look continuously at the plume, but instead shall observe the plume momentarily at 15-second intervals. In the cases where visible emissions from the affected facilities occur from multiple building openings (e.g., discontinuous roof monitors, building ventilators, or other building openings) during the steel production cycle, the plume shall be considered to consist of the aggregate of emissions exiting the shop from affected facilities, and each observation shall be made at the opening where plume opacity is the greatest.

(2) *Section 2.4.* Opacity observations shall be recorded to the nearest 5 percent at 15-second intervals. Observations shall be made and recorded in this manner for a minimum of three steel production cycles.

(3) *Section 2.5.* Opacity shall be determined as an average of 12 consecutive observations recorded at 15-second intervals. For each steel production cycle, divide the observations recorded into sets of 12 consecutive observations. A set is composed of any 12 consecutive observations. Sets need not be consecutive in time and in no case shall two sets overlap. For each set of 12 observations, calculate the average by summing the opacity of 12 observations and dividing this sum by 12.

(c) For the sampling of secondary emissions by Method 5, the sampling for each run is to continue for a sufficient number of steel production cycles to ensure a total sample volume of at least 2.27 dscm (80 dscf) for each run. Sampling is to be conducted only during the steel production cycle.

(d) Reference Method 2 in Appendix A to this part shall be used to determine compliance with § 60.143a(b) as follows: compare velocity readings of the monitoring device against the velocity readings obtained by Method 2. Take Method 2 readings at a point or points that would properly characterize the monitoring device's performance and that would adequately reflect the various rates of exhaust ventilation. Obtain readings at 3- to 5-minute intervals to obtain 12 pairs of readings. Compare the average of the two sets. Compliance is achieved when the monitoring device velocity compares within ±10 percent of the Method 2 average.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.145a Compliance provisions.

(a) During opacity observations to determine compliance with § 60.142a (a)(3) and § 60.142a (a)(4) at a BOPF shop that normally operates two furnaces with overlapping cycles, the owner or operator may operate only one furnace. If an owner or operator chooses to shut down one furnace during opacity observations, he shall be allowed a reasonable time period to adjust his production schedule before the observations are conducted.

(b) During performance testing, only one basic oxygen process furnace shall be in operation. The owner or operator of an affected facility may also suspend shop operations not subject to this subpart during performance testing.

(c) For the purpose of determining compliance with visible and mass emission standards, a steel production cycle begins when the scrap or hot metal is charged to the vessel (whichever operation occurs first) and terminates 3 minutes after slag is emptied from the vessel into the slag pot. Where a hot metal transfer or skimming station is an affected facility, the production cycle also includes the hot metal transfer or skimming operation for the next steel production cycle for the affected vessel. Consecutive steel production cycles are not required for the purpose of determining compliance.

(d) To determine compliance with § 60.142a (a)(3), select the data sets [§ 144a (b)(2)] yielding the highest and second highest 3-minute average opacities for each steel production cycle. Compliance is achieved when the highest 3-minute average for each cycle observed does not exceed 20 percent and the second highest 3-minute average does not exceed 10 percent.

(e) To determine compliance with § 60.142a (a)(4), select the data sets yielding the three highest 3-minute average opacities for each steel production cycle. Compliance is achieved when the highest 3-minute average for each cycle observed does not exceed 60 percent and the third highest 3-minute average does not exceed 30 percent.

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Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing Industry; Proposed Rule and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1907-8]

Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit volatile organic compound (VOC) emissions from new, modified, and reconstructed facilities within rubber tire manufacturing plants. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from rubber tire manufacturing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed facilities at rubber tire manufacturing plants to control emissions to the levels achievable through use of the best demonstrated systems of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 1, 1983.

Public Hearing. A public hearing will be held on March 3, 1983 beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by February 9, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-80-9, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at the Office of Administration Auditorium, Research Triangle Park, N.C. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Rubber Tire Manufacturing Industry—Background Information for Proposed Standards," EPA 450/3-81-008a.

Docket: Docket No. A-80-9, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * Application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

The proposed standards would limit VOC emissions from new, modified, and reconstructed facilities. The affected facilities would be each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each inside green tire spraying operation, each outside green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation.

Facilities affected by the proposed standards would be those where components for agricultural, airplane, industrial, mobile home, light-duty truck or passenger vehicle tires which have a bead diameter up to and including 0.5 meter (m) [19.7 inches (in)] and cross section dimension up to and including 0.325 m (12.8 in) are mass produced in assembly-line fashion.

VOC emissions from the rubber tire industry are caused by solvent application to different components of a tire during the manufacturing process. To meet the proposed standards for each undertread cementing and sidewall cementing operation, an owner or operator would have the option of using less solvent and maintaining emissions at or below 25 grams per tire (a level currently achieved at some plants) without the use of an emission reduction system, or installing a 75 percent efficient emission reduction system if solvent use exceeds 25 g/tire. Using less solvent has the advantages of no cost (other than possibly developmental cost), no energy usage, and solvent conservation. The proposed standards for four affected facilities are based on the use of less solvent and would require that emissions be limited to 10 grams per tire (g/tire) for each tread end cementing and each bead cementing operation, 1.2 g/tire for each inside green tire spraying operation, and 9.3 g/tire for each outside green tire spraying operation. Thus, the proposed standards are structured so they could be met through solvent use reductions without employment of a control device.

The proposed standards would require 75 percent emission reduction for each Michelin-B operation and 65 percent emission reduction for each Michelin-A and Michelin-C-automatic operation.

Separate testing, monitoring, and recordkeeping requirements are proposed for each combination of standard format (g/tire or percent emission reduction), control technique (low solvent use or emission reduction system), and compliance method (performance tests or equipment specifications). Initial performance tests would be required for each affected facility, unless the owner or operator chooses to demonstrate compliance with the recommended standards by meeting the equipment specifications. An exemption has been provided for facilities that meet the equipment specifications. The proposed standards would require the owner or operator to report the results of all initial performance tests.

Monthly performance tests would be required to determine compliance with each of the g/tire limits. Whether or not monthly performance tests would be required to determine compliance with the percent emission reduction standards depends primarily on the type of control device used, and then on the method of demonstrating compliance. The proposed standards would not

require an owner or operator to report results of monthly performance tests.

The proposed standards would require continuous monitoring and recording of thermal incinerator combustion temperature and the temperature before and after the catalyst for catalytic incinerators. The requirement for a continuous monitor on a solvent recovery system is not applicable until performance specifications for the monitor have been proposed and promulgated. The proposed standards would require that the owner or operator maintain at the source for a period of at least two years records of all data and calculations used to determine VOC emissions for each affected facility.

Reference Method 24 would be used to determine the VOC content of cements and green tire spray materials. Reference Method 25 would be used to determine the concentration of VOC in exhaust gas streams.

Summary of Environmental, Energy, and Economic Impacts

The incremental impacts of the proposed standards in the Background Information Document were determined using the levels of emission reduction recommended in the control technique guidelines (CTG) document, "Control of Volatile Organic Compound Emissions from Manufacture of Pneumatic Rubber Tires" (EPA–450/2–78–030), as the regulatory baseline. This assumes that in the absence of standards of performance, all new, modified, and reconstructed facilities would be required to limit volatile organic compound emissions to the levels recommended in the CTG. The CTG recommends an average overall emission reduction of about 70 percent from undertread cementing, tread end cementing, bead cementing, and inside and outside green tire spraying operations. This reduction would be achieved by using emission reduction systems at each of these affected facilities. Water-based sprays could also be used at inside and outside green tire spraying operations.

State Implementation Plans (SIPs) are currently being revised, and the level of control which would actually be required for a particular rubber tire plant in the absence of these proposed standards of performance is uncertain. Some States may adopt regulations that require different levels of emission reduction than the regulatory baseline or that allow the use of emission reduction strategies different from those assumed for the regulatory baseline. Some States may not include regulations limiting VOC emissions from rubber tire manufacturing plants in their SIPs. Therefore, basing the impacts of the proposed standards on the assumption that all plants would be controlled to the level recommended in the CTG tends to underestimate the emission reductions and costs of the proposed standards. Therefore, in this summary, the impacts of the proposed standards are presented two ways: (1) As the difference between uncontrolled levels and the proposed standards, and (2) as the difference between the regulatory baseline and the proposed standards. The actual impacts of the proposed standards will depend on the mix of control levels required by States and the location of newly constructed, modified, and reconstructed facilities, and will be between the two sets of numbers presented here.

Compared to the regulatory baseline, the proposed standards would reduce nationwide emissions from newly constructed, modified, and reconstructed facilities by 1,430 Mg (1,570 tons) in the fifth year after proposal. This represents a 46 percent reduction in emissions beyond the CTG baseline. For a single medium-sized plant, the emission reduction compared to the baseline, would be 375 Mg (415 tons).

Compared to the uncontrolled levels, the proposed standards would reduce nationwide emissions by 8,285 Mg (9,130 tons). This represents an 83 percent reduction from uncontrolled levels. For a single medium-sized plant, the emission reduction compared to uncontrolled levels would be 1,775 Mg (1,960 tons) per year.

Compared to the regulatory baseline, the proposed standards would not result in an increase from baseline levels of water pollution and solid waste or energy consumption. Since baseline levels of water pollution, solid waste, and energy consumption show no significant increase over uncontrolled levels, the proposed standards also show no significant increase over uncontrolled levels.

Control costs calculated for the regulatory baseline assume that each affected facility would use a VOC emission reduction system to control emissions except for inside and outside green tire spraying operations, where water-based sprays were assumed to be used. Since the proposed standards are partially based on process modifications, both the capital and annualized costs to comply with the proposed standards are smaller than the costs projected to comply with the baseline levels. The total nationwide capital cost for VOC emission reduction from uncontrolled levels to the level of the proposed standards would be about $10.8 million during the first five years. The total nationwide annualized cost in the fifth year would be about $1.5 million, with solvent recovery credits. (Without solvent recovery credits, the nationwide annualized cost would be about $3.4 million; recovery credits are anticipated.) For a single medium-sized plant controlling all affected facilities to the level of the proposed standards, the annualized cost would be approximately $110,000 if credit is given for solvent recovery or $403,000 without solvent recovery credit.

Price increases and reductions in return on investment (ROI) are projected to be zero compared to those projected for the baseline control level. Assuming all costs are passed through to consumers, the average increase in the retail price of a tire from uncontrolled levels would be about 0.26 percent in the worst case. Upon full cost absorption, using no control as a base of comparison, the return on investment (ROI) of new radial tire manufacturing plants may decline from an assumed rate of 5.17 percent to 5.04 percent in the worst case. Worst case conditions in both situations are represented by the use of a separate capture system and carbon adsorber control device at each affected facility where control equipment is used to achieve emission reductions. These impacts are not expected to inhibit industry growth.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having less stringent air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies. The costs are provided for an economic analysis that reveals the affordability of controls in an unbiased study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government,

and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Rationale

Selection Source

The EPA Priority List (40 CFR Part 60, § 60.16, 44 FR 49222, August 21, 1979) reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution, which may reasonably be anticipated to endanger public health or welfare. The Priority List identifies major sources of emissions on a nationwide basis in order of priority for regulation based on three factors: (1) quantities of emissions from source categories, (2) the mobility and competitive nature of each source category, and (3) the extent to which each pollutant endangers health or welfare. Tire manufacturing is included on the Priority List as a subcategory under Synthetic Rubber, which is ranked number 20 out of a total of 59 source categories. Rubber tire manufacturing industry VOC emissions for 1979 were estimated to be about 59,000 Mg (65,000 tons).

About 140,000 tires per day will be produced by new, modified and reconstructed facilities in operation by 1985. In the absence of additional regulation, new, modified, and reconstructed facilities would emit about 3,120 Mg of VOC per year (3,430 tons/yr).

Emission reduction systems composed of a capture system and control device are available to the industry for reducing VOC emissions. Water-based green tire sprays with low VOC content are in use at many plants. Techniques which minimize solvent use can reduce emissions from tread end cementing and bead cementing operatings. The predicted growth of this industry with its attendant increase in emissions and the availability of control technology further support the development of standards of performance for this industry.

Selection of Pollutants and Affected Facilities

At a rubber tire manufacturing plant, raw rubber and chemicals are first mixed in proportions determined by specifications for the tire component in which the rubber will be used. The rubber is then transported to different parts of the plant for processing into various components, such as treads, sidewalls, beads, plies, and belts. In some of these processes rubber is combined with fabric, steel, or fiberglass. Manufactured components are brought together and assembled at a tire building area. The assembled green tire is sprayed with a green tire spray, which acts as a mold release agent and lubricant, and placed in a press where, with a specific combination of time, temperature, and pressure, the tire is molded to its final form and the rubber is cured. Tires are then inspected for quality and appearance, or "finished."

VOC is used at several points in the tire manufacturing process. Organic solvents or organic solvent-based cements are aplied to components during production or during tire building to facilitate adhesion. Organic solvents are used in many green tire sprays to facilitate application of mold release and lubricating agents and at finishing, where minor cosmetic repairs are made.

The processes used to manufacture components and to assemble tires vary among companies and among plants owned by the same company. Whether any VOC is used in a process and in what amounts also vary among companies and plants owned by the same company. Each company considers some or all of its production precesses to be proprietary. In developing the proposed standards, EPA was requested to maintain the confidentiality of much of the process and solvent use data submitted by industry. At the same time EPA sought to develop regulations which reflect use of best systems of continuous emission reduction and which apply equitably to each manufacturer. Futher, EPA sought to avoid proposing any requirement which would adversely affect tire safety and performance.

Volatile organic compounds (VOC) are the principal pollutants emitted to the atmosphere from rubber tire manufacturing plants. The VOC emitted from all but one company's plants is predominantly white gasoline and petroleum naphtha. Heptane is the major solvent used at one company's plants. Toluene, xylene, ketones, and esters are also used throughout the industry, but in smaller amounts.

About 98 percent of the VOC emitted from an average uncontrolled existing plant results from solvent application in seven solvent-using processes. These processes and their average contribution to overall plant VOC emissions, as calculated from solvent use and tire production data, provided by industry, are shown below:

Process	Emission contribution (percent)
Undertread cementing	20.5
Sidewall cementing	13.3
Tread end cementing	4.9
Bead cementing	2.7
Tire building	10.7
Inside green tire spraying (roganic solvent-based)	15.6
Outside green tire spraying (organic solven-based)	28.9
Finishing	1.8
Non solvent-using facilities	1.6
Total	100

Industry-supplied data show wide variations in solvent usage rates among companies and among plants owned by the same company. These differences occur for a variety of reasons, including differences in specifications for how tires are to be produced, and the types of tires produced.

Emissions are significant at undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying operations. Further, emission reduction technology is available and is technically and economically feasible for use at each of these types of operations. Therefore, these operations were selected for control by the proposed standards.

Tire building, while contributing about 11 percent of total plant emissions, is characterized by low VOC concentrations emanating from 50 or more individual machines within each plant. The need for liberal worker access dictates that machines be open, and, as a result, high ventilation rates would be needed to remove organic vapors to a control device. Technically, control systems could be constructed to reduce VOC emissions from tire building. The air in the tire building room could be ducted to a control device such as an incinerator or carbon adsorber. However, exhaust stream VOC concentrations in existing tire building areas where general dilution ventilation is employed are very low, ranging from 0.01 to 0.32 g/m^3 (0.6×10^{-6} to 20.0×10^{-6} lb/ft^3). The cost of such a system would range from $68.000 per Mg of VOC removed ($62,000/ton) to $306,000 per Mg of VOC removed ($280.000/ton). The Administrator concluded that these costs are exorbitant for the emission reduction achieved and has not included tire building in the proposed standards.

Finishing contributes about 2 percent of total plant emissions. Organic solvent is used in protective coatings for whitewalls and in coating used for cosmetic purposes. Both uses, while

performed in separate areas, are part of the finishing process. Solvent application is intermittent and is performed at worker discretion. For these reasons, finishing has not been included in the proposed standards.

Compounding, milling, extrusion, calendering, and curing, where no organic solvent is used, together account for less than 2 percent of total plant VOC emissions, and have not been included in the proposed standards.

Michelin Tire Corporation uses three operations, referred to in this preamble and in the regulation as "Michelin-A," "Michelin-B," and "Michelin-C," for which they have claimed confidentiality. EPA is currently treating the specific information provided by Michelin on these operations as confidential and has initiated a confidentiality determination in accordance with 40 CFR Part 2. Since Michelin-A, Michelin-B, and Michelin-C are operations believed unique to the Michelin Tire Corporation, emissions from these operations were not included in the above list. VOC emissions from each of these operations are significant, and collectively account for a substantial portion of total uncontrolled emissions from each Michelin plant.

Emission reduction technology which is technically and economically feasible is available for use at Michelin-A and Michelin-B operations. Therefore, Michelin-A and Michelin-B operations were selected for control by the proposed standards.

The Michelin-C operation is performed with either manual or automatic cement application depending on the type of tire being made. Emission reduction technology, which is technically and economically feasible, is available for use at automatic Michelin-C operations. Therefore, Michelin-C-automatic operations were selected for control by the proposed standards. VOC concentrations in the exhaust streams from manual Michelin-C operations are reportedly very low, ranging from 0.10 to 0.30 g/m^3. The cost of operating an emission reduction system at a manual Michelin-C operation would be similar to that previously stated for tire building. The Administrator has concluded that these costs are exorbitant for the emission reduction achieved and has not included manual Michelin-C operations in the proposed standards. Not all tires manufactured by Michelin Tire Corporation can be made using the Michelin-C-automatic operation. Therefore, the proposed standards do not preclude the use of manual Michelin-C operations.

Affected Facilities

The choice of the affected facility(ies) for this standard is based on the Agency's interpretation of Section 111 of the Act and judicial construction of its meaning. Under Section 111, the NSPS must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which might be viewed as "sources." EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards. The Agency must do this in light of the terms and purpose of Section 111. One major consideration is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner. For example, if an entire plant were designated as the affected facility, no part of an existing plant would be subject to the standard unless the plant as a whole were "modified." If on the other hand, each piece of equipment were designated as an affected facility, then as each piece was replaced, the replacement piece would be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources would be subject to the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that relevant statutory factors (technical feasibiltiy, cost, energy, and ther environmental impacts) point to a broader definition.

In a rubber tire plant, the narrowest designation of affected facility for which standards of performance might be appropriate is each individual operation. The rubber tire industry maintains that much of the anticipated growth in the industry by 1985 will result from non-routine replacement of existing operations with new operations. New individual operations would qualify as new sources subject to standards of performance under this narrowest definition of affected facility. As a result, control costs were calculated assuming each operation would be controlled separately. In practice, however, a single control device could be used to control emissions from several operations. Examination of these costs showed that control is economically feasible (i.e., the costs would not inhibit growth or replacement) in all cases where a separate emission reduction system would be used at an individual operation. Defining an affected facility as each separate operation is supported by technical, cost, and economic considerations. The Agency requests comments from interested parties about this definition of an affected facility.

With each operation defined as an affected facility, any change which qualified as a modification or reconstruction would cause only that changed operation to become subject to standards of performance. Further, if a new operation were constructed at an existing plant where other operations were not subject to standards of performance, only the new operation would be subject to standards of performance.

Undertread cementing and tread end cementing are usually performed at different points on the same tread line. At an undertread cementing operation, cement is applied to a continuous strip of tread rubber or to a combined tread/sidewall component. The tread rubber is usually transported from the extruder to the undertread cementing operation by a conveyor. After cement is applied, the tread rubber strip passes along a conveyor where it air dries and then usually through a water bath for cooling. At undertread cementing operations, VOC is emitted from cement storage and application equipment and from cemented rubber as VOC evaporates after application. Therefore, an undertread cementing operation consists of a cement application station and all other equipment, such as the cement supply system, and feed and takeaway conveyors, which are necessary to apply cement to tread or combined tread/sidewall components and to allow evaporation of solvent from tread or combined tread/sidewall components. Each undertread cementing operation is an affected facility.

After the water bath and forced-air drying, the continuous strip is cut to specified lengths and then is usually conveyed to a tread end cementing operation. At a tread end cementing operation, cement is applied to one or both tread ends. Cement is usually applied to tread ends either by spraying with an electronically-triggered automatic spray arm or manually by a

worker equipped with a pot of cement and an applicator. VOC is also emitted from cement storage and application equipment and from cemented treads as VOC evaporates after application. Therefore, a tread end cementing operation consists of a cement application station and all other equipment, such as the cement supply system, and feed and takeaway conveyors, which is necessary to apply cement to tread end components and to allow evaporation of solvent from tread ends. Each tread end cementing operation is an affected facility. Although undertread cementing and tread end cementing operations are usually performed on the same tread line, they are separate emission points and each can be controlled separately. This supports designating each tread end cementing operation as an affected facility separate from each undertread cementing operation.

For some types of tires, sidewalls may be extruded as part of the tread. Cement application for this tread/sidewall component usually occurs at an undertread cementing operation, and VOC emissions are counted as part of those from undertread cementing. When sidewall cementing is performed as a separate operation, the extrusion, conveying, cementing, and cooling equipment is usually similar to but smaller than that used for undertread cementing. Instead of being cut to specific lengths, however, the continuous sidewall strip is rolled in a non-stick fabric and stored until needed. VOC is emitted from cement storage and application equipment and from cemented rubber as VOC evaporates after application. Therefore, a sidewall cementing operation consists of a cement application station and all other equipment, such as the cement supply system, and feed and takeaway conveyors, which is necessary to apply cement to sidewall components and to allow evaporation of solvent from sidewall components. Each sidewall cementing operation is an affected facility.

Bead cementing may occur before or after the rubber-coated wire is fashioned into a bead. If cement is applied before bead fashioning, the cement application apparatus is usually a swab or roller suspended in a trough of cement attached to the bead fashioning equipment. Cement is applied as the rubber-coated wire passes over the trough. If cement is applied after beads are fashioned, it is usually accomplished by spraying or by dipping the beads into a vat of cement. Spraying or dipping equipment is separate from bead fashioning equipment. A bead cementing operation consists of a cement application station, such as a dip tank, spray booth and nozzles, cement trough, and roller or swab applicator; and all other equipment necessary to apply cement to beads or bead components and to allow the evaporation of solvent from cemented beads. Each bead cementing operation is an affected facility.

Green tire sprays are usually applied inside and outside with automatic spray nozzles. Whether water-based or organic solvent-based inside and outside green tire sprays are used, outside sprays usually contain more VOC than inside sprays. Inside and outside sprays are usually applied using different nozzles in the same booth. However, different booths may be employed at some plants. The spray booth is designed to contain overspray and vent it to a dust collector or uncontrolled to the atomosphere. Inside green tire spraying and outside green tire spraying are separate operations and are separate affected facilities. An inside green tire spraying operation consists of the inside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork. Each inside green tire spraying operation is an affected facility. An outside green tire spraying operation consists of the outside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork. Each outside green tire spraying operation is an affected facility.

Cement is applied to tire components at Michelin-A, Michelin-B, and Michelin-C-automatic operations. Each of these operations is distinct and has VOC emissions which can be accounted for and controlled independently. Each operation consists of cement storage and application equipment, and other equipment necessary for the application of cement to and the evaporation of VOC from tire components processed at the operation. Each Michelin-A, Michelin-B, and Michelin-C-automatic operation is an affected facility.

Selection of Basis of Proposed Standard

Three general methods of emission reduction technology are available to the rubber tire manufacturing industry: (1) emission reduction systems (capture and control); (2) low solvent use techniques; and (3) low VOC content materials.

Emission Reduction Systems

Current use of emission reduction systems is limited in the rubber tire industry. Only two such systems are present in this industry, both employing carbon adsorbers as the control device. One of these systems is part of the original design of the undertread cementing process at a new plant. This plant has not yet operated at full production capacity, and emission control data on the new system are not yet available. The other system is the only emission reduction system in full use in the industry. It consists of a capture system and carbon adsorber installed on an undertread cementing line in 1973 and has been shown by materials balance calculations to have an average solvent recovery efficiency of about 63 percent. The carbon adsorber has been tested separately and shown to be about 90 percent efficient, thus the capture system averages about 70 percent efficiency. The company operating this system has submitted information concerning factors which limit system performance. Factors which according to the company limit system efficiency include:

(1) About 8 percent of VOC applied to a rubber component is absorbed by the rubber and is not immediately available for capture (emissions from cemented rubber account for about 30 percent of total VOC emissions from this line, thus about 2.4 percent of VOC used is absorbed);

(2) Enclosure system access doors are open for a finite period for periodic threading of new tread sizes;

(3) Length of the drying area conveyor is limited by the configuration of existing extrusion equipment;

(4) The switching damper installed for enclosure emergency situations is not equipped with vapor loss seals;

(5) Operating practices do not provide for containment of VOC emissions during weekend shutdown, either by draining cement tanks or by equipping tanks with tight fitting covers;

(6) Operating practices do not provide for air drying and cooling of the desorbed carbon bed prior to the next adsorption cycle; and

(7) The company does not account for vapor losses from cement mixing churns, recirculating cement distribution system storage tanks, recovered solvent storage tanks, pumping, and venting from decanter.

In EPA's judgment, this type of emission reduction system could be improved to achieve an overall efficiency of 75 percent or better. VOC loss during periods of worker access

could be minimized by restricting access opening size and by maintaining sufficient ventilation to contain VOC. Where cemented rubber components are allowed to dry on a conveyor after cement is applied, enclosed conveyors could be employed to contain VOC emitted from cemented rubber. The length of conveyor enclosed would depend upon conveyor speed and the time required to contain VOC emitted. Analysis of evaporation rates has shown that about 90 percent of VOC applied to rubber components is emitted within 30 seconds after application. Other design features to minimize VOC loss, such as vapor loss seals attached to a switching damper, could also improve overall system efficiency. Cement tanks could be covered during periods of non-use. Desorbed carbon beds could be air dried and cooled between cycles. These improvements in operating practices would improve overall system efficiency. VOC loss due to absorption is the only area in which improvements in design and operating practices would have little or no effect.

Several sources of information were used to establish the level of control that could be achieved by emission reduction systems in the rubber tire industry. Information was obtained from: (1) Available technical literature concerning emission reduction systems applicable for the control of VOC emissions in the rubber industry; (2) hood and enclosure design parameters from *Industrial Ventilation: A Manual of Recommended Practice;* (3) VOC use and process information supplied by the rubber tire industry; (4) visits to rubber tire manufacturing plants; (5) results of emission measurements and materials balance tests conducted by EPA; and (6) results of tests of VOC absorption by rubber conducted by industry.

Thermal and catalytic incinerators are effective VOC emission control devices for the types of solvents used in rubber tire manufacturing operations. A thermal incinerator operating at 870°C (1600°F) with 3/4 second residence time will typically achieve 98 percent VOC reduction efficiency or 20 parts per million on a continuous basis. A catalytic incinerator can be designed to achieve a 98 percent emission reduction efficiency on a continuous basis. In both cases, primary heat recovery should be employed to reduce operating costs.

Carbon absorbers have been demonstrated in the rubber processing industry, the pressure sensitive tape and label industry, and in other industries to achieve better than 95 percent removal of VOC emissions on a continuous basis when applied to exhaust gas streams similar to those generated in the rubber tire industry. Steam is usually employed for carbon bed regeneration, although any hot, non-reactive gas may be used.

The overall degree of continuous emission reduction achieved is not only a function of control device efficiency, but also of capture efficiency. A capture system contains VOC vapors at the emission source and directs them to the control device. VOC emissions from rubber tire plant operations result primarily from two activities: (1) application of cement or spray to rubber components; and (2) evaporation of VOC from cement or spray applied to a rubber component. Effective capture of VOC must account for both of these sources of VOC emissions.

Industry-supplied data show that at an undertread cementing operation about 70 percent of total emission is attributable to evaporation of VOC from application equipment, and about 30 percent is attributable to evaporation of VOC from rubber component surfaces. Similar data for tread end cementing and green tire spraying show that about 80 percent of total emissions is attributable to evaporation of VOC from application equipment, and about 20 percent is attributable to evaporation of VOC from rubber component surfaces. No such data are available to show a ratio for sidewall cementing or bead cementing. However, since sidewall cementing is a process very similar to undertread cementing, the ratios for these processes should be similar. Both tread end cementing and bead cementing involve the application of cement to relatively small surface areas. Therefore, EPA estimates that the ratio for bead cementing resembles the 80:20 ratio for tread end cementing.

To approach total vapor collection, a completely sealed enclosure of the emission source would be necessary. However, completely sealed enclosures are not practical in the rubber tire industry. Some affected facilities require intermittent worker access, usually for startup, maintenance, and repair purposes, while other facilities, such as manual tread end cementing, require continual worker access to the tire component.

Capture systems for cement application areas that require only intermittent access to the equipment, such as automatic tread end cementing, undertread cementing, sidewall cementing, and roller bead cementing, could consist of enclosures containing access ports equipped with self-closing doors. The capture system currently in use at one undertread cementing operation which was discussed earlier could be adapted for use at other undertread cementing operations as well as at automatic tread end cementing and sidewall cementing. Capture efficiencies of at least 80 percent could be achieved on a continuous basis.

Capture systems for cement application areas that require constant worker access could be similar to those used on portable chipping and grinding tables or soldering tables in other industries. These enclosures provide worker access and conveyor movement through side openings and are designed to minimize pressure losses through the openings. Associated with these cement application areas are conveyors that transport the cemented component. Solvent evaporates from the component while it is on the conveyor. To achieve maximum capture efficiency, the conveyors must be enclosed to allow for capture of the evaporated solvent. Conveyor enclosures such as those used for straight-line automatic buffing would be appropriate. These enclosures consist of hoods, with hinged access doors, that surround the top, sides, and underside of the conveyor. Each end of the hood is partially covered by flaps to minimize the opening size. Capture efficiencies of such enclosures are related to the percentage of total solvent that evaporates off the component while it is inside the enclosed area; however, efficiencies of at least 80 percent could be achieved on a continuous basis. The length of the enclosure would depend on the conveyor speed and the rate of evaporation of the solvent.

Dip bead cementing and inside and outside green tire spraying operations usually consist only of a cement or spray application area. For dip bead cementing, the beads are lowered into a tank which can be enclosed and the enclosure equipped with access ports. Beads could be placed in the enclosure through access ports which would remain open only until the beads were inside. The beads could be dipped into the cement, then raised, and would remain in the enclosure for enough time to allow maximum evaporation of solvent. For inside and outside green tire spraying, spray booths are usually used for application. Tires could remain inside the booths for a sufficient time after cement application to allow for maximum evaporation. Capture efficiencies of at least 80 percent could be achieved on a continuous basis.

The most effective capture systems applicable at reasonable cost to Michelin-B operations are similar to those described above for undertread and sidewall cementing operations and can achieve at least 80 percent capture

efficiency. Capture systems for Michelin-A and Michelin-C-automatic operations must allow for continual intrusion of mechanical devices, frequent worker access, and introduction of additional tire components into both the cement application and drying areas. These features limit capture efficiency at these operations. EPA has determined that the most effective capture system applicable at reasonable cost to Michelin-A and Michelin-C-automatic operations is capable of achieving 70 percent capture efficiency.

Technology exists for new and retrofit systems to achieve emission reductions of 75 percent at undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside and outside green tire spraying, and Michelin-B operations, and of 65 percent at Michelin-A and Michelin-C-automatic operations. Control devices demonstrated in other industries, which achieve an average removal or destruction efficiency of at least 95 percent, are available and can be used in conjunction with capture systems similar to those described above to achieve these levels of overall emission reduction.

Low Solvent Use Techniques

Emission reduction in the rubber tire industry can also be achieved by reducing cement usage. For tread end cementing and for bead cementing operations, each company reporting solvent use data has demonstrated that it can achieve an emission rate of 10 g/tire without the use of an emission reduction system. Solvent use rates as low as 2 g/tire have been reported for some plants.

Most of the low solvent use rates reported for tread end cementing operations were for those where cement is applied manually. However, low solvent use rates were also reported for operations where cement is applied by automatic spray arms. Most low solvent use rates for bead cementing operations were for facilities that use rollers to apply the cement. However, low solvent use rates were also reported for facilities that use a bead dipping method. EPA identified the following good work practices as helping to achieve low solvent use rates: minimizing the surface area for openings on cement pots at manual tread end cementing stations, covering cement tanks used for bead dipping, and minimizing overspray at automatic tread end cementing stations. In EPA's judgment, any new, modified, or reconstructed tread end or bead cementing operation can use 10 g/tire or less of VOC.

Substitution of Low VOC Content Materials

Green tire spraying represents another affected facility where significant emission reduction can be achieved without the use of emission reduction systems. Water-based sprays have been substituted for organic solvent-based sprays at inside and outside green tire spraying operations in a number of plants. Uncontrolled emission rates calculated for water-based inside tire sprays ranged from zero to 1.2 g/tire; uncontrolled emission rates calculated for water-based outside sprays ranged from zero to 9.3 g/tire. Product quality considerations have been cited by industry as the reason for retaining a small amount of VOC in some water-based sprays. Emissions from water-based green tire sprays are at least 90 percent less than average uncontrolled emissions from solvent-based sprays. Water-based sprays have been widely used under conditions representative of the industry and are available to all companies.

Selection of the Regulatory Alternatives

The regulatory alternatives considered in developing the standards of performance are based on the methods available to control the VOC emissions from the rubber tire industry. The three control methods considered were emission reduction systems (capture and control technology), low solvent use techniques, and low VOC content materials were considered. Impacts calculated for the regulatory alternatives were based on the use of carbon adsorber control devices where emission reduction systems are used. The proposed standards would allow the use of other types of control devices.

Regulatory Alternative I represents the regulatory baseline. State Implementation Plan (SIP) regulations for control of VOC emissions from rubber tire manufacturing plants are expected to be based on information presented in the control techniques guideline (CTG) document "Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires" (EPA–450/ 2–78–030). Therefore, Regulatory Alternative I has been set at the level of control recommended in the CTG. Under Regulatory Alternative I, VOC emissions from undertread cementing, tread end cementing, bead cementing, and inside and outside green tire spraying operations would be reduced by an average of about 70 percent. Sidewall cementing operations and Michelin-A, Michelin-B, and Michelin-C-automatic operations were not addressed in the CTG; therefore, Regulatory Alternative I does not limit VOC emissions from these affected facilities.

Emission reduction systems could be used for all affected facilities under Regulatory Alternative I to achieve a 70 percent emission reduction efficiency. Water-based sprays could be used at inside and outside green tire spraying facilities to meet or exceed a 70 percent emission reduction for Regulatory Alternative I.

Regulatory Alternative II is based upon the use of 75 percent efficient emission reduction systems for undertread cementing, sidewall cementing, tread end cementing, and bead cementing facilities, and upon the use of water-based sprays (90 percent emission reduction) for inside and outside green tire spraying facilities.

Since Michelin-A, Michelin-B, and Michelin-C-automatic operations are believed unique to Michelin Tire Corporation, they were not included in Regulatory Alternative II. Regulation of these operations was considered separately and is discussed under the section on "Best System of Continuous Emission Reduction."

Emission reductions achievable with water-based green tire sprays are significantly greater than the reductions achievable where organic solvent-based spray VOC emissions are reduced with the use of an emission reduction system. Water-based inside and outside green tire sprays have been adequately demonstrated in the industry and are available to all companies.

Environmental Impacts

Under Regulatory Alternative I (the regulatory baseline), emissions in the fifth year from new, modified, and reconstructed affected facilities would be about 3,120 Mg/year (3,430 tons/yr). The fifth year air quality impact of Regulatory Alternative II would be a reduction of about 1,700 Mg/yr (1,870 tons/yr) from baseline emissions. This is a reduction of 55 percent from the baseline.

Under each of the regulatory alternatives there could be effluent from steam regeneration of carbon adsorption beds and from overspray of inside and outside water-based green tire sprays. The VOC used in tire manufacturing is virtually insoluble in water. Therefore, most adsorbed VOC which escapes decanting and most VOC contained in overspray from inside and outside water-based green tire sprays will volatilize rather than remain in the water. Wastewater flow in 1985 under

Regulatory Alternative I would be about 4.8 million m^3/yr (1.3 billion gal/yr). Regulatory Alternative II would not increase the wastewater flow beyond the baseline.

Under Regulatory Alternative I, solid waste generated in 1985 would be about 238,000 Mg/yr (263,000 tons/yr). Regulatory Alternative II would not increase the quantity of solid waste generated. Solid waste could result from disposal of spent carbon from carbon adsorbers. Spent carbon can be recycled for other industrial uses, incinerated or disposed of by landfilling.

Energy Impacts

Energy use for pollution control equipment is based on the use of carbon adsorbers as the control technique for both regulatory alternatives. Under Regulatory Alternative I, facilities that are built, modified, or reconstructed by 1985 would use a total of about 2.5×10^{17} joules/yr of electricity for process, non-process, and pollution control purposes. Emission reduction to the level of Regulatory Alternative II would not increase the fifth-year energy usage.

Economic Impacts

A detailed analysis of the economic impact of the regulatory alternatives on the rubber tire manufacturing industry has been developed. Price increases or alternative decreases in return on investment (ROI) were determined to be reasonable for both regulatory alternatives, even under worst case conditions. In no case do capital costs of control exceed 1 percent of total investment requirements.

Regulatory Alternative I (baseline) fifth-year cumulative capital control costs would be about $16.3 million. Fifth-year annualized control costs without solvent recovery credits would be about $4.9 million; with solvent recovery credits, annualized control costs would be about $3.3 million.

Regulatory Alternative II fifth-year cumulative capital control costs would be about $7.9 million above the baseline. Fifth-year annualized costs without solvent recovery credits would increase above the baseline figure by about $2.3 million. The increase above the baseline in fifth-year annualized costs with solvent recovery credits would be about $1.5 million. Under full cost pricing, the product price would increase by about 0.14 percent under worst case conditions. Under full cost absorption, the ROI of new radial tire manufacturing plants may decline from an assumed rate of 5 percent to 4.93 percent in the worst case. In either situation the worst case is represented by the use of a separate capture system and a carbon adsorber control device at each affected facility where control equipment is used to reduce emissions. Neither impact would inhibit industry growth or replacement.

Best Systems of Continuous Emission Reduction

Regulatory Alternative II is technically and economically feasible for all affected facilities, would achieve greater emission reduction than Regulatory Alternative I, and would cause no adverse water, solid waste, or energy impacts. Capture and control technology is available to meet Regulatory Alternative II emission reductions for undertread cementing, sidewall cementing, tread end cementing, and bead cementing. Water-based inside and outside green tire sprays are available to all rubber tire manufacturers and are already is use by most companies at one or more plants. Water-based sprays can meet or exceed Regulatory Alternative II emission reductions. Alternative II would decrease overall VOC emissions from the affected facilities by about 55 percent below the baseline. Annualized costs without recovery credits would increase by about 47 percent; with recovery credits the increase would also be about 47 percent. The increase is due primarily to addition of sidewall cementing as an affected facility. Based on consideration of these factors, Regulatory Alternative II was judged superior to Regulatory Alternative I, and Regulatory Alternative II was used as the basis for selecting the best system of continuous emission reduction.

Data on existing plants indicate that there is a wide variation in solvent use rates (and a corresponding wide range in uncontrolled emission rates) from each type of affected facility. At some low solvent use rate, the cost of employing an emission rduction system could be unreasonably high for the amount of emission reduction achieved. Since the cost per unit of emission reduction achieved is an important factor in determining the reasonableness of control at facilities with low uncontrolled emissions, the Agency considered requiring less efficient emission reduction at facilities with low solvent use rates and/or establishing solvent use cutoffs, below which no level of control would be required. These choices would be considered if, indeed, there was a solvent use rate at which the control costs were judged to be unreasonably high when compared to the emmission reduction.

As a first step in the Agency's determination, annualized costs of applying a 75 percent efficient emission reduction system were calculated for the range of solvent use rates (numbers equal to the uncontrolled emission rates) at undertread cementing, sidewall cementing, tread end cementing, and bead cementing facilities. Annualized costs per megagram of VOC emission reduction were then plotted across the range of solvent use rates. (See Figures 8–1 and 8–2 in the BID.) It was assumed that a separate capture system and control device would be used for each operation and that flow rates and capital costs for each operation are constant over the entire range of solvent use rates. These costs do not represent the actual amounts of money spent for any particular plant. Rather, the costs are estimates which represent additional lines and plants likely to be built. The costs of VOC emission reduction systems will vary according to production rate, production equipment, plant layout, geographic location, and company preferences and policies.

As was expected, the annualized cost per megagram of emission reduction increases as the solvent use rate decreases. For solvent use rates above 50 grams per tire (g/tire), the total annualized costs for a carbon adsorber, assuming recovery credits, would be about $400 per megagram of VOC emissions reduced. As the solvent use rate decreases, through changes in process and manufacturing techniques, from 50 to 25 g/tire, the costs gradually increase to about $1250 per megagram. From 25 to 15 g/tire costs begin rising at a more rapid rate. However, there is no point on the curve at which a sharp upward swing is distinguishable. In the 25 to 15 g/tire range, costs begin to exceed $2,000 per megagram. Based on VOC emission control costs in other industries regulated by standards of performance, costs above $2,000 per megagram are generally considered to be unreasonably high (although, in some instances, there may be overriding considerations that affect the determination of reasonable cost).

To reduce the cost per megagram of pollutant removed for facilities within the 25 to 15 g/tire range, the Agency considered less effective and less costly emission reduction systems for those facilities. However, systems which are less than 75 percent efficient are not significantly lower in cost than 75 percent efficient systems. Consequently, requiring a level of control less than 75 percent efficient for facilities between 25 and 15 g/tire would not bring the cost per megagram significantly below the level generally considered unreasonably high.

To identify a cutoff point betwen 25 and 15 g/tire, the Agency considered other cost-related factors in selecting the exact cutoff. Specifically, the Agency considered the additional cost savings that would be achieved by establishing a cutoff at 25 g/tire rather than 15 g/tire. These cost savings are associated with: conservation of energy required to operate these systems, conservation of resources required for their operation and maintenance, and the encouragement of solvent conservation at facilities that can, or may develop methods to, reduce solvent usage to meet the cutoff limits rather than install capture and control systems. In light of these benefits and the general view that the Agency should set standards that encourage development of inherently low-emitting processes, and in the absence of a clearly identified VOC use rate at which the control costs per megagram reduction are clearly unreasonable, the Administrator is proposing 25 g/tire as the cutoff solvent use rate for undertread cementing and sidewall cementing facilities. While solvent use rates average about 63 g/tire for existing undertread cementing and 41 g/tire for existing sidewall cementing facilities, solvent use rates below 25 g/tire have been reported for each of these operations. The costs to reduce emissions by 75 percent at solvent use rates above 25 g/tire are considered reasonable, and 25 g/tire is an appropriate cutoff point considering both the benefits which accrue and the rapidly increasing cost per megagram associated with control at solvent use rates below 25 g/tire. Therefore, the best system of continuous emission reduction for undertread and sidewall cementing operations is an emission reduction system that achieves 75 percent overall control for facilities that use more than 25 g/tire, and low solvent techniques for facilities that use 25 g/tire or less. The 75 percent efficient emission reduction system was based on an 80 percent efficient capture system and a 95 percent efficient carbon adsorber control device. The proposed standards would also allow use of other types of control devices, and any combination of capture and control efficiencies that result in at least a 75 percent overall emission reduction.

A similar analysis was done for tread end cementing and bead cementing, and cutoffs of 25 and 20 g/tire respectively were selected. (See Figures 8–3 to 8–5 in BID.) These cutoffs were higher than VOC use rates for most existing tread end cementing and bead cementing facilities. No new tread end or bead cementing operations are expected to use more than the 25 or 20 g/tire cutoffs. Therefore, requiring those tread end cementing or bead cementing operations that use more than the cutoff amounts of VOC to reduce emissions by 75 percent would achieve no emission reduction. However, an alternative means of minimizing emissions has been adequately demonstrated to achieve effective control at tread end cementing and bead cementing facilities. Industry-supplied solvent use data show that each company has at least one plant that uses 10 g/tire or less at each of these operations. Further, many existing plants already use substantially less than 10 g/tire. Emission rates of 10 g/tire, or less, could be achieved without the use of emission reduction systems. A 10 g/tire emission limit for all tread end cementing and bead cementing operations would result in a greater nationwide emission reduction than would be achieved by requiring installation of a 75 percent efficient emission reduction system for those facilities that use more than the cutoff amounts of VOC. Since no emission reduction systems would be used, capital and operating costs, and water, solid waste and energy impacts would be reduced. For the above reasons, the best system of continuous emission reduction for tread end and bead cementing operations is low-solvent techniques that use less than 10 g/tire.

The best system of continuous emission reduction for inside green tire spraying and outside green tire spraying operations is water-based green tire sprays. Water-based green tire sprays result in lower emissions than when solvent-based sprays are used in conjunction with emission reduction systems.

Choosing low solvent use techniques as the best system of continuous emission reduction for tread cementing and bead cementing operations, and setting 25 g/tire cutoffs for undertread cementing and sidewall cementing operations result in the impacts of the proposed standards being different from the impacts of Regulatory Alternative II. Under the proposed standards, baseline emissions from undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying would be reduced by about 1,430 Mg (1,570 tons) in the fifth year, a 46 percent reduction. This emission reduction would be about 9 percent less than the emission reduction estimated for these affected facilities under Regulatory Alternative II. The amounts of energy used, and water pollution and solid waste generated under the proposed standards would be less than under Regulatory Alternative II.

Because the proposed standards would not in most cases require the use of emission reduction systems for affected facilities other than undertread cementing and sidewall cementing, capital and annualized costs would be less than those for Regulatory Alternatives I and II. Fifth-year cumulative capital costs would be about $10.8 million above uncontrolled levels, about 34 percent less than the baseline and about 55 percent less than Regulatory Alternative II. Annualized costs in the fifth year without recovery credits would be about $3.4 million above uncontrolled levels; with recovery credits the fifth-year annualized cost would be about $1.5 million above uncontrolled levels. These annualized costs represent reductions from the baseline of about 31 percent and 54 percent, respectively; they represent cost reductions from Regulatory Alternative II of about 53 percent and 69 percent, respectively. The average product price would rise about 0.26 percent above uncontrolled levels in the worst case. The product price is not expected to increase above baseline levels. Under full cost absorption, using uncontrolled levels as a base comparison, the ROI would decrease from an assumed rate of 5.17 percent to about 5.04 percent under worst case conditions. The ROI is not expected to decrease below baseline levels.

Based on EPA's analysis of information submitted by Michelin Tire Corporation, the Agency has determined the best technological system of continuous emission reduction for the Michelin-B operation to be a VOC capture system and carbon adsorber control device that will achieve a 75 percent overall emission reduction. For Michelin-A and Michelin-C-automatic operations, EPA has determined the best technological system of emission reduction to be a VOC capture system and carbon adsorber control device that will achieve a 65 percent overall emission reduction. EPA has determined that these systems are available at reasonable cost and do not impose unreasonable adverse water, solid waste, or energy impacts. The proposed standards would also allow the use of control devices other than carbon adsorbers.

Selection of Format of Proposed Standard

Concentration, mass units, and efficiency were considered as formats for the proposed standards. A concentration format for the proposed

standards would limit the amount of VOC per unit volume of exhaust gas discharged into the atmosphere but not the total mass of VOC discharged. The advantage of the concentration format is that the test method would not require measurement of gas flow or composition of the solvent. The primary disadvantage of using a concentration format is that solvent application rates (hence emissions) are variable, and, as a result, vapor concentrations also vary widely. A further complication is the assertion by some industry representatives that air flow rates affect product quality, and companies may therefore differ in their ventilation specifications. For these reasons, concentration units were rejected as a format for the proposed standards.

A second option is to express the proposed standards in terms that limit VOC emissions to a maximum allowable mass per unit of production. A mass standard for this industry could be expressed in grams of VOC emitted per tire processed (g/tire). A g/tire standard is suitable where low solvent use techniques are employed to minimize VOC emissions at tread end cementing and bead cementing facilities, and where water-based sprays are employed to minimize VOC emissions at inside and outside green tire spraying facilities. As a result, the proposed standards for tread end cementing, bead cementing, and green tire spraying facilities are expressed as grams of VOC emitted per tire processed (g/tire).

Gram per tire emission limits were not considered to be appropriate where the best system of continuous emission reduction is an emission reduction system. Establishing g/tire emission limits based on reduction from the highest uncontrolled emission rates would ensure achievability of the standards but would require installation of the best system of continuous emission reduction only on the few facilities with the highest emission rates. Facilities with lower uncontrolled rates could achieve the standards without using best control technology. Gram per tire emission limits based on reduction from less than the highest (e.g., the average) uncontrolled emission rates could result in limits that may not be achievable by all facilities, especially those with the highest uncontrolled emissions. Further, some industry representatives expressed concern at the December 2, 1980, meeting of the National Air Pollution Control Techniques Advisory Committee that gram per tire emission limits based on a reduction from even the highest reported emission rate may not be achievable. This concern was based on the possibility that a new facilty could have an uncontrolled emission rate higher than those reported for existing facilities. These problems could be overcome by choosing an efficiency format, which would reflect the use of capture and control systems irrespective of the uncontrolled emission rate at the facility. Therefore, an efficiency format was chosen for the standards for undertread and sidewall cementing operations that use more than 25 g/tire and for Michelin-A, Michelin-B, and Michelin-C-automatic operations. To ensure that all aspects of the issue have been considered adequately, the Agency requests comments from interested parties about the recommended percent reduction format.

Selection of Numerical Emission Limits

Based on the best systems of continuous emission reduction, the proposed standards consist of the following numerical emission limits. Each undertread cementing operation and each sidewall cementing operation where more than 25 grams of VOC are used per tire would be required to reduce emissions by at least 75 percent. Undertread cementing and sidewall cementing operations that use less than 25 g/tire would not be required to install emission reduction systems. Each tread end and bead cementing facility would be required to limit emissions to no more than 10 g/tire. Each inside green tire spray operation would be required to limit emissions to no more than 1.2 g/tire, and each outside green tire spray operation would be required to limit emissions to no more than 9.3 g/tire. Each Michelin-B operation would be required to reduce emissions by at least 75 percent. Each Michelin-A operation and each Michelin–C-automatic operation would be required to reduce emissions by at least 65 percent. As stated above, these emission limits reflect application of the best demonstrated system of emission reduction at each affected facility in a rubber tire manufacturing plant.

Rubber tire industry representatives have requested EPA to consider adding a provision to the proposed standards which would allow a plant owner or operator the option of meeting an emission limit calculated for a group of individual affected facilities rather than individual limits for each affected facility. The emission limit for the group would be calculated by combining prescribed emission limits for individual affected facilities and, for purposes of the following discussion, is termed an NSPS compliance bubble, i.e., a tradeoff of emissions among affected facilities for compliance purposes.

EPA believes a compliance tradeoff for rubber tire manufacturing may be appropriate and may be consistent with Section 111 of the Clean Air Act and is considering incorporating such a tradeoff in the standards before promulgation. Standards currently proposed or promulgated under Section 111 of the Act do not contain such a provision. EPA is in the early stages of evaluating a general policy for Section 111 standards which, if adopted, would provide for compliance tradeoffs where determined appropriate for plants containing multiple affected facilities. Until EPA establishes a policy for Section 111 standards in general, the Agency is not prepared to propose such a policy in the rubber tire standard. However, EPA will make a decision on this policy before the rubber tire standard is promulgated. Therefore, EPA is requesting comments on the use of a compliance tradeoff as a part of this package. It is anticipated that any compliance tradeoff incorporated into the rubber tire standard would allow aggregation of individual emission limits only for those facilities within a plant which are subject to the standards (newly constructed, modified, or reconstructed) and which are present in that specific plant.

Modification/Reconstruction Considerations

Modification, as defined in § 60.14 of Chapter I, Title 40 of the Code of Federal Regulations (CFR), may occur when any physical or operational change to an existing facility results in an increase in emission rate to the atmosphere of any pollutant to which a standard applies. However, there are several changes that result in increased emission rates which are exempt from the modification provision. Once such provision is for a production rate increase that is accomplished without a "capital expenditure" as defined in § 60.2.

The production rate of a rubber tire manufacturing plant is usually directly related to the capacities of the tire building or curing press operations, which are not subject to the proposed standards. Other operations, including operations selected as affected facilities, normally run at less than full capacity, and their production rates can usually be increased up to full capacity without a capital expenditure. Most changes expected to occur would be of this nature. As a result, few, if any, modifications are expected.

Reconstruction, as defined in § 60.15 of Chapter I, Title 40 of the CFR, occurs

when the fixed capital cost of replacement components of an existing facility exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility and compliance is technically and economically feasible. Upon replacement of components, the Administrator will determine, on a case-by-case basis, whether a reconstruction has taken place and whether the existing facility becomes an affected facility under the NSPS.

Investigation of the rubber tire manufacturing industry has indicated that repair or rebuilding of an existing facility where costs would exceed 50 percent of the cost of replacing the facility is unusual.

Selection of Performance Test Methods

The proposed standards would require two types of performance tests, initial performance tests and monthly performance tests. Initial performance tests would be required for all affected facilities except those facilities that demonstrate compliance with the percent emission reduction requirements by meeting certain equipment specifications. These facilities would conduct an initial performance test on the control device but not on the capture system. However, the owner or operator would be required to state in the initial compliance report whether or not each capture system specification has been met. Monthly performance tests would be required for most, but not all, affected facilities.

Monthly performance tests were chosen, where practical, to ensure continual compliance. Requiring only an initial performance test would somewhat reduce the monitoring workload on the owner or operator, but would not be as useful to either the owner or operator or to the Agency for ensuring continual compliance. In addition, most of the data required for monthly performance tests are routinely collected and maintained by the source as part of production and inventory records. Performance tests that consist of costly stack testing are not required on a monthly basis in order for EPA to ensure that compliance costs are maintained at a reasonable level.

Monthly performance tests would be required to determine compliance with each of the g/tire limits. Whether or not monthly performance tests would be required to determine compliance with the percent emission reduction standards depends primarily on the type of control device used, and then on the method of demonstrating compliance. If the control device recovers VOC and compliance is demonstrated by achieving a 75 percent emission reduction, monthly performance tests would be required. If the control device recovers VOC but compliance is demonstrated by meeting the equipment specifications, monthly performance tests would not be required. If the control device destroys VOC, monthly performance tests would not be required, regardless of the method used to demonstrate compliance.

Performance test procedures for each type of affected facility vary depending on the format of the standard (g/tire or percent emission reduction) and the type of emission control device, if any, that is used. The performance test procedures are outlined below.

For each affected facility that complies with a g/tire limit, the mass of VOC emitted per tire processed for a calendar month would be determined during the initial performance test. This determination would necessitate a materials balance calculation if compliance is achieved by reducing solvent usage or by using a control device that recovers VOC. If a control device that destroys VOC is used, the determination would require a stack test.

Monthly performance tests for facilities that comply with g/tire limits would be the same as the initial performance test except for those affected facilities where a control device that destroys VOC is used. For these affected facilities, the overall emission reduction efficiency determined in the initial performance test could be used for monthly performance tests until the Administrator requests that the efficiency be redetermined, or the operating conditions of the system are changed. The rationale for this provision is that a requirement for an owner or operator to conduct monthly stack tests could result in unreasonable costs.

For each affected facility for which the owner or operator choose to use an emission reduction system with a control device that recovers VOC to meet a percent reduction requirement, the overall efficiency of the emission reduction system for a calendar month would be determined during the initial performance test. This would be done by comparing the mass of VOC recovered by the emission reduction system to the mass of VOC used at the affected facility. No stack testing would be required. Monthly performance tests would be the same as the initial performance test.

For each affected facility for which the owner or operator chooses to use an emission reduction system that destroys VOC to meet a percent reduction requirement, the overall efficiency of the emission system would be determined by a stack test performed during the initial performance test. No monthly performance test would be required. The emission reduction system efficiency would be redetermined by a stack test when requested by the Administrator or when the operating conditions of the system are changed.

Data necessary to calculate the VOC content of cement or spray material would be obtained from formulation data supplied by the manufacturer of the spray, or through the analysis of each cement or spray material by Reference Method 24 "Determination of Volatile Organic Compound Content of Paint, Varnish, Lacquer, or Related Products" or an alternative or equivalent method acceptable to the Administrator. Reference Method 24 would serve as the reference method for the calculation of the VOC content of the cement or spray materials in case of dispute.

Alternative Compliance Method

As an alternative method for demonstrating compliance with the proposed standards for undertread cementing, sidwall cementing, or Michelin-B operations, the owner or operator may elect to meet equipment specifications for capture systems used in conjunction with a 95 percent efficient control device. These specifications include enclosure of cement application and drying areas, maintenance of 100 feet per minute face velocity through each permanent opening to an enclosure, and an upper limit on the area of permanent openings to an enclosure. The Administrator has determined that meeting these specifications in conjunction with operating a 95 percent efficient control device is an acceptable means of demonstrating compliance.

An initial performance test of the control device would be required within 180 days after initial start-up of the affected facility. This test would be repeated when requested by the Administrator or when control device operating conditions are changed. The owner or operator would be required to continuously monitor the control device as described in the section on Selection of Monitoring Requirements. No monthly performance tests would be required because the cost of monthly stack tests could be unreasonable.

Neither an initial performance test nor monthly performance tests would be required for the capture system. However, the owner or operator would be required to include in the initial compliance report a statement

indicating whether each of the equipment specifications has been met.

Selection of Monitoring Requirements

Monitoring requirements are included in standards of performance to provide a means for ensuring proper operation and maintenance of emission reduction systems and to provide plant and enforcement personnel with sufficient data to determine compliance with the proposed standards.

Where thermal incineration is used to achieve compliance, the owner or operator would be required to install, calibrate, operate, and maintain a monitoring device to continuously record the combustion (firebox) temperature of the control device. If catalytic incineration were used, the owner or operator would be required to install a monitoring device to continuously record the gas temperature both upstream and downstream of the catalyst bed. The owner or operator would be required to continually record these values.

Where a control device that recovers VOC is used to achieve compliance with a percent reduction requirement by meeting equipment specifications, the owner or operator would be required to install a continuous monitoring device. Equipment is available to monitor the operational variables associated with solvent recovery system operation. Monitoring of operations indicates whether the solvent recovery system is being properly operated and maintained, and whether the system is continuously reducing VOC emissions to an acceptable level. The variable which would yield the best indication of system operation is VOC concentration at the solvent recovery system outlet.

EPA has not yet developed performance specifications for solvent recovery system monitors, but a program is underway to develop these specifications. Consequently, until EPA proposes and promulgates monitor performance specifications, owners and operators subject to the requirement to install a continuous monitor on the solvent recovery system will not be required to do so.

Recordkeeping and Reporting Requirements

The proposed standards would require that the owner or operator maintain records of all data and calculations used to determine VOC emissions from each affected facility for at least two years. For each affected facility which uses thermal incineration to achieve compliance, continuous records of the incinerator combustion chamber temperature must be maintained at the source for a period of at least two years. Where catalytic incineration is used, continuous records of the gas temperature, both upstream and downstream of the incinerator catalyst bed, must be maintained at the source for a period of at least two years. Where a control device that recovers VOC is used to achieve compliance with a percent reduction requirement by meeting the equipment specifications, the owner or operator must maintain at the source for a period of at least two years continuous records of VOC concentration at the solvent recovery system outlet.

The proposed standards would require the owner or operator to maintain records of all 3-hour periods during which the average temperature of a thermal incinerator is more than 28°C (50°F) less than the average temperature during the most recent performance test at which the destruction efficiency was determined. For catalytic incinerators the owner or operator would maintain records of all 3-hour periods during which the average temperature immediately before the catalyst bed is more than 28°C (50°F) less than the average temperature during the most recent performance test at which the destruction efficiency was determined or the temperature difference across the catalyst bed is less than 80 percent of the average temperature difference during the most recent performance test at which the destruction efficiency was determined. Where a control device that recovers VOC is used to achieve compliance with a percent reduction requirement by meeting the equipment specifications, the owner or operator must maintain records of all 3-hour periods during which the average VOC concentration from the outlet of the solvent recovery system is greater than the average value measured during the most recent test of the control device.

The proposed standards would require notification reports and reports of all initial performance tests, as required by the General Provisions.

Impacts of Reporting Requirements

A reports impact analysis for the rubber tire manufacturing industry was prepared. The purpose of the analysis is to estimate the economic impact of the reporting and recordkeeping requirements that would be imposed by the proposed standards and by those appearing in the General Provisions of 40 CFR Part 60. Included in the analysis are the rationale for the selection of the proposed requirements, an evaluation of the major alternatives considered prior to the selection of the proposed requirements, and a description of the information required by the General Provisions and by the proposed standards. A copy of the reports impact analysis is included in the rubber tire manufacturing docket (EPA Docket No. A-80-9-II-B-14).

Based on the reports impact analysis, a maximum of 3 person-years would be required industry-wide to comply with the recordkeeping and reporting requirements through the first five years of applicability.

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before this rulemaking can be promulgated as final. The reporting/recordkeeping requirements associated with this standard have been submitted to OMB for approval.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for those portions of the docket excluded from the record under Section 307(d)(7)(A)).

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for rubber tire manufacturing plants was preceded by the Administrator's determination (40

CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

It should be noted that standards of performance for new stationary sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. (Section 111(a)(1).)

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that a new or modified source constructed in an area where ambient pollutant concentrations exceed the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level that reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3), for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard (Section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in Section 169(1)) employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIPs) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reduction than those required by standards of performance for new sources.

States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

"Major Rule" Determination. Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annualized costs of the standard, compared to an uncontrolled situation, would be about $3.4 million in the worst case. The product wholesale price is not expected to increase. The Agency has therefore concluded that the proposed regulation is not a "major rule" under Executive Order 12291.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Docket No. A-80-9, EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the SIC category 3011, "Tires and innertubes," is one that has 1,000 employees or less. This is the criterion to qualify for SBA loans or for the purpose of government procurement. Of the 16 tire manufacturing companies, 3 existing companies have less than 1,000 employees. An industry representative has stated that employment in a typical new plant is expected to average 1,400, with a range of 1,000 to 2,000. Thus, it is unlikely that any new plant would be considered a small entity. Existing small entities are not expected to become subject to the NSPS through new construction, modification, or reconstruction. However, if a small business did become subject to the NSPS, the cost of compliance would have minimal impacts.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires.

Dated: January 5, 1983.

John W. Hernandez, Jr.,

Acting Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart BBB to read as follows:

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

Sec.

60.540 Applicability and designation of affected facilities.
60.541 Definitions.
60.542 Standards for volatile organic compounds.
60.543 Performance test and compliance provisions.
60.544 Monitoring of emissions and operations.
60.545 Reporting and recordkeeping requirements.
60.546 Reference methods and procedures.

Authority: Secs. 111 and 301(a), Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), unless otherwise noted.

* * * * *

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

§ 60.540 Applicability and designation of affected facilities.

(a) The provisions of this subpart apply to the following affected facilities in rubber tire manufacturing plants: each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each inside green tire spraying operation, each outside green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation.

(b) The provisions of this subpart apply to each affected facility which is identified in paragraph (a) of this section and which commences construction or modification after January 20, 1983.

(c) The provisions of § 60.544(c), § 60.545(c)(3), § 60.545(f), and § 60.545(h) will not apply until EPA has established and promulgated performance specifications for the VOC concentration monitoring device. After the promulgation of performance specifications, these provisions will apply to each affected facility under paragraph (b) of this section.

§ 60.541 Definitions.

(a) All terms which are used in this subpart and are not defined below are given the same meaning as in the Act and in Subpart A of this part.

(1) "Bead" means rubber covered strands of wire, wound into a circular form, which ensure a seal between a tire and the rim of the wheel onto which the tire is mounted. Each tire usually contains two beads.

(2) "Bead cementing operation" means the system which is used to apply cement to the bead rubber before or after it is wound into its final circular form. A bead cementing operation consists of a cement application station, such as a dip tank, spray booth and nozzles, cement through and roller or swab applicator; and all other equipment necessary to apply cement to wound beads or bead rubber and to allow evaporation of solvent from cemented beads.

(3) "Component" means a piece of tread, combined tread/sidewall, or separate sidewall rubber of the length needed to manufacture a tire of the size and type for which the component is produced.

(4) "Drying area" means the area where VOC from applied cement or green tire sprays is allowed to evaporate.

(5) "Enclosure" means a structure, designed to contain evaporated VOC, which surrounds a cement, solvent, or spray application area, and/or drying area and ducts contained VOC to a control device(s). Enclosures may have permanent and temporary openings.

(6) "Green tire" means an assembled, uncured tire.

(7) "Inside green tire spraying operation" means the system used to apply a mold release agent and lubricant to the inside of green tires to facilitate the curing process and prevent rubber from sticking to the curing press. Sprays may be organic solvent-based or water-based. An inside green tire spraying operation consists of the inside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork.

(8) "Michelin-A operation" means that operation where cement is applied which is identified as Michelin-A in the Emission Standards and Engineering Division confidential file as referenced in Docket A-80-9-II-B-12.

(9) "Michelin-B operation" means that operation where cement is applied which is identified as Michelin-B in the Emission Standards and Engineering Division confidential file as referenced in Docket A-80-9-II-B-12.

(10) "Michelin-C-automatic operation" means that operation where cement is automatically applied which is identified as Michelin-C-automatic in the Emission Standards and Engineering Division confidential file as referenced in Docket A-80-9-II-B-12.

(11) "Outside green tire spraying operation" means the system used to apply a mold release agent to the outside of green tires to facilitate the curing process and prevent rubber from sticking to the curing press. Sprays may be organic solvent-based or water-based. An outside green tire spraying operation consists of the outside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork.

(12) "Permanent opening" means an opening designed into an enclosure to allow tire components to pass through the enclosure by conveyor or other mechanical means, to provide access for permanent mechanical or electrical equipment, or to direct air flow through the enclosure. A permanent opening is not equipped with a door or other means of obstruction.

(13) "Sidewall cementing operation" means the system used to apply cement to a continuous strip of sidewall component. A sidewall cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to sidewall strips and to allow evaporation of solvent from cemented sidewall.

(14) "Temporary opening" means an opening into an enclosure that is equipped with a means of obstruction, such as a door, window, or port, which is normally closed.

(15) "Tire" means any agricultural, airplane, industrial, mobile home, light-duty truck and/or passenger vehicle tire which has a bead diameter less than or equal to 0.5 meter (m) [19.7 inches] and cross section dimension less than or equal to 0.325 m (12.8 in.) and is mass produced in an assembly-line fashion.

(16) "Tread end cementing operation" means the system used to apply cement to one or both ends of tread or combined tread/sidewall component. A tread end cementing operation consists of a cement application station and all other equipment, such as the cement supply

system and feed and takeaway conveyors, necessary to apply cement to tread ends and to allow evaporation of solvent from cemented tread ends.

(17) "Undertread cementing operation" means the system used to apply cement to a continuous strip of tread or combined tread/sidewall component. An undertread cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to tread or combined tread/sidewall strips and to allow evaporation of solvent from cemented tread or combined tread/sidewall.

(18) "VOC emission control device" means equipment that destroys or recovers VOC.

(19) "VOC emission reduction system" means a system composed of an enclosure, hood, or other device for containment and capture of VOC emissions and a VOC emission control device.

(b) Notations used under this subpart are defined below:

C_a = Concentration of VOC in gas stream in vents after control device (parts per million by volume)

C_b = concentration of VOC in gas stream in vents before control device (parts per million by volume)

C_f = concentration of VOC in gas stream in vents from affected facility to atmosphere (parts per million by volume)

D_c = density of cement or spray material (grams per litre)

D_r = density of VOC recovered by an emission control device (grams per litre)

E = emission control device efficiency, inlet versus outlet (fraction)

F_c = capture efficiency, VOC captured and routed to one control device versus total VOC used for an affected facility (fraction)

F_o = fraction of total mass of VOC used in a calendar month by all facilities served by a common cement or spray material distribution system that is used by a particular affected facility served by the common distribution system

G = monthly average mass of VOC used per complete tire processed for a particular affected facility (grams per tire)

L_c = volume of cement or spray material used for a calendar month (litres)

L_r = volume of VOC recovered by an emission control device (litres)

M = total mass of VOC used for a calendar month by all facilities served by a common cement or spray material distribution system (grams)

M_o = total mass of VOC used at an affected facility for a calendar month (grams)

M_r = mass of VOC recovered by an emission control device (grams)

N = mass of VOC emitted to the atmosphere per complete tire processed for an affected facility for a calendar month (grams per tire)

Q_a = volumetric flow rate in vents after control device (dry standard cubic meters per hour)

Q_b = volumetric flow rate in vents before control device (dry standard cubic meters per hour)

Q_f = volumetric flow rate in vents from affected facility to atmosphere (dry standard cubic meters per hour)

R = overall efficiency of an emission reduction system (fraction)

T_o = total number of tires processed at a particular affected facility for a calendar month

W_o = weight fraction of VOC in a cement or spray material.

§ 60.542 Standards for volatile organic compounds.

(a) On and after the date on which § 60.8(b) requires a performance test to be completed, each owner or operator subject to the provisions of this subpart shall not cause to be discharged into the atmosphere more than:

(1) For each undertread cementing operation:

(i) 25 percent of the VOC used (75 percent emission reduction) for each calendar month if the operation uses more than 25 grams of VOC per tire processed; or

(ii) 25 grams of VOC per tire processed for each calendar month if the operation uses 25 grams or less of VOC per tire processed and does not employ a VOC emission reduction system.

(2) For each sidewall cementing operation:

(i) 25 percent of the VOC used (75 percent emission reduction) for each calendar month if the operation uses more than 25 grams of VOC per tire processed; or

(ii) 25 grams of VOC per tire processed for each calendar month if the operation uses 25 grams or less of VOC per tire processed and does not employ a VOC emission reduction system.

(3) For each tread end cementing operation: 10 grams of VOC per tire process for each calendar month.

(4) For each bead cementing operation: 10 grams of VOC per tire processed for each calendar month.

(5) For each inside green tire spraying operation: 1.2 grows per tire processed for each calendar month.

(6) For each outside green tire spraying operation: 9.3 grams per tire processed for each calendar month.

(7) For each Michelin-A operation: 35 percent of the VOC used for each calendar month (65 percent emission reduction).

(8) For each Michelin-B operation: 25 percent of the VOC used for each calendar month (75 percent emission reduction).

(9) For each Michelin-C-automatic operation: 35 percent of the VOC used for each calendar month (65 percent emission reduction).

§60.543 Performance test and compliance provisions.

(a) Section 60.8(d) does not apply to the monthly performance test procedures required by this subpart. Section 60.8(d) does apply to initial performance tests. Section 60.8(f) does not apply when Reference Method 24 is used.

(b) The owner or operator of an affected facility shall conduct an initial performance test as required under § 60.8(a) except as described in paragraph (h) of this section. The owner or operator of an affected facility shall thereafter conduct a performance test each calendar month except as described in paragraphs (e)(1) and (h) of this section. Initial and monthly performance tests shall be conducted according to the procedures in this section.

(c) For each undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying operation which does not use a VOC emission reduction system, the owner or operator shall use the following procedure to determine compliance with the applicable g/tire limit specified under § 60.542(a).

(1) Calculate the total mass of VOC (M_o) used at the affected facility for the calendar month by the following procedure.

(i) For each affected facility for which cement or spray is delivered in batch or via a distribution system which serves only that affected facility:

$$M_o = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi}$$

where: n equals the number of different cements or sprays used during the calendar month.

(ii) For each affected facility for which cement or spray is delivered via a common distribution system which also

serves other affected or existing facilities.

(A) Calculate the total mass (M) of VOC used for all of the facilities served by the common distribution system for the calendar month:

$$M=\sum_{i=1}^{n} L_{si}D_{si}W_{si}$$

where: n equals the number of different cements or sprays used during the calendar month.

(B) Determine the fraction (F_o) of M used by the affected facility by comparing the production records and process specifications for the material cemented or sprayed at the affected facility for the calendar month to the production records and process specifications for the material cemented or sprayed at all other facilities served by the common distribution system for the calendar month or by another procedure acceptable to the Administrator.

(C) Calculate the total monthly mass of VOC(M_o) used by the affected facility:

$$M_o=MF_o$$

(2) Determine the total number of tires (T_o) processed at the affected facility for the calendar month by the following procedure.

(i) For undertread cementing, T_o equals the number of tread or combined tread/sidewall components which receive an application of undertread cement.

(ii) For sidewall cementing, T_o equals the number of sidewall components which receive an application of sidewall cement, divided by 2.

(iii) For tread end cementing, T_o equals the number of tread or combined tread/sidewall components which receive an application of tread end cement.

(iv) For bead cementing, T_o equals the number of beads which receive an application of bead cement, divided by 2.

(v) For inside green tire spraying, T_o equals the number of green tires which receive an application of inside green tire spray.

(vi) For outside green tire spraying, T_o equals the number of green tires which receive an application of outside green tire spray.

(3) Calculate the mass of VOC used per tire processed (G) by the affected facility for the calendar month:

$$G=\frac{M_o}{T_o}$$

(4) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the calendar month:

$$N=G$$

(5) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the applicable g/tire limit specified under § 60.542(a), the affected facility is in compliance.

(d) The owner or operator shall use the following procedure for each tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying operation which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with the applicable g/tire limit specified under § 60.542(a).

(1) Calculate the mass of VOC used per tire processed (G) for the affected facility for the calendar month as described under § 60.543(c)(3).

(2) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the calendar month:

$$N=G(1-R)$$

For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed in (d)(2) (i), (ii), and (iii) of this section. In subsequent months, the owner or operator may use the most recently determined overall reduction efficiency (R) for the performance test providing the control device and capture system operating conditions have not changed. The procedure in (d)(2) (i), (ii), and (iii) of this section shall be repeated when directed by the Administrator or when the owner or operator elects to operate the control device or capture system at conditions different from the most recent determination of overall reduction efficiency.

(i) Determine the fraction (F_c) of total VOC used for the affected facility which enters the control device, the owner or operator of an affected facility shall construct a temporary total enclosure around the application and drying areas during the performance test for the purpose of capturing fugitive VOC emissions and use the following equation:

$$F_c=\frac{\sum_{i=1}^{m} C_{hi}Q_{hi}}{\sum_{i=1}^{m} C_{hi}Q_{hi}+\sum_{j=1}^{n} C_{fj}Q_{fj}}$$

where: m is the number of vents from the affected facility to the control device and n is the number of vents from the affected facility to the atmosphere.

(ii) Determine the destruction efficiency (E) of the control device by using values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the control device by the following equation:

$$E=\frac{\sum_{i=1}^{n} Q_{bi}C_{bi}-\sum_{j=1}^{m} Q_{aj}C_{aj}}{\sum_{i=1}^{n} Q_{bi}C_{bi}}$$

where: n is the number of vents before the control device, and m is the number of vents after the control device.

(iii) Determine the overall reduction efficiency (R) using the following equation:

$$R=EF_c$$

(3) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the applicable g/tire limit specified under § 60.524(a), the affected facility is in compliance.

(e) The owner or operator shall use the following procedure for each undertread cementing, sidewall cementing, Michelin-A, Michelin-B, and Michelin-C-automatic affected facility which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with the applicable percent emission reduction requirement specified under § 60.542(a).

(1) For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed in § 60.543(d)92)(i)—(iii). The performance test shall be repeated using this same procedure when directed by the Administrator or when the owner or operator elects to operate the control device or capture system at conditions different from the most recent determination of overall reduction efficiency. No monthly performance tests are required.

(2) Each undertread cementing, sidewall cementing, or Michelin-B facility where R is greater than or equal to 0.75 is in compliance.

(3) Each Michelin-A or Michelin-C-automatic facility where R is greater than or equal to 0.65 is in compliance.

(f) The owner or operator shall use the following procedure for each tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying affected facility which uses a

VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with the applicable g/tire limits specified under § 60.542(a).

(1) Calculate the mass of VOC used per tire processed (G) at the affected facility for the calendar month as described under § 60.543(c)(3).

(2) Calculate the total mass of VOC recovered (M_r) from the affected facility for the calendar month using the following equation:

$M_r = L_r D_r$

(3) Calculate the overall reduction efficiency (R) for the VOC emission reduction system for the calendar month using the following equation:

$$R = \frac{M_r}{M_o}$$

(4) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the calendar month using the following equation:

$N = G(1-R)$

(5) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the applicable g/tire limit specified under § 60.542(a), the affected facility is in compliance.

(g) The owner or operator shall use the following procedure for each undertread cementing, sidewall cementing, Michelin-A, Michelin-B, and Michelin-C-automatic affected facility which uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with the applicable percent reduction requirement specified under § 60.542(a).

(1) Calculate the total mass of VOC used at the affected facility (M_o) for the calendar month as described under § 60.543(c)(1).

(2) Calculate the total mass of VOC recovered (M_r from the affected facility for the calendar month using the following equation:

$M_r = L_r D_r$

(3) Calculate the overall reduction efficiency (R) for the VOC emission reduction system for the calendar month using the following equation:

$$R = \frac{M_r}{M_o}$$

(4) Each undertread cementing, sidewall cementing, or Michelin-B facility where R is greater than or equal to 0.75 is in compliance.

(5) Each Michelin-A or Michelin-C-automatic facility where R is greater than or equal to 0.64 is in compliance.

(h) Rather than demonstrate compliance with the provisions of § 60.542(a)(1),(2), or (8) using the performance test procedures described in paragraphs (e) and (g) of this section, an owner or operator of an undertread cementing, sidewall cementing, or Michelin-B affected facility that uses a VOC emission reduction system may demonstrate compliance by meeting the equipment design and performance specifications listed in (1)–(5) below and by conducting a performance test to demonstrate compliance with (5) below. The owner or operator shall conduct this performance test of the control device efficiency (as specified in § 60.8(a)) not later than 180 days after initial startup of the affected facility. The Administrator has decided that meeting the capture system design and performance specifications, in conjunction with operating a 95 percent efficient control device, is an acceptable means of demonstrating compliance with the standard. Therefore, in accordance with § 60.8(b), the Administrator has waived the requirement for a performance test on the enclosure (as required by § 0.8(a)). No monthly performance tests are required.

(1) The cement application and drying area of the affected facility shall be contained in an enclosure which meets the criteria in paragraphs (h) (2), (3), and (4) of this section;

(2) The drying area shall be enclosed between the application area and the water bath or to the extent necessary to contain all tire components for at least 30 seconds after cement application, whichever distance is less;

(3) A minimum face velocity of 100 feet per minute shall be maintained through each permanent opening into an enclosure;

(4) The total area of all permanent openings into the enclosure shall not exceed the area that would be necessary to maintain the VOC concentration of the exhaust gas stream at 25 percent of the lower explosive limit (LEL) under the following conditions:

(i) The affected facility is operating at maximum solvent use rate;

(ii) The face velocity through each permanent opening is 100 feet per minute;

(iii) All temporary openings are closed.

(5) All captured VOC are ducted to a VOC emission control device which achieves at least 95 percent destruction or recovery efficiency. To determine the efficiency (E) of the control device, for the initial performance test, use values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the control device by the following equation:

$$E = \frac{\sum_{i=1}^{n} Q_{bi} C_{bi} - \sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{bi} C_{bi}}$$

The control device efficiency shall be redetermined when directed by the Administrator or when the owner or operator elects to operate the control device at conditions different from the most recent determination of control device efficiency.

§ 60.544 Monitoring of emissions and operations.

(a) Each owner or operator subject to the provisions of this subpart and using a VOC emission reduction system with a thermal incinerator shall continuously monitor and record the temperature of the gas in the combustion zone. The monitoring instrument shall have an accuracy equal to ±0.75 percent of the temperature being measured in °C or ±2.5°C, whichever is greater.

(b) Each owner or operator subject to the provisions of this subpart and using a VOC emission reduction system with a catalytic incinerator shall continuously monitor and record the temperature in the gas stream immediately before and after the catalyst bed. The monitoring instruments shall have an accuracy equal to ±0.75 percent of the temperature being measured in °C or ±2.5°C, whichever is greater.

(c) Each owner or operator of an undertread cementing, sidewall cementing, or Michelin-B operation which uses a VOC emission control device that recovers VOC to meet the requirements of § 60.543(h)(5) shall continuously monitor and record the VOC concentration of the exhaust gas stream from the VOC recovery device. The VOC concentration monitoring device shall be installed in a location that is representative of the VOC concentration in the exhaust vent, at least two equivalent stack diameters from the exhaust point, and protected from any interferences due to wind, weather, or other processes.

(d) Each monitoring device shall be installed, calibrated, operated, and maintained according to accepted practices and the manufacturer's specifications.

§ 60.545 Reporting and recordkeeping requirements.

(a) Each owner or operator of an affected facility shall include the following data in the initial performance test report required under § 60.8(a).

(1) For each affected facility which complies with a g/tire limit specified in § 60.542(a) without the use of a VOC emission reduction system.

(i) The mass of VOC used (M_o), the number of tires processed (T_o), and the mass of VOC emitted per tire processed (N).

(ii) A description of the method used to determine M_o and T_o.

(2) For each affected facility which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with a g/tire limit specified in § 60.542(a).

(i) The mass of VOC used (M_o), the number of tires processed (T_o), the mass of VOC emitted per tire processed (N), the mass of VOC used per tire processed (G), the emission control device efficiency (E), the capture system efficiency (F_c), the overall system emission reduction (R), and the mass of VOC emitted per tire processed (N).

(ii) A description of the method used to determine M_o, T_o, E, and F_c.

(3) For each affected facility which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with a percent emission reduction requirement specified in § 60.542(a).

(i) The emission control device efficiency (E), the capture system efficiency (F_c), and the overall system emission reduction (R).

(ii) A description of the method used to determine E and F_c.

(4) For each affected facility which uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with a g/tire limit specified in § 60.542(a).

(i) The mass of VOC used (M_o), the number of tires processed (T_o), the mass of VOC used per tire processed (G), the mass of VOC recovered (M_r), the overall system emission reduction (R), and the mass of VOC emitted per tire processed (N).

(ii) A description of the method used to determine M_o and T_o.

(5) For each affected facility which uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with a percent emission reduction requirement specified in § 60.542(a).

(i) The mass of VOC used (M_o), the mass of VOC recovered (M_r), and the overall system emission reduction (R).

(ii) A description of the method used to determine M_o.

(b) Each owner or operator of an undertread cementing, sidewall cementing, or Michel in-B affected facility where the method in § 60.543(h) has been chosen to demonstrate compliance shall include in the initial compliance report a statement indicating which of the equipment design and performance specifications have been met and identifying each which has not been met. The initial compliance report shall also include the following data.

(1) The emission control device efficiency (E), the airflow through all permanent enclosure openings with all temporary enclosure openings unobstructed, the total area of all permanent enclosure openings, the total area of all temporary enclosure openings, the maximum solvent use rate (kg/hr), the type(s) of VOC used, the lower explosive limit (LEL) for each VOC used, and the length of time each component is enclosed after application of cement or spray material.

(2) A description of the method used to determine E, the system airflow, and the maximum solvent use rate.

(c) Each owner or operator of an affected facility shall include the following data, as measured by the continuous monitoring device(s), in the initial performance test report.

(1) The average combustion temperature during the test of incinerator destruction efficiency for each thermal incinerator.

(2) The average temperature before and after the catalyst during the test of incinerator efficiency for each catalytic incinerator.

(3) The average VOC concentration of the exhaust gas stream from the VOC recovery device during the test of VOC recovery device efficiency for each undertread cementing, sidewall cementing, or Michel in-B operation that uses a VOC emission control device that recovers VOC to meet the requirements of §60.543(h)(5).

(d) Each owner or operator of an affected facility which uses a thermal incinerator shall maintain at the source, for a period of at least two years, records of all 3-hour periods of operation for which the average combustion temperature was more than 28°C (50°F) below the temperature at which the destruction efficiency of the thermal incinerator was last determined.

(e) Each owner or operator of an affected facility which uses a catalytic incinerator shall maintain at the source, for a period of at least two years, records of all 3-hour periods of operation for which the average temperature before the catalyst bed is more than 28°C below the temperature at which the destruction efficiency of the catalytic incinerator was last determined, and all 3-hour periods for which the average temperature difference across the catalyst bed is less than 80 percent of the temperature difference when the destruction efficiency of the catalytic incinerator was last determined.

(f) Each owner or operator of an undertread cementing, sidewall cementing, or Michelin-B operation which uses a VOC emission control device that recovers VOC to meet the requirements of § 60.543(h)(5) shall maintain at the source, for a period of at least two years, records of all 3-hour periods of operation for which the average VOC concentration of the exhaust gas stream from the VOC recovery device exceeds the average value measured during the most recent test of the control device.

(g) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least two years, records of all data and calculations used to determine VOC emissions from each affected facility. At affected facilities where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain at the source, for a period of at least two years, continuous records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source, for a period of at least two years, continuous records of the gas temperature, both upstream and downstream of the incinerator catalyst bed.

(h) Each owner or operator of an undertread cementing, sidewall cementing, or Michelin-B operation that uses a VOC emission control device that recovers VOC to meet the requirements of § 60.543(h)(5) shall maintain at the source, for a period of at least two years, continuous records of the VOC concentration of the exhaust gas stream from the VOC recovery device.

(i) Each owner or operator is exempted from the quarterly reports required under § 60.7(c).

§ 60.546 Reference methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8, shall be used to conduct performance tests.

(1) Reference Method 24 for the determination of the VOC content of cements or green tire spray materials. In the event of dispute, Reference Method 24 shall be the reference method.

(2) Reference Method 25 for the determination of the VOC concentration in the effluent gas in each stack entering and leaving an emission control device. The owner or operator shall notify the Administrator 30 days in advance of any stack test by Reference Method 25. The following reference methods are to be used in conjunction with Reference Method 25:

(i) Method 1 for sample and velocity traverses,

(ii) Method 2 for velocity and volumetric flow rate,

(iii) Method 3 for gas analysis, and

(iv) Method 4 for stack gas moisture.

(b) For Reference Method 24, the cement or green tire spray sample must be a 1-litre sample collected in a 1-litre container at a point where the sample will be representative of the material as applied in the affected facility.

(c) For Reference Method 25, the sampling time for each of three runs must be at least one hour. The minimum sample volume must be 0.003 dscm except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

[FR Doc. 83-1443 Filed 1-19-83; 8:45 am]

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Thursday
January 20, 1983

Part V

Department of Commerce

Patent and Trademark Office

Revision of Patent Procedure

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 5

[Docket No. 21223-259]

Revision of Patent Procedure

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent cases, Part 1 of 37 CFR, to implement the sections of Pub. L. 97-247 of 1982 which become effective on February 27, 1983, and to make other miscellaneous changes. The other miscellaneous changes are being made to clarify and improve the rules where appropriate. The rulemaking also is amending Part 5 of 37 CFR to establish procedures for expediting the granting of a license under 35 U.S.C. 184 permitting the filing of a of patent application in a foreign country.

EFFECTIVE DATE: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557-3054 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This rule change is designed primarily to (1) Implement the changes in practice in the Patent and Trademark Office provided for in Pub. L. 97-247 enacted on August 27, 1982; (2) clarify or rewrite certain rules; and (3) expedite the granting of licenses under 35 U.S.C. 184.

This rule change contains a number of changes in practice designed to benefit both the Patent and Trademark Office in its handling of its mission and the public the Office serves.

Certain of the changes are housekeeping in nature.

A number of final rules have already been issued to implement Pub. L. 97-247. A final rule on "Revision of Patent and Trademark Fees" was published on July 30, 1982 at 47 FR 33086-33112 with corrections in the printing thereof being published on August 4, 1982, at 47 FR 33688 and on August 5, 1982, at 47 FR 33959. The final rule was also published in the Official Gazette on August 10, 1982, at 1021 O.G. 19-94. A final rule relating to definitions of "independent inventor" and "nonprofit organizations" was published on September 10, 1982 at 47 FR 40134-40140 and on September 21, 1982 at 1022 O.G. 29-46. A "Revision of Patent and Trademark Fees Confirmation" was published on September 17, 1982 at 47 FR 41272-41283 and on September 28, 1982 at 1022 O.G. 61-97. A final rule relating to the definition of "small business concern" was published on September 30, 1982 at 47 FR 43272-43276 and on October 19, 1982 at 1023 O.G. 23-29.

Discussion of Specific Rules and Significant Differences Between Proposed and Final Rules

Section 1.4

Section 1.4 is amended as proposed to add a reference to Subpart D relating to citation of prior art and reexamination.

Section 1.6

Section 1.6 is amended as proposed to insert "federal" before "holidays" in paragraphs 1.6(a)-(c) in accordance with § 21(b) of Title 35, United States Code, as amended by Pub. L. 97-247. New paragraph 1.6(d) will establish in the regulations a procedure under which papers and fees which could not be filed on a particular date because of an interruption or emergency in the United States Postal Service which is so designated by the Commissioner, may be promptly filed after the ending of such a designated interruption or emergency and be considered as having been filed on that particular date. Authority for such a practice is found in § 21(a) of Title 35, United States Code, as amended by Pub. L. 97-247.

Section 1.7

Section 1.7 is amended as proposed to insert "federal" before "holiday" in accordance with 35 U.S.C. 21(b), as amended by Pub. L. 97-247.

Section 1.8

Section 1.8 is amended to remove in paragraph § 1.8(a) the references to §§ 3.55 and 4.23, which sections were removed from the rules by the rulemaking entitled "Revision of Patent and Trademark Fees" published in the Federal Register on September 10, 1982 at 47 FR 40134-40140. The change in paragraph 1.8(a)(i) results from the change made in § 111 of Title 35, United States Code, by Public Law 97-247. Under the revised rule, the certificate of mailing procedure would be available for filing patent oaths or declarations and filing fees. However, the certificate of mailing procedure could not be used for filing patent specifications and drawings to obtain a filing date. Such papers can be filed under new § 1.10. The final rule clarifies that each paper or fee filed under § 1.8 must include its own certificate of mailing. The proposed amendment to § 1.8(a)(viii) referring to the Court of Appeals for the Federal Circuit rather than to the Court of Customs and Patent Appeals, has been adopted as a final rule as published on October 26, 1982 at 47 FR 47380-47382 and therefore is not republished here.

Section 1.10

Section 1.10 is amended as proposed to provide a procedure for assigning the date on which any paper or fee is deposited as "Express Mail" with the United States Postal Service as the filing date of the paper or fee in the Patent and Trademark Office. Authority for the Commissioner to establish such a procedure is provided in section 21(a) of Title 35, United States Code, as amended by Pub. L. 97-247 for any paper or fee required to be filed in the Patent and Trademark Office. This procedure covers the filing of all documents, including patent and trademark applications, and fees since they are required to be filed in the Patent and Trademark Office for processing. Questions were raised during the public hearing and in the written comments regarding the authority of the Commissioner to promulgate § 1.10 insofar as it would provide for the use of "Express Mail" to file patent and trademark applications. The argument advanced was that the amendment of 35 U.S.C. 21(a) by Pub. L. 97-247 did not permit the Commissioner to adopt rules whereby "Express Mail" could be used to file patent and trademark applications since such applications are not papers or fees "required to be filed in the Patent and Trademark Office." It was urged that this language of 35 U.S.C. 21(a), in conjunction with amended 35 U.S.C. 111 which states that the "filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office," prevents adoption of proposed § 1.10.

The arguments presented are not supported by the legislative history or by the literal language of the statute. Section 111 of Title 35, United States Code, before and after Pub. L. 97-247, requires patent applications to be made "in writing to the Commissioner." This is apparent from the first sentence of 35 U.S.C. 111 which provides that "[a]pplication for patent shall be made * * * in writing to the Commissioner." Thus, one seeking a patent is "required" to make application for the same "in writing to the Commissioner." The written application clearly constitutes a "paper or fee required to be filed in the Patent and Trademark Office." Section 21(a) of Title 35, United States Code, authorizes the Commissioner to adopt rules whereby "any paper or fee required to be filed in the Patent and

Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service." The authority provided by section 21(a) extends to "any paper or fee" to which the Commissioner, by an appropriate rulemaking, so extends it. The Commissioner can, therefore, by rule, establish that "any paper or fee," including a patent or trademark application, is "filed" or "received in the Patent and Trademark Office" when it is deposited with the United States Postal Service. The terms "filed" and "received" as used in 35 U.S.C. 21(a) and 111 can therefore be given the same meaning by an appropriate rulemaking by the Commissioner.

The legislative history, H.R. Rep. No. 542, 97th Cong., 2nd Sess. 8A (1982), clearly supports the interpretation set forth herein.

In discussing new subsection (a) which has been added to section 21 of Title 35, United States Code, the Report emphasizes that the authority extends to "any paper or fee which is required to be filed" in the Patent and Trademark Office. The Report specifically states that the "requirements governing whether any given paper or fee may be given the filing date of the day on which it was * * * deposited with the United States Postal Service will be set forth in regulations established by the Commissioner." Clearly no restrictions were placed by the statute or the legislative history on the types of papers of fees which the Commissioner can consider as having been filed in the Patent and Trademark Office on the date of deposit with the United States Postal Service.

The new procedure, in paragraph 1.10(a), requires the use of the "Express Mail Post Office to Addressee" service of the United States Postal Service. This service provides for the use of a mailing label on which the Post Office clearly indicates the date on which it was deposited. Paragraph § 1.10(b) requires: (1) That the number of the "Express Mail" mailing label be placed on each paper or fee and (2) that a certificate of mailing by "Express Mail", signed by the person mailing the paper or fee, be included on each paper or fee and state the date of deposit as "Express Mail" in the United States Postal Service. The requirement that each paper or fee have the number of the "Express Mail" mailing label and the certificate of mailing by "Express Mail" included thereon is necessary so that the Patent and Trademark Office can verify when each paper or fee was filed if questions relating thereto arise. The number and certificate must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. It is not necessary that the number and certificate be placed on each page of a particular paper or fee transmittal. Merely placing the number and certificate in one prominent location on each separate paper or fee transmittal will be sufficient.

Under new paragraph § 1.10(c), the Office will accord the paper or fee the date of deposit as "Express Mail" as the filing date without further proof unless a question is present regarding the date of mailing. If, however, more than a reasonable time has elapsed between the certificate date and the Patent and Trademark Office receipt date, or if other questions regarding the date of mailing are present, new paragraph § 1.10(c) provides that the person mailing the paper or fee may be required to file: (1) A copy of the "Express Mail" receipt showing the actual date of mailing and (2) a statement from the person who mailed the paper or fee averring to the fact that the mailing occurred on the date certified. Such statement must be a verified statement (oath or declaration) unless made by a person registered to practice before the Patent and Trademark Office.

The certificate of mailing procedure of § 1.8(a) continues to be available in addition to the proposed procedure under § 1.10. The final rule (§ 1.10) has been changed from that proposed to allow for a reasonable time between mailing and delivery rather than only for one day since actual delivery in one day is not always provided from all areas of the country. The final rule clarifies that each paper or fee must include its own certificate of mailing by "Express Mail." This rule is being promulgated at this time so that individuals who desire to use the service may do so after the effective date.

The "Express Mail" service is seen to be preferable to other types of postal services because a readily legible mailing date is provided to both the applicant and the Patent and Trademark Office on the "Express Mail" label. Also, the labels are of uniform size and can therefore be kept on file relatively easily by the Office, if such is determined to be necessary or desirable. Registered mail and certified mail, on the other hand, provide only a postmark for the mailing date when such mail arrives in the Patent and Trademark Office and such postmarks are often illegible. Also, such mail arrives in various size envelopes which do not easily lend themselves to being filed so that the postmark may be retained. Administrative burdens including lack of certainty of mailing date and storage are considered greater for registered or certified mail than for "Express Mail." The Patent and Trademark Office will monitor closely the use of "Express Mail" by the public and may reconsider permitting the use of other forms of service provided by the United States Postal Service.

Section 1.17

Section 1.17, paragraph (h), is amended as proposed to remove the reference to § 1.45 and add a reference to new § 1.48 relating to the correction of inventorship in patent applications.

Section 1.22

Section 1.22 is amended to recognize that filing dates may be assigned wihout payment of the basic filing fee as authorized by § 111 of Title 35, United States Code, as amended by Pub. L. 97–247. New paragraph § 1.22(b) indicates that fees paid to the Office should be itemized in such a manner that the purpose for which the payment is submitted can be clearly determined by Office personnel for proper processing. The final rule includes clarification that it refers to patent and trademark fees and charges.

Section 1.24

Section 1.24 is amended as proposed to remove the reference to coupons in denominations of forty cents since coupons in this denomination are no longer necessary.

Section 1.41

Section 1.41 is amended as proposed to require in paragraph § 1.41(a) that a patent be applied for in the name of the actual inventor or inventors and that the full names of the inventors be stated. Paragraph § 1.41(b), as amended, clarifies the definition of the word "applicant". New paragraph 1.41(c) permits any person authorized by the applicant to file an application for patent in order to receive a filing date on behalf of the inventor or inventors, but the oath or declaration for the application must be made by all of the actual inventors in accordance with §§ 1.63 and 1.64. Under new paragraph 1.41(d), a showing may be required from the person initially filing an application that the filing was authorized.

Sections 1.42 and 1.43

Sections 1.42 and 1.43 are amended as proposed to remove the requirement that the legal representative sign the application papers in view of the changes in 35 U.S.C. 111, as amended by Pub. L. 97–247. The oath or declaration

must still be signed. Several occurrences of the masculine gender in § 1.42 have been removed.

Section 1.45

Section 1.45 is amended as proposed to remove present paragraphs § 1.45(b) and (c) in view of new § 1.48 and remove the requirement that joint inventors sign the application papers. The joint inventors are, however, still required to make the oath or declaration in accordance with new §§ 1.63 and 1.64.

Section 1.46

Section 1.46 is amended as proposed, with two commas being added for clarity, to permit anyone to file the application if authorized by the inventor or inventors or one of the persons mentioned in §§ 1.42, 1.43, or 1.47.

Section 1.47

Section 1.47 is amended as proposed to change the reference for the rule on oaths or declarations from § 1.65 to § 163.

Section 1.48

Section 1.48 adds a new section relating to correction of inventorship as authorized by Section 116 of Title 35, United States Code, as amended by Pub. L. 97-247. Under § 1.48, if the correct inventor or inventors are not named in an application for patent, the application could be amended to name only the actual inventor or inventors so long as the error in the naming of the inventor or inventors occurred without any deceptive intention on the part of the actual inventor or inventors. Section 1.48 requires that the amendment be diligently made and be accompanied by (1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred; (2) an oath or declaration by each actual inventor or inventors as required by § 1.63; (3) the fee set forth in § 1.17(h); and (4) the written consent of any assignee. Correction will be permitted, if diligently requested, in cases where the person originally named as inventor was in fact not the inventor of the subject matter contained in the application. If such error occurred without any deceptive intention on the part of the true inventor, the Office has the authority to substitute the true inventor for the erroneously named person. If deceptive intention was present on the part of other individuals substantively involved in the preparation or prosecution of the application their conduct will be considered and appropriate action taken under 37 CFR 1.56. Although probably rarer, instances such as changes from a mistakenly identified sole inventor to different, but actual, joint inventors; conversions from erroneously identified joint inventors to different but actual, joint inventors; and conversions from erroneously identified joint inventors to a different, but actual, sole inventor will also be permitted. In each instance, however, the Office will have to be assured of the presence of innocent error, without deceptive intention on the part of the true inventor or inventors, before permitting a substitution of a true inventor's name. The final rule language has been modified from that proposed to follow more precisely the language of the statute and the legislative history by permitting correction where the error occurred without any deceptive intention on the part of the actual inventor or inventors.

Section 1.51

Section 1.51 is amended to change the reference in paragraph (a) (2) to new § 1.63 for the requirements of an oath or declaration and to change paragraph (b) with regard to the required time for filing information disclosure statements. The final rule has been modified from that proposed by eliminating the word "material" before the "information disclosure statement" and the title has been changed to substitute "a complete" for "an" to be more precise

Section 1.52

Section 1.52 is amended as proposed to revise paragraph § 1.52(c) relating to interlineations, erasures, cancellations or other alterations in application paper to specify that such changes must be made before the signing of any accompanying oath or declaration and should be dated and initialed or signed by the applicant on the same sheet of paper. Paragraph § 1.52(c), as amended, prohibits making alterations in the application papers after the signing of an oath or declaration referring to such application papers. Under paragraph § 1.52(c), as amended, amendments to application papers made after the signing of an oath or declaration referring to the application papers can only be made in the manner provided by §§ 1.121 and 1.123-1.125.

Section 1.53

Section 1.53 is amended to revise the title to indicate that the section, as amended, relates to application serial numbers, filing dates and completion of applications. Paragraph § 1.53(a) indicates that a serial number is assigned to any filed application for identification purposes, even if the application is incomplete or informal. Paragraph § 1.53(b) provides that a filing date is assigned to an application as of the date a specification containing a description and claim and any required drawing are filed in the Patent and Trademark Office. Although the filing fee and oath or declaration can be submitted later, no amendments can be made to the specification or drawings which will introduce new matter. This practice is authorized by 35 U.S.C. 111 as amended by Pub. L. 97-247. New paragraph § 1.53(c) provides for notifying applicant of any application incomplete because the specification or drawing is missing and giving the applicant a time period to correct any omission. If the omission is not corrected within the time period given, the application will be returned or otherwise disposed of and a handling fee of $50.00 will be retained from any refund of a filing fee. New paragraph § 1.53(d) provides that, where a filing date has been assigned to a filed specification and drawing, the applicant will be notified and be given a period of time in which to file the missing fee, oath or declaration and to pay the surcharge due. The time period the Office plans to set is one month from the date of notification by the Patent and Trademark Office, but in no case less than two months after the date of filing of the application. New paragraph § 1.53(e) indicates that a patent application will not be forwarded for examination on the merits until all required parts have been received. New paragraph § 1.53(f) indicates that international applications filed under the Patent Cooperation Treaty which designate the United States of America are considered to have a United States filing date under PCT Article 11(3), except as provided in 35 U.S.C. 102(e), on the date the requirements of PCT Article 11(1) (i) to (iii) are met. Paragraphs § 1.53(b) and (c) have been modified from those proposed by changing the word "received" to the word "filed." The word "receipt" in paragraph § 1.53(c) has also been changed to "filing". These changes have been made to ensure that the language of § 1.53 cannot be considered to conflict with the use of "Express Mail" to file patent applications and obtain a filing date as of the date of deposit as "Express Mail" with the United States Postal Service.

Section 1.54

Section 1.54 is amended as proposed to designate the existing section as paragraph (a) and add a reference to

§ 1.53. Paragraph § 1.54(b) is added to indicate that applicant will be informed of the serial number and filing date of the application.

Section 1.55

Section 1.55 is amended to limit the section to claims for foreign priority by removing paragraphs (a) and (d) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b). Paragraph 1.55(a) is amended to change the reference from § 1.65 to new § 1.63. The final rule language includes a reference to 35 U.S.C. 172 which modifies 35 U.S.C. 119 for design patents.

Section 1.56

Section 1.56 is amended to revise paragraph (c) to remove reference to signing of the application but to add reference to signing of the oath or declaration pursuant to new § 1.63. Paragraph § 1.56(c) has also been modified from that proposed to break it down into four items as suggested by a comment. Under paragraph § 1.56(c), an application may be stricken from the files if an oath or declaration pursuant to § 1.63 is signed in blank, is signed without review of the oath or declaration by the person making the oath or declaration, or is signed without the review of the specification, including the claims, as required by § 1.63(b). Paragraph § 1.56(c) also provides for an application to be stricken from the files if application papers filed in the Office are altered after the signing of an oath or declaration pursuant to § 1.63 referring to those application papers.

Section 1.57

Section 1.57 is removed as proposed since the requirements relating to applicant's signature to the oath or declaration of the application are adequately covered in other sections.

Section 1.59

Section 1.59 is rewritten as proposed to refer to and conform with the changes proposed in § 1.53.

Section 1.60

Section 1.60 is amended to require the applicant to supply a copy of the originally signed application in all cases where the § 1.60 filing procedure is used. The Office will no longer prepare copies. The Office, by a separate final rule, published at 47 FR 47242 on October 25, 1982, has adopted a new § 1.62 to provide for the filing of a file wrapper continuing application which greatly lessens the need for the Office to continue to prepare copies under § 1.60. The final rule language makes clear that the statement accompanying a true copy of the parent application must be a verified statement unless made by a person registered to practice before the Office.

Section 1.62

Section 1.62 is amended to avoid inconsistency with 35 U.S.C. 111 which becomes effective on February 27, 1983. 35 U.S.C. 111 as of that date permits filing dates to be granted to patent applications without receipt of the basic filing fee, or oath or declaration. Section 1.62 is therefore being amended to permit the granting of a filing date in accordance with § 111. This amendment of § 1.62 is necessary to ensure compliance with 35 U.S.C. 111. The Patent and Trademark Office finds that it would be impractical not to amend § 1.62 so as to grant a filing date in accordance with 35 U.S.C. 111 and not doing so might also be construed to prevent applicants from taking advantage of the provisions of 35 U.S.C. 111 authorizing the delay in the filing of the fee and oath or declaration. If § 1.62 is not amended in the manner set forth in this final rule, questions may be raised as to compliance with 35 U.S.C. 111 as it will exist effective February 27, 1983. Revised paragraph 1.62(a) indicates the minimum requirements for granting of a filing date. Paragraphs § 1.62 (b) and (c) cover the filing fee and oath or declaration requirements, respectively. Paragraph 1.62(d) relates to later filing of the filing fee or oath or declaration as provided for in 35 U.S.C. 111. Paragraphs § 1.62(e)–(i) are identical to former paragraphs 1.62(b)–(f).

Section 1.63

Section 1.63 is added to replace § 1.65 relating to the required content and execution of an oath or declaration filed as a part of a patent application and is intended to state the minimum contents thereof. An applicant may, if desired, choose to include one or more additional averments in the oath or declaration such as, for example, stating that the patent is not barred under the provisions of 35 U.S.C. 102. Paragraph 1.63(a) provides that the oath or declaration: (1) Be executed in accordance with § 1.66 or § 1.68; (2) identify the specification to which it is directed in some definite manner such as giving the title of the invention or serial number of the application, if previously filed; (3) identify each inventor and his or her residence and country of citizenship; and (4) state whether the inventor is a sole or joint inventor of the claimed invention. Paragraph § 1.63(b) further requires the oath or declaration to state that the person signing the oath or declaration: (1) Has reviewed and understands the contents of the identified specification; (2) believes the named inventor is the original and first inventor; and (3) acknowledges the duty to disclose information which is material. While paragraph 1.63(b) requires the person signing the oath or declaration to review and understand the specification including the claims, it is not intended to require that such person be skilled in patent law so as to grasp the legal implications of claim language and drafting. The person must recognize, however, that what is being claimed is the subject matter which that person regards as his or her invention pursuant to 35 U.S.C. 112.

Paragraph § 1.63(c) requires that any application in which a claim for foreign priority is made identify in the oath or declaration the foreign application for patent or inventor's certificate on which priority is claimed, and any foreign application having a filing date before that of the application on which priority is claimed.

Paragraph § 1.63(d) requires that the oath or declaration in a continuation-in-part application, which discloses and claims subject matter in addition to that disclosed in the prior copending application, state that the person making the oath or declaration acknowledges the duty to disclose material information as defined in § 1.56(a) which occurred between the filing date of the parent application and the national or PCT international filing date of the continuation-in-part application. This latter requirement is not new, but is included to serve as a reminder to the person making the oath or declaration of this duty to disclose material information such as foreign patenting, publication, or public use or sale in the United States which occurred more than one year prior to the filing date of the continuation-in-part application. For example, in circumstances where the claims of the continuation-in-part application are not fully supported by the disclosure of the parent application so as to be entitled to an earlier effective filing date under 35 U.S.C. 120, the duty to disclose extends to any material information, as defined in § 1.56(a) measured from the filing date of the continuation-in-part application. This would include the first foreign patenting, and any foreign patenting subsequent to the first which materially differs therefrom, of the subject matter of the parent application which occurred more than one year prior to the national or PCT international filing date of the continuation-in-part application. Any

publication of the parent application, other than foreign patenting, or any public use or sale in the United States of the subject matter of the prior application, which occurred more than one year prior to the national or PCT international filing date of the continuation-in-part application, would also come within § 1.56(a) in such circumstances. See *In re Ruscetta and Jenny*, 118 U.S.P.Q. 101 (C.C.P.A. 1958); *In re van Langenhoven*, 458 F. 2d 132, 173 U.S.P.Q. 426 (C.C.P.A. 1972), and *Chromalloy American Corp.* v. *Alloy Surfaces, Co., Inc.*, 339 F. Supp. 859, 173 U.S.P.Q. 295 (Del. 1972).

Section 1.64

Section 1.64 is added as proposed to clearly indicate who must sign the oath or declaration of a patent application.

Section 1.65

Section 1.65 is removed as proposed because the oath or declaration requirements set forth therein are covered by new § 1.63.

Section 1.67

Section 1.67 is amended as proposed to remove all of paragraphs (a) and (b) and substitute therefor new wording. Paragraph 1.67(a) indicates that a supplemental oath or declaration meeting the requirements of new § 1.63 may be required to correct deficiencies or inaccuracies present in an earlier oath or declaration. Paragraph § 1.67(b) requires a supplemental oath or declaration to be filed: (1) When a claim is presented embracing material not originally claimed; and (2) when a subsequently filed oath or declaration under § 1.53(d) refers to an amendment which includes improper new matter. Paragraph 1.67(b) also clearly states the prohibition against entry of new matter after the filing date of the application.

Section 1.69

Section 1.69, paragraph (b), is amended as proposed to change the time at which a translation of a non-English language oath or declaration which has not been supplied by the Office must be filed. The time period for filing the translation is changed to two months after notification that a translation is required. The reference to § 1.65 in paragraph § 1.69(b) is changed to § 1.63.

Section 1.70

Section 1.70 is amended to refer to § 1.63 for the requirements to be met when an oath or declaration is filed under 35 U.S.C. 371(c)(4). The wording of the title in the final rule is changed to reflect more clearly the subject matter of the rule.

Section 1.77

Section 1.77 is amended as proposed to change paragraphs (h) and (i) to refer to the abstract of the disclosure and signed oath or declaration, respectively.

Section 1.97

Section 1.97 is amended to change the title from "prior art statement" to "information disclosure statement". This change is appropriate since the designation "information disclosure statement" more accurately characterizes the nature and content of the information which may be included in such a statement. Information which is required to be submitted pursuant to § 1.56 may ultimately be determined not to be "prior art," but nevertheless may be "material" pursuant to § 1.56. Section 1.97 has also been modified from that proposed by eliminating the word "material" since information submitted pursuant to § 1.97 may considered to be of questionable materiality or may be determined, upon examination, not to be "material". Section 1.97 now provides that an information disclosure statement should be filed with the application or within the later of three months after the filing date of the application or two months after applicant receives the filing receipt. Paragraph § 1.97(b) has been amended in recognition that applicant may choose to furnish other material information in another manner or statement. Paragraph § 1.97(b) now also refers to § 1.56(a) for the definition of "material information". The amendments to paragraph § 1.97(b) do not in any manner reduce the obligation to submit material information as defined in § 1.56(a).

Section 1.98

Section 1.98 indicates that information disclosure statements should list prior art with all of the information which is required to print such citations on the front page of a patent. The final rule states clearly that the publication date indicated on the document should be submitted. This will not serve to preclude a showing of a different, actual publication date. Another purpose of the citation requirements in this section is to permit ready reference to the document from its citation.

Section 1.99

Section 1.99 is amended to change the title to be consistent with the amendment to § 1.97.

Section 1.101

Section 1.101 is amended to indicate specifically that applications which are to have their examination advanced pursuant to § 1.102 will be taken up for examination out of order by the examiner. The final rule is also modified to set out when international applications which have complied with the requirements of 35 U.S.C. 371(c) are taken up for action.

Section 1.118

Section 1.118 is amended as proposed to designate the previous section as new paragraph (a) and amend it to clearly state that no new matter may be introduced into an application and to make specific reference to §§ 1.53, 1.63 and 1.67. New paragraph 1.118(b) indicates how improper amendments which introduce new matter in the specification or claims will be handled by the examiner.

Section 1.123

Section 1.123 is amended to require all corrections to drawings to be made by bonded draftsmen at applicant's expense since the Office does not have sufficient draftsmen to make such corrections. Sketches of any desired corrections will, however, still require approval of the examiner. The final rule makes clear that changes in the drawing may be made by submission of substitute drawings.

Section 1.125

Section 1.125 is amended to relax the prohibition against substitute specifications which are not required by the examiner. The section, however, adds the requirement that any substitute specification filed must be accompanied by a statement that the substitute specification includes no new matter. Under the section the statement must be a verified statement if made by a person not registered to practice before the Office. The final rule specifies that a substitute specification may not be accepted unless it is clear to the examiner that processing of the application would be facilitated thereby.

Section 1.131

Section 1.131 is amended as proposed to refer to the use of affidavits or declarations under the section during reexamination of a patent as long as the patent upon which the rejection is based does not claim the rejected invention. Section 1.131 cannot be used to overcome a rejection based upon a United States patent claiming the rejected invention. This is true regardless of whether the rejected claims are contained in an application being examined or a patent being reexamined. Section 1.31 is inapplicable if the same invention is being claimed by the United States patent upon which

the rejection is based. Under the section as amended, the same person or persons who would make the affidavit or declaration in an application will be required to make the affidavit or declaration on behalf of the owner of the patent under reexamination.

Section 1.132

Section 1.132 is amended as proposed to refer to the use of affidavits or declarations under the section during reexamination of a patent.

Section 1.137

Section 1.137 is amended as proposed to except from the provisions of paragraph (b) those applications abandoned pursuant to § 1.53(d) because the fee, oath, or declaration and the surcharge were not submitted. Section 111 of Title 35, United States Code, as amended by Pub. L. 97–247, requires that any delay in submission of the fee and oath be shown to be unavoidable. Thus, paragraph (b) of § 1.37 permitting revival where abandonment was unintentional is inapplicable to the revival of applications which become abandoned pursuant to § 1.53(d).

Section 1.141

The proposed amendments to § 1.141 are withdrawn infra to permit the public to study the issues involved and make any further recommendations considered appropriate.

Section 1.153

Section 1.153 is amended to change the reference for oath and declaration requirements from § 1.65 to § 1.63 and to conform the language of the rule to be consistent therewith.

Section 1.154

Section 1.154 is amended as proposed to revise paragraph (e) to refer to the signed oath or declaration requirements of § 1.153(b).

Section 1.162

Section 1.162 is amended as proposed to change the reference from § 1.65 to § 1.63.

Section 1.163

Section 1.163 is amended as proposed to change the wording of the section to clearly indicate that a signed oath or declaration is required rather than a signed specification.

Section 1.172

Section 1.172 is amended to indicate clearly that the reissue oath is signed and sworn to rather than the reissue application. The final rule has been modified from that proposed by referring to a "reissue oath" rather than to "reissue oaths."

Section 1.174

Section 1.174 is amended as proposed to remove the requirement that photoprints of original drawings be securely mounted or pasted on sheets of drawing board because paper drawings are acceptable.

Section 1.175

Section 1.175 is amended as proposed to change the reference to the oath or declaration from § 1.65 to § 1.63.

Sections 1.301, 1.302 and 1.303

The proposed amendments to sections 1.301, 1.302 and 1.303, referring to the Court of Appeals for the Federal Circuit rather than to the Court of Customs and Patent Appeals, have been adopted as final rules as published on October 26, 1982 at 47 FR 47380–47382 and corrected on November 5, 1982 at 47 FR 50142 and therefore are not republished here.

Section 1.324

Section 1.324 is amended to include wording similar to that in § 1.48 for correction of inventorship in applications.

Section 1.325

Section 1.325 is amended as proposed to include reference to the reexamination procedure.

Section 1.335

Section 1.335 is added as proposed to provide a new section relating to the filing in the Patent and Trademark Office of notices of arbitration awards. Such filing is required under section 294 of Title 35, United States Code, as added by Pub. L. 97–247. The final rule has also been modified in response to a comment to indicate that the notices of arbitration awards are intended to be placed in the patent files.

Section 1.565

The proposed amendments to § 1.565 are withdrawn infra to permit the public to study the issues involved and make any further recommendations considered appropriate.

Section 5.12

Section 5.12 is amended as proposed to separate the section into two paragraphs. Paragraph (a) provides that the filing of an application for an invention made in the United States is considered to include a petition for a license for foreign filing. If a license is granted, it will be indicated on the filing receipt. If it is not granted, no indication of the denial will appear. Failure to grant a license should be considered a denial of a first petition for a license. A subsequent petition may be filed under § 5.12(b). Section 5.12(b) is essentially the text of § 5.12 in its previous form. No rights to file a petition for license are being removed.

Withdrawal of Proposed Amendments to Sections 1.141 and 1.565

A number of the speakers at the public hearing held on December 16, 1982, urged that the amendments to §§ 1.141 and 1.565 be deferred or dropped pending further study. Those urging that the proposed amendments to § 1.141 not be adopted at this time included speakers from the American Patent Law Association, from Committee 103 of the American Bar Associations' Patent, Trademark & Copyright Section, and from the Bar Association of the District of Columbia. The Boston Patent Law Association urged that the amendment to § 1.565 be removed or held in abeyance. The American Patent Law Association indicated that more time was needed for its committees to analyze the issues in the proposed amendments to §§ 1.141 and 1.565.

In response to the recommendations received at the public hearing, the proposed amendments to §§ 1.141 and 1.565 are being withdrawn at this time to permit the public to study the issues involved and make any further recommendations considered appropriate. Pending the further study referred to by the speakers at the hearing and consideration of any recommendations resulting therefrom, the Office will continue to operate under present §§ 1.141 and 1.565 as interpreted by the Manual of Patent Examining Procedure and relevant Patent and Trademark Office and judicial precedents.

Responses to Comments on the Rules

Specific comments were received on a number of the sections. All of the comments, including the written comments and the oral testimony, were considered in adopting the changes set forth herein.

Forty-eight letters presenting written comments were received and seven persons testified at the public hearing on December 16, 1982.

Comments appear below along with responses thereto.

Comment: One comment objected to inadequate notice regarding these proposed rule changes.

Reply: The proposed rules notice was published in the **Federal Register** on

October 27, 1982. This is more than seven weeks prior to the date of the hearing and four months prior to the effective date of the final rules. Such periods are considered to be reasonable in view of the fact that the legislation requiring the rule changes was only enacted on August 27, 1982 and that other rule changes were required to be implemented by October 1, 1982.

Comment: One comment proposed that "Patent and Trademark Office" should be used in the rules rather than merely "Office".

Reply: The proposal has been adopted in the final rules in those locations where confusion may otherwise result.

Comment: Five comments requested that promulgation of §§ 1.10, 1.63, 1.97, 1.141 and 1.565(e) be delayed and the period for comment extended until March 30, 1983.

Reply: Amendments to §§ 1.141 and 1.565 are not being promulgated at this time to provide time for further consideration and study as requested. If after study, a rule change is felt desirable, a new proposal will be issued. New § 1.10 is being promulgated to make it available to applicants as it was intended in the statute. New § 1.63 is being added and § 1.65 deleted to reduce the formal statements required. If desired, the old oath and declaration forms may continue to be used if the statement is included that applicant "has reviewed and understands the contents of the specification, including the claims". For continuation-in-part applications, it is necessary to also include language in conformance with § 1.63(d). Section 1.97 is being promulgated to remove problems relating to the time period in the current wording and to clarify the section in general.

Comment: One person questioned why Sunday was not mentioned in § 1.6(b) or (c).

Reply: Section 1.6(b) and (c) are limited to weekdays which by definition excludes Sunday.

Comment: Two comments were received which proposed that only a certificate of mailing procedure as in § 1.8(a) be used for determining the date of deposit under 35 U.S.C. 21.

Reply: The filing date of an application is considered to be much more critical than the filing dates of papers accepted under § 1.8. The application filing date is often critical for determining if a statutory bar exists, whether foreign priority can be claimed and who is the senior party in an interference. Therefore, papers filed for purposes of receiving an application filing date should have some clear indication of the date of receipt by the United States Postal Service. Such a practice would also probably require storing all of the envelopes in the file wrapper for record purposes.

Comment: Three comments were received which stated that private courier services should also be provided for in § 1.10.

Reply: Section 21(a) as amended by Pub. L. 97-247 provides for filing dates being given only when "deposited with the United States Postal Service." Although private courier services may be used to deliver papers to the Patent and Trademark Office, the actual date of receipt by the Patent and Trademark Office will be considered to be the filing date.

Comment: A comment was received which argued that the Post Office date stamp should be stamped on the mailing label instead of having to enter the label number on each document.

Reply: Stamping the mailing label would not add anything since the postal clerk receiving the "Express Mail" must already indicate the date and time of deposit and initial the label. A purpose of placing the label number on each paper is to permit several papers to be placed in a single envelope. The mailing labels may be retained in the Patent and Trademark Office for later verification.

Comment: Seven comments were received that the requirement that the item be received the following day (§ 1.10(b)) was unnecessarily restrictive.

Reply: Section 1.10 does not require that the item be received the next day in the Patent and Trademark Office in order to receive the date of deposit as the mailing date. The one day reference has been deleted. Further proof of mailing may be required where an unreasonable period of time is involved and supporting evidence is not otherwise available to the Patent and Trademark Office. Documents deposited with the United States Postal Service will be given a filing date which corresponds to the date of receipt indicated by the postal clerk on the "Express Mail" mailing label.

Comment: Four comments indicated that § 1.10 does not assist in placing applicants and attorneys outside the Washington area on the same footing as those in Washington.

Reply: The main purpose of § 1.10 is to implement 35 U.S.C. 21(a) in a manner which would provide for granting filing dates for papers and fees as of the date of their deposit with the United States Postal Service. Certainly these provisions using "Express Mail," together with the certificate of mailing procedure available under § 1.8, will go a long way in reducing last minute deliveries to the Patent and Trademark Office by persons outside the Washington area.

Comment: Two comments stated that the comments accompanying §1.10(c) should be clarified to explain the meaning of "more than one day."

Reply: The final rule has been clarified.

Comment: It was proposed by one person that the "affidavit or declaration" under § 1.10(c) be waived if the statement is made by a registered attorney or agent.

Reply: The suggestion has been adopted.

Comment: It was indicated by one person that certified mail provides proof of mailing date under § 1.10 by virtue of the Post Office stamp on the certified mail receipt card.

Reply: The information on the certified mail receipt card is of no benefit to the Patent and Trademark Office since it is immediately returned to the sender. The Patent and Trademark Office would not be able to retain any information which gives proof of the date of mailing.

Comment: Three comments raised questions as to the need to make the acceptance of the "Express Mail" contingent upon the performance of the Post Office in § 1.10(c).

Reply: The acceptance of the "Express Mail" is not contingent upon "next day delivery". The reference in § 1.10(c) to proof of mailing merely provides a basis for the Office requiring proof of mailing where an explanation appears to be necessary to clarify the record. Such information is expected to be required only in a few instances. The rule has also been revised to clarify this matter.

Comment: Five persons suggested the use of registered or certified U.S. mail for obtaining filing dates under 35 U.S.C. 21.

Reply: Registered mail does not provide any information or evidence to the Patent and Trademark Office as to the date of mailing other than the postmark, which is often unreadable. Storage of envelopes containing such postmarks is also burdensome. The deficiency of certified mail has already been discussed.

Comment: One person questioned what treatment will be accorded a paper placed in an "Express Mail" box receptacle after the box has been cleared for the last time on a given day.

Reply: The paper will be considered to be deposited as of the date of receipt indicated on the "Express Mail" mailing label by the Postal Service clerk.

Comment: One person commented that he found the idea of using a declaration or affidavit to establish a

date of deposit unacceptable because it exposes the integrity of the assignment of filing dates to the risk of deception.

Reply: The use of declarations or affidavits is usually intended to help explain activities which can be supported by exhibits. For example, if the Office copy of the mailing label was not entirely readable, applicant's copy of the "Express Mail" mailing label could accompany a declaration and serve as the basis for granting a filing date.

Comment: Three persons objected to permitting only the individual who places the correspondence in an "Express Mail" facility to execute the certificate of express mailing under § 1.10(c).

Reply: The wording of § 1.10(c) differs from § 1.8 because the documents which are expected to be filed under § 1.10 are patent and trademark applications. The filing dates of such documents are very important and should therefore be based on personal knowledge.

Comment: One comment was received which suggested that § 1.10 be adopted with an effective date retroactive to a year earlier.

Reply: Such an earlier date is not possible since the statutory authority for § 1.10 does not come into effect until February 27, 1983.

Comment: One comment proposed designating the Patent and Trademark Office as an "Express Mail" Post Office to make lower rates available.

Reply: Such a designation is not possible.

Comment: One person requested that the Patent and Trademark Office publish a form of certificate of mailing by "Express Mail" suitable for purposes of § 1.10(b).

Reply: A suggested form is included in the preamble of this rule change.

Comment: One comment proposed that § 1.10(c) clearly state what evidence will be necessary and sufficient to prove a filing date by mailing.

Reply: A specific answer cannot be given since it is dependent upon the particular fact situation and what evidence is actually available.

Comment: Two comments questioned whether Pub. L. 97-247 authorized a rule such as § 1.10 granting filing dates as of the mailing date.

Reply: The question raised by this comment has been treated in the discussion of § 1.10 supra.

Comment: One comment proposed that § 1.10 be corrected to read—Any paper or fee *required* to be filed—to more closely conform with 35 U.S.C. 21(a).

Reply: No need is seen to change § 1.10 as suggested since, if a patent is desired, it is "required" that each paper relating to an application be filed in the Patent and Trademark Office.

Comment: One comment indicated that the requirement to place the "Express Mail" label number on each paper and fee is not realistic.

Reply: The placement of the label number on each paper or fee allows later verification of the mailing dates of all different papers mailed in one envelope and is not seen to be overly burdensome.

Comment: A question was raised as to whether the "Express Mail" label number should be placed on every page.

Reply: The label number need not be placed on each page. It should, however, be placed on the first page of each separate document, such as, a new application, amendment, assignment, and transmittal letter for a fee, along with the certificate of mailing by "Express Mail". Although the label number may be on checks, such a practice is not required.

Comment: A question was raised by one party as to the location within the Patent and Trademark Office of the mailing labels where papers to different applications are placed in the same envelope.

Reply: The mailing labels from all "Express Mail" packages are expected to be removed and initially retained centrally in the Mail Room of the Patent and Trademark Office. The number on each document will allow direct access to the appropriate mailing label if any questions should arise.

Comment: One comment suggested that § 1.22(b) be amended to exclude itemization of all fees where a general authorization to charge a deposit account has been given.

Reply: Even where fees are charged to a deposit account, it is desirable to know specifically which fees are to be paid. Therefore, the suggestion has not been adopted.

Comment: One comment was received which suggested adding a sentence to § 1.41(d) indicating that the filing of an oath or declaration executed by the applicant would constitute proof of authority to file the application.

Reply: Such an additional sentence is not considered to be necessary since the Patent and Trademark Office does not intend to utilize the provisions of § 1.41(d) unless a controversy arises.

Comment: One comment was received which suggested the addition to the end of § 1.42 of the words "except for patents granted to the assignee either of the inventor or of the legal representative of the inventor."

Reply: No change is considered to be necessary since few, if any, problems have arisen without such additional wording in the past. The existing rule wording "upon proper intervention" also provides protection for assignees.

Comment: One comment was received which indicated that § 1.46 does not clearly authorize an assignee of a part interest to cause an application to be placed on file.

Reply: Although § 1.46 may not make this point clear, it is clear from § 1.41(c).

Comment: One comment recommended that the requirement to show diligence in correcting inventorship under § 1.48 be deleted.

Reply: It is felt that corrections of inventorship should be diligently made in patent applications. The naming of correct inventorship is necessary for the Patent and Trademark Office to make decisions on topics such as double patenting, priority claims and first inventorship.

Comment: It was recommended in one comment that the verified statement of facts required by § 1.48 "by the original named inventor or inventors" be replaced by a requirement that he or they merely assent to the statement of the facts since others may be better able to provide the best evidence.

Reply: Since it is the original inventorship that is being changed, it is believed that all of the previously named inventors should positively indicate their agreement with the facts in the case. Affidavits by other individuals may also be supplied where such persons have direct personal knowledge of certain aspects of the case.

Comment: One comment indicated that "it seems a reasonable presumption that if ownership is unaffected, deceptive intent is absent" in a § 1.48 correction of inventorship situation and that such a presumption could be written into the rules.

Reply: Even if applications are commonly owned, the wrong inventorship could be deceptively named to obtain rights which are only available to the same inventive entities. The report on Pub. L. 97-247 also states that "the Commissioner must be assured of the presence of innocent error, without deceptive intention * * *" before permitting a substitution of a true inventor's name.

Comment: One person suggested that the deceptive intent in § 1.48 refers to the acts of the actual inventors rather than to both the alleged and actual inventor or inventors.

Reply: This suggestion has been adopted in both §§ 1.48 and 1.324, but

deceptive intention on the part of other parties is subject to review under § 1.56.

Comment: One person suggested that in § 1.48, line 3 "may" be changed to —must—.

Reply: The suggestion has not been adopted. Corrections may only be made if the conditions set forth in § 1.48 are satisfied.

Comment: Two comments objected to the insertion of "material" in § 1.51(b).

Reply: This word has been removed and does not appear in the final rule.

Comment: One comment suggested changing "an" to —a complete— in the title of § 1.51.

Reply: This suggestion has been adopted.

Comment: One comment indicated that §§ 1.52(c) and 1.56(c) seemed overly inflexible and harsh when considering minor grammatical changes.

Reply: Although § 1.56 indicates that applications "may" be stricken, rather than "must" be stricken, it is still considered important to maintain a clear line in the regulations against changes in the original applications made after the execution of the application oath or declaration. The line between grammatical changes and changes relating to the merits is frequently unclear.

Comment: Three comments noted an apparent inconsistency between proposed §§ 1.10 and 1.53 as to whether § 1.10 relates to the filing of patent applications.

Reply: Section 1.10 does relate to the filing of patent applications. In order to clarify the wording, "received" in § 1.53(b) has been changed to "filed".

Comment: One comment was received suggesting that a sentence be added to § 1.53(d) to indicate that PCT applicants cannot submit late filing fees, oaths or declarations under 35 U.S.C. 371.

Reply: Such a reference in § 1.53 does not appear appropriate because this section relates to "filing dates". In the PCT situation, the filing date was already granted at the time of filing the PCT international application.

Comment: One comment was received which suggested that § 1.53(a) be rewritten to indicate all application are assigned serial numbers but not accorded filing dates.

Reply: The proposal was not adopted since it is considered unnecessary.

Comment: One person suggested that § 1.53(b) be amended to specify that only "a specification *purporting* to contain a description and at least one claim * * *" is needed to obtain a filing date.

Reply: No change is being made since a determination must be initially made as to whether or not a specification has been filed. In any case, sufficiency of the specification must later be checked by the examiner.

Comment: One person indicated that the time period for filing a correction to a defect in an application is left entirely within the discretion of the commissioner and that any setting of periods of time would be tantamount to an exercise of rulemaking authority. Section 1.53(d) should be provided with an explicit time limitation.

Reply: No specific time period is considered to be necessary in the regulations. The Commissioner has full authority and discretion under the statute in 35 U.S.C. 111 to set periods of time. The statute does not require the Commissioner to use the rulemaking process to set time periods for response to an action or requirement by the Patent and Trademark Office in a patent application.

Comment: Two comments were received objecting to the use of the words "or otherwise disposed of" in § 1.53(c).

Reply: This wording has existed in § 1.53(b) in the past without objection. No need is seen to depart from this wording at this time.

Comment: One person questioned whether the change in § 1.54(b) would result in return post cards not being stamped with the application serial number.

Reply: No change is intended in the existing return post card practice.

Comment: One comment proposed adding another sentence to § 1.154(b) indicating that foreign priority claims will be acknowledged on the filing receipt.

Reply: This proposal is not being adopted since the examiner must determine whether the statutory requirements of 35 U.S.C. 119 have been met before an acknowledgment can be sent.

Comment: One comment suggested that the Patent and Trademark Office indicate on the filing receipt both the filing date under § 1.10 and the actual date of receipt.

Reply: The actual date of receipt can be obtained by requesting a receipt from the Postal Service. The actual date of receipt cannot be placed on the filing receipt because of current computer limitations. The suggestion is therefore not being adopted at this time.

Comment: One comment was received indicating that it is not clear whether or not an application based on a specification and drawing, but containing no oath or declaration or filing fee, could serve as the basis for a priority claim under 35 U.S.C. 120.

Reply: If the filed specification and drawings fully disclose the invention as required by 35 U.S.C. 112, the application may serve as a basis for a priority claim under § 120 even if no oath or declaration, or no fee has been filed, as long as the continuing application is filed prior to the abandonment of the first application under § 1.53(d).

Comment: One comment suggested that § 1.55(b) be removed since the requirements of the statute are fully set forth in 35 U.S.C. 119.

Reply: Although the statutory requirements set forth basic requirements, it is felt that the more specific details of § 1.55(b) provide needed guidance for applicants.

Comment: Two persons questioned the meaning of "inspection and review" in § 1.56(c) and suggested certain amendments.

Reply: The words "inspection and" are being removed to eliminate any redundancy. The paragraph has also been broken down into four items as proposed by a comment.

Comment: One suggestion was made that applicant be allowed to order a copy of the parent patent, with payment of fee, when filing a § 1.60 application.

Reply: Such a practice is contrary to the intent of the rule change. The problems the Patent and Trademark Office is attempting to solve by the change, which are caused by poor copies and delays in processing, would remain with such a practice.

Comment: Two persons suggested that § 1.60 be amended to drop "and claimed" from the title.

Reply: The suggestion has been adopted.

Comment: One person suggested that § 1.60 be modified to drop the requirement for verification by affidavit when the statement is made by a registered patent attorney or agent.

Reply: The suggestion has been adopted.

Comment: One comment noted that there is no specific requirement in §§ 1.56, 1.63 or 1.98 to identify foreign applications filed more than one year prior to the U.S. filing date.

Reply: Section 1.63(b)(3) broadly requires applicant to acknowledge the duty to disclose information material to the examination of the application. This information includes foreign patents based on applications filed more than a year prior to the filing date of the United States application and which issue before the filing date of the United States application.

Comment: One person felt that § 1.63 (b)(1) will be a disaster for the patent

system since the inventor may not be physically able to review and understand the invention or because the legal language format used in claims may not be understood by the inventor. Five persons argued that adoption of § 1.63 would result in raising the defense that the inventor did not understand the claims in each patent infringement suit.

Reply: The inventor is not expected to understand all the legal interpretations or limitations in a claim. The inventor is expected to recognize that what is being claimed is the subject matter which the inventor regards as his or her invention pursuant to 35 U.S.C. 112. The physical factors have to some extent existed in past practice and have been handled on a case-by-case basis where necessary. The situation outlined would exist in any signing of a legal document. The wording of § 1.63 has been explained in the preamble to minimize occurrences of problems.

Comment: One comment noted that many inventors do not know whether additional subject matter is claimed in a continuation-in-part application under § 1.63(d).

Reply: The wording in § 1.63(d) is considered to be appropriate and in accordance with case law. If uncertainty exists the attorney or agent, if any, should clarify the matter and § 1.63(d) should be followed.

Comment: One person proposed that § 1.63(d) be modified to explicitly require the disclosure of foreign patents granted before the filing of the continuation-in-part application.

Reply: Section 1.63(d) has been amended to clearly indicate that material information pursuant to § 1.56(a) between the filing date of the parent application and the filing date of the continuation-in-part application must be disclosed. The discussion of new § 1.63 refers to material foreign patents published during this time interval.

Comments: Two comments indicated concern with the parenthetical language in proposed § 1.63(d) in that it would create severe problems.

Reply: Paragraph (d) of § 1.63 has been amended to remove such problems.

Comment: One comment suggested adding—he or she is aware of—after information in § 1.63(b) (3) and (d).

Reply: This suggestion is not adopted since such wording is already present in § 1.56(a).

Comment: One comment suggested that § 1.63(c) clarify what is intended by "the first filed foreign application," particularly in view of 35 U.S.C. 119, third paragraph.

Reply: The rule has been amended to clarify the matter.

Comment: One comment was received suggesting changes be made in the title and that paragraph (b) of § 1.70 refer to § 1.63 instead of "this section."

Reply: The change suggested to the title has been made. The suggestion to paragraph (b) has not been made since it is considered unnecessary.

Comment: Three comments were received which indicated that the wording of § 1.97(a) would require an immediate filing of disclosure information if the filing receipt is received just before three months after filing.

Reply: The wording of § 1.97(a) has been changed to remove this problem.

Comment: One comment was received which urged that the title of § 1.97 and contents of § 1.97(b) not be changed, since the proposed wording would not require filing of the closest prior art.

Reply: The proposed changes are not intended to make any changes in the type of information which is to be submitted to the Office. The proposal has been adopted in modified form.

Comment: One person indicated preference for the use of "prior art" in §§ 1.51(b), 1.97, 1.98, and 1.99 since it does not create an inferred admission that the information submitted is material. Five comments favored the removal of "prior art" from § 1.97 but objected to the addition of "material".

Reply: The rule change was proposed to answer arguments that the use of the term "prior art" implied that the information was a reference against applicant's invention. Since the majority of the comments supported modifying the rule, the use of the terms "prior art" as well as "material" are being dropped.

Comment: Two comments were received concerning § 1.98(a) suggesting that the "place of publication" be clarified or removed.

Reply: This suggestion has not been adopted since the "place of publication" is not mandatory. It is intended to mean the city and country of publication. Also the citation of the "place of publication" is consistent with the § 1.107(a) requirements.

Comment: It was suggested by one person that § 1.101 be amended to clarify when PCT international applications which have entered the national stage should be taken up for examination.

Reply: An amendment has been made to § 1.101 as suggested to clarify that they are taken up in order based on the date they have entered the national stage by compliance with the requirements of 35 U.S.C. 371(c).

Comment: One comment was presented suggesting that the words "which are not examined on the merits" in § 1.101 be removed.

Reply: The suggestion has been adopted.

Comment: One comment urged returning to the use of the Office draftsmen for minor corrections to reduce the burden under proposed § 1.123.

Reply: Some minor corrections may be made by the Office draftsmen on a time-available basis. However, since the Office currently has only a few draftsmen who are responsible for reviewing and approving all drawings, very little time is presently available for making corrections.

Comment: Four suggestions were made to amend § 1.123 to specifically provide for the filing of substitute drawings if corrections are required.

Reply: These suggestions have been adopted.

Comment: One comment was received indicating that § 1.125 should indicate to whom it should be clear that acceptance of a substitute specification would facilitate processing.

Reply: An amendment has been made to clarify that it should be clear to the examiner.

Comment: One comment suggested removal of the last sentence of § 1.137(b) to permit § 1.183 petitions to be filed to waive time periods for requesting revival of unintentionally abandoned applications.

Reply: No change in § 1.137(b) is considered to be appropriate at this time since § 1.37(b) only became effective on October 1, 1982.

(Since changes to § 1.141 are not being promulgated in this rule change, comments and replies to this section are not included.)

Comment: One comment pointed out that the reference to a "period of twelve months" in § 1.153 was indefinite.

Reply: Section 1.153 has been amended to remove the indefiniteness.

Comment: One comment was presented which suggested that § 1.172 refer to a "reissue oath" rather than to "reissue oaths."

Reply: This suggestion has been adopted.

Comment: One comment suggested the insertion of "the filing of" before "each patent" in §1.335 (a) and (b).

Reply: The suggestion has been adopted.

(Since the proposed addition of a new paragraph (e) to § 1.565 is not being adopted in this rule change, comments and replies to this section are not included.)

Comment: One suggestion was made that a procedure be designed in which

foreign filing licenses could be granted by return post card without losing the time required to send the filing receipts.

Reply: It is felt that the procedure under § 5.12 should be adopted at this time and be placed into operation. If after some experience additional modifications are found desirable, further changes could be made. To introduce several alternative procedures at this time is considered to be too complex and may endanger the success of the proposed procedure.

Comment: One comment requested that the Office grant a prospective foreign filing license under §5.12 for all data and amendatory material to be filed abroad.

Reply: Such petitions are not part of this proposed change but this concept is being considered in a separate rule change proposal.

Comment: One comment suggested that the Filing Receipt specifically indicate whether or not a license has been denied under §5.12.

Reply: The proposed practice under § 5.12 would indicate on the Filing Receipt when a license is granted. On other cases in which a license is not granted further review is required. A license may still be granted at a later date.

Comment: One comment stated that it should be possible to petition at any early date for a foreign filing license as well as obtain one on the filing receipt.

Reply: It will still be possible to petition earlier for a license under revised § 5.12.

Implementation of Patent Procedure Revisions

The effective date of the patent procedure revisions contained in this rulemaking is February 27, 1983. The various sections will be implemented in the manner set forth below:

Section 1.10 Filing of papers and fees by "Express Mail" with certificate.

The "guidelines under § 1.10" set forth below provide guidance in implementing § 1.10:

Guidelines Under § 1.10

(A) The certification under § 1.10 requires a signature of the person depositing the paper with the United States Postal Service as "Express Mail". Specifically, if the certification under § 1.10 appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification under §1.10.

(B) When possible, the certification under § 1.10 should appear on an upper portion of the first page of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, such as in the case of the patent issue fee transmittal form PTO–85, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) Be signed and (2) fully identify and be securely attached to the paper or fee it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., complete application, specification and drawings, responses to rejection or refusal, notice of appeal, etc. If the serial number of the application is not known, the identification should include at least the name of the inventor(s) and the title of the invention. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

(D) In situations wherein the correspondence includes papers for more than one application e.g., a single envelope containing separate applications or papers for various parts of the Patent and Trademark Office, each paper must have its own certification and the "Express Mail" label number as a part thereof or attached thereto.

(E) In situations wherein the correspondence includes several papers directed to the same application (e.g., a proposed response under 37 CFR 1.116 and a notice of appeal), each paper should also have its own certification as a part thereof or attached thereto.

(F) Practitioners may place the certification language on the first page of a paper with an inked stamp. Such a practice is encouraged because the certification is not only readily visible but also forms an integral part of the paper. An example of a preferred stamp is:

"Express Mail" mailing label number ——
Date of Deposit ——————

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

(Typed or printed name of person mailing paper of fee)

(Signature of person mailing paper or fee)

Section 1.48 Correction of inventorship.

Any patent application pending on or after February 27, 1983, is subject to the provisions of this section.

Section 1.53 Serial number, filing date, and completion of application.

The provisions of this section apply to any patent application filed on or after February 27, 1983.

Section 1.63 Oath or declaration.

The provisions of § 1.63 will become effective on February 27, 1983, and will apply to any oath or declaration filed on or after that date. However, in order to provide a smooth transition from the old oath or declaration requirements to the new, the Office will continue to accept between February 27, 1983, and June 30, 1983 any oath or declaration in compliance with § 1.65 as it existed immediately prior to February 27, 1983, so long as that oath or declaration is attached to and was executed as a part of an application to be filed in the Patent and Trademark Office. Effective July 1, 1983, all oaths or declarations filed under § 1.51(a)(2) as a part of a patent application must fully comply with §1.63.

A suggested format for a declaration is set forth below:

Declaration for Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

——————

the specification of which

(check one)

☐ is attached hereto.

☐ was filed on —— as Application Serial No. —— and was amended on —— (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a

filing date before that of the application on which priority is claimed:

PRIOR FOREIGN APPLICATION(S)

			Priority claimed	
(Number)	(Country)	(Day/month/year filed)	☐ Yes	☐ No
(Number)	(Country)	(Day/month/year filed)	☐ Yes	☐ No
(Number)	(Country)	(Day/month/year filed)	☐ Yes	☐ No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing date)	(Status) (patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor _____
Inventor's signature _____
Date _____
Residence _____
Citizenship _____
Post Office Address _____

Full name of second joint inventor, if any _____
Second Inventor's signature _____
Date _____
Residence _____
Citizenship _____
Post Office Address _____

(Supply similar information and signature for third and subsequent joint inventors.)

The declaration form set forth above is specifically designed for use where the specification is attached to the form and the specification and declaration are filed at one time, and also where the decaration form is filed after the specification and drawings in accordance with § 1.53. The form can be used where foreign priority is claimed under 35 U.S.C. 119 and where the benefit of one or more United States applications is claimed under 35 U.S.C. 120. Appropriate modifications can be made in the form so long as compliance with the rules is maintained. For example, if the form is being used as a supplemental declaration form which is being submitted after numerous amendments the form might appropriately be modified by changing the words "was amended on" to "with amendments through."

Section 1.335 Filing of notice of arbitration awards

The written notices required by this section should be directed to the attention of the Office of the Solicitor, which Office will be responsible for processing of such notices.

Other Considerations

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act. (Pub. L. 96-354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96-354) for several reasons. Pub. L. 97-247 has taken into consideration the impact it may have on small entities. In general, the rule change will also expedite proceedings before the Patent and Trademark Office, changing existing procedures where they can be simplified.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*, since no significant additional record keeping or reporting requirements are placed upon the public. In fact, some paperwork, especially that related to foreign filing license petitions, will be reduced.

List of Subjects in 37 CFR Parts 1 and 5

Administrative practice and procedure, Courts, Inventions and patents.

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and Pub. L. 97-247, the Patent and Trademark Office is amending Title 37 of the Code of Federal Regulations as set forth below.

37 CFR Parts 1 and 5, are amended as follows:

PART 1—[AMENDED]

1. Section 1.4 is amended by revising paragraph (a) to read as follows:

§ 1.4 Nature of correspondence.

(a) Correspondence with the Patent and Trademark Office comprises: (1) Correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to 1.352; of international applications in Subpart C, §§ 1.401 to 1.482; of reexamination of patents in Subpart D, §§ 1.501 to 1.570; and of trademark applications, §§ 2.11 to 2.189.

* * * * *

2. Section 1.6 is revised to read as follows:

§ 1.6 Receipt of letters and papers.

(a) Letters and other papers received in the Patent and Trademark Office are stamped with the date of receipt. No papers are received in the Patent and Trademark Office on Saturdays, Sundays or federal holidays within the District of Columbia.

(b) Mail placed in the Patent and Trademark Office pouch up to midnight on weekdays, excepting Saturdays and federal holidays, by the post office at Washington, D.C., serving the Patent and Trademark Office, is considered as having been received in the Patent and Trademark Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the lobby of building 3 of the Patent and Trademark Office at Crystal Plaza, Arlington, Virginia and at the main entrance (14th Street) of the Department of Commerce Building, Washington, D.C., on weekdays except Saturdays and federal holidays, and all papers deposited therein are considered as received in the Patent and Trademark Office on the day of deposit.

(d) If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any paper or fee which is: (1) Promptly filed after the ending of the designated interruption or emergency; and (2) Accompanied by a statement indicating that such paper or fee would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service. Such statement must be a verified statement if made by a person not registered to practice before the Patent and trademark Office.

3. Section 1.7 is revised to read as follows:

§ 1.7 Times for taking action: Expiration on Saturday, Sunday or federal holiday.

Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the Patent and Trademark Office falls on Saturday, Sunday, or on a federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Saturday, Sunday, of a federal holiday. See § 1.304 for time for appeal or for commencing civil action.

4. Section 1.8 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(1), (a)(2) introductory text, and (a)(2)(i) to read as follows:

§ 1.8 Certificate of mailing.

(a) Except in the cases enumerated below, papers and fees required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if: (1) They are addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and deposited with the U.S. Postal Service with sufficient postage as first class mail prior to expiration of the set period: and (2) They also include a certificate for each paper or fee stating the date of deposit. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed on or before the date indicated. The actual date of receipt of the paper or fee will be used for all other purposes. This procedure does not apply to the following:

(i) The filing of a national patent application specification and drawing or other papers for the purpose of obtaining an application filing date;

* * * * *

5. A new § 1.10 is added to read as follows:

§ 1.10 Filing of papers and fees by "Express Mail" with certificate.

(a) Any paper or fee to be filed in the Patent and Trademark Office can be filed utilizing the "Express Mail Post Office to Addressee" service of the United States Postal Service and be considered as having been filed in the Office on the date the paper or fee is shown to have been deposited as "Express Mail" with the United States Postal Service.

(b) Any paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing, be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and any such paper or fee must also include a certificate of mailing by "Express Mail" which states the date of mailing by "Express Mail' and is signed by the person mailing the paper or fee.

(c) The Patent and Trademark Office will accept the certificate of mailing by "Express Mail" and accord the paper or fee the certificate date under 35 U.S.C. 21(a) without further proof of the date on which the mailing by "Express Mail" occurred unless a question is present regarding the date of mailing. If more than a reasonable time has elapsed between the certificate date and the Patent and Trademark Office receipt date or if other questions regarding the date of mailing are present, the person mailing the paper or fee may be required to file a copy of the "Express Mail" receipt showing the actual date of mailing and a statement from the person who mailed the paper or fee averring to the fact that the mailing occurred on the date certified. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

6. Section 1.17 is amended by revising paragraph (h) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph—$120.00
—§ 1.47—for filing by other than all the inventors or a person not the inventor
—§ 1.48—for correction of inventorship
—§ 1.182—for decision on questions not specifically provided for
—§ 1.183—to suspend the rules
—§ 1.268—for late filing of interference settlement agreement

* * * * *

7. Section 1.22 is revised to read as follows:

§ 1.22 Fees payable in advance.

(a) Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable with the exception that under § 1.53 applications for patent may be assigned a filing date without payment of the basic filing fee.

(b) All patent and trademark fees paid to the Patent and Trademark Office should be itemized in each individual application, patent or other proceeding in such a manner that it is clear for which purpose the fees are paid.

8. Section 1.24 is revised to read as follows:

§ 1.24 Coupons.

Coupons in denominations of one dollar are sold by the Patent and Trademark Office for the convenience of regular purchasers of U.S. patents and trademark registrations; these coupons may not be used for any other purpose. The one dollar coupons are sold individually and in books of 50 with stubs for record for $50. These coupons are good until used; they may be transferred but cannot be redeemed.

9. Section 1.41 is revised to read as follows:

§ 1.41 Applicant for patent.

(a) A patent must be applied for in the name of the actual inventor or inventors. Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial.

(b) Unless the contrary is indicated the word "applicant" when used in these sections refers to the inventor or joint inventors who are applying for a patent, or to the person mentioned in §§ 1.42, 1.43, or 1.47 who is applying for a patent in place of the inventor.

(c) Any person authorized by the applicant may file an application for patent on behalf of the inventor or inventors, but an oath or declaration for the application (§ 1.63) can only be made in accordance with § 1.64.

(d) A showing may be required from the person filing the application that the filing was authorized where such authorization comes into question.

10. Section 1.42 is revised to read as follows:

§ 1.42 When the inventor is dead.

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

11. Section 1.43 is revised to read as follows:

§ 1.43 When the inventor is insane or legally incapacitated.

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

12. Section 1.45 is amended by removing paragraphs (b) and (c) and the designation (a) to the first paragraph and by revising the text to read as follows:

§ 1.45 Joint inventors.

Joint inventors must apply for a patent jointly and each must make the required oath or declaration: neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly, except as provided in § 1.47.

13. Section 1.46 is revised to read as follows:

§1.46 Assigned inventions and patents.

In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made or authorized to be made, and an oath or declaration signed, by the inventor or one of the persons mentioned in §§ 1.42, 1.43, or 1.47. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in § 1.334.

14. Section 1.47 is revised to read as follows:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the omitted inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and by the required fee (§ 1.17(h)) and must state the last known address of the omitted inventor. The Patent and Trademark Office shall forward notice of the filing of the application to the omitted inventor at said address. Should such notice be returned to the Office undelivered, or should the address of the omitted inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The omitted inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.63. A patent may be granted to the inventor making the application, upon a showing satisfactory to the Commissioner, subject to the same rights which the omitted inventor would have had if he or she had been joined.

(b) Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for the inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and by the required fee (§ 1.17(h)) and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent and Trademark Office. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application. Should such notice be returned to the Office undelivered, or should the address of the inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.63. A patent may be granted to the inventor upon a showing satisfactory to the Commissioner.

15. A new § 1.48 is added to read as follows:

§ 1.48 Correction of inventorship.

If the correct inventor or inventors are not named in an application for patent through error without any deceptive intention on the part of the actual inventor or inventors, the application may be amended to name only the actual inventor or inventors. Such amendment must be diligently made and must be accompanied by (1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred; (2) an oath or declaration by each actual inventor or inventors as required by § 1.63; (3) the fee set forth in § 1.17(h); and (4) the written consent of any assignee.

16. Section 1.51 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 1.51 General requisites of a complete application.

(a) * * *

(2) An oath or declaration, see §§ 1.63 and 1.68.

* * * * *

(b) Applicants are encouraged to file an information disclosure statement. See §§ 1.97 through 1.99.

17. Section 1.52 is amended by revising paragraph (c) to read as follows:

§ 1.52 Language, paper, writing, margins.

* * * * *

(c) Any interlineation, erasure, cancellation of other alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. No such alterations in the application papers are permissible after the signing of an oath or declaration referring to those application papers (§ 1.56(c)). After the signing of the oath or declaration referring to the application papers, amendments may only be made in the manner provided by §§ 1.121 and 1.123–1.125.

* * * * *

18. Section 1.53 is revised to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

(a) Any application for a patent received in the Patent and Trademark Office will be assigned a serial number for identification purposes.

(b) The filing date of an application for patent is the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) Any drawing required by § 1.81(a), are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date (§ 1.118).

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a $50.00 handling fee.

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section.

(e) An application for a patent will not be placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(f) The filing date of an international application designating the United States of America shall be treated as the filing date in the United States of America under PCT Article 11(3), except as provided in 35 U.S.C. 102(e)

19. Section 1.54 is revised to read as follows:

§ 1.54 Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53 with regard to completion of an application.

(b) Applicant will be informed of the application serial number and filing date by a filing receipt.

20. Section 1.55 is revised to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119 and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of interference (§ 1.224); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i).

(b) An applicant may under certain circumstances claim priority on the basis of an application for an inventor's certificate in a country granting both inventor's certificates and patents. When an applicant wishes to claim the right of priority as to a claim or claims of the application on the basis of an application for an inventor's certificate in such a country under 35 U.S.C. 119, last paragraph (as amended July 28, 1972), the applicant or his attorney or agent, when submitting a claim for such right as specified in paragraph (b) of this section, shall include an affidavit or declaration including a specific statement that, upon an investigation, he or she has satisfied himself or herself that to the best of his or her knowledge the applicant, when filing his or her application for the inventor's certificate, had the option to file an application either for a patent or an inventor's certificate as to the subject matter of the identified claim or claims forming the basis for the claim of priority.

21. Section 1.56 is amended by revising paragraph (c) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking or rejection of applications.

* * * * *

(c) Any application may be stricken from the files if:

(1) An oath or declaration pursuant to § 1.63 is signed in blank;

(2) An oath or declaration pursuant to § 1.63 is signed without review thereof by the person making the oath or declaration;

(3) An oath or declaration pursuant to § 1.63 is signed without review of the specification, including the claims, as required by § 1.63(b); or

(4) The application papers filed in the Office are altered after the signing of an oath or declaration pursuant to § 1.63 referring to those application papers.

* * * * *

§ 1.57 [Removed]

22. Section 1.57 is removed.

23. Section 1.59 is revised to read as follows:

§ 1.59 Papers of application with filing date not to be returned.

Papers in an application which has received a filing date pursuant to § 1.53 will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost.

24. Section § 1.60 is revised to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121), which discloses and claims only subject matter disclosed in a prior application may be filed as a separate application before the patenting or abandonment of or termination of proceedings on the prior application. Signing and execution of the application papers by the applicant may be omitted provided the copy is supplied by and accompanied by a statement by, the applicant or his or her attorney or agent that the application papers comprise a true copy of the prior application as filed. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date.

25. Section § 1.62 is revised to read as follows:

§ 1.62 File wrapper continuing procedure.

(a) A continuation, continuation-in-part, or divisional application, which uses the specification and drawings from a prior application to be abandoned, may be filed before the payment of the issue fee, abandonment of, or termination of proceedings on a prior application. The filing date of an application filed under this section is the date on which a request is filed for an application under this section including identification of the Serial Number, filing date, and applicant's name of the prior application.

(b) The filing fee for a continuation, continuation-in-part, or divisional application under this section is based

on the number of claims remaining in the application after entry of any preliminary amendment and entry of any amendments under § 1.116 unentered in the prior application which applicant has requested to be entered in the continuing application.

(c) In the case of a continuation-in-part application which adds and claims additional disclosure by amendment, an oath or declaration as required by § 1.63 must also be filed. In a continuation or divisional application which discloses and claims only subject matter disclosed in a prior application, no additional oath or declaration is required.

(d) If an application which has been accorded a filing date pursuant to paragraph (a) of this section does not include the appropriate filing fee pursuant to paragraph (b) of this section, or an oath or declaration by the applicant in the case of a continuation-in-part application pursuant to paragraph (c) of this section, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent adandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification of a defect pursuant to paragraph (a) of this section.

(e) An application filed under this section will utilize the file wrapper and contents of the prior application to constitute the new continuation, continuation-in-part, or divisional application but will be assigned a new application serial number.

(f) The filing of an application under this section will be construed to include a waiver of secrecy by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, or information concerning either the prior application or any continuing application filed under the provisions of this section may be given similar access to, or similar information concerning, the other application(s) in the file wrapper.

(g) The filing of a request for a continuing application under this section will be considered to be a request to expressly abandon the prior application as of the filing date granted the continuing application.

(h) The applicant is urged to furnish the following information relating to the prior application to the best of his or her ability:

(1) Title as originally filed and as last amended;

(2) Name of applicant as originally filed and as last amended;

(3) Current correspondence address of applicant;

(4) Identification of prior foreign application and any priority claim under 35 U.S.C. 119.

(i) Envelopes containing only application papers and fees for filing under this section should be marked "Box FWC".

26. A new § 1.63 is added to read as follows:

§ 1.63 Oath or declaration.

(a) An oath or declaration filed under § 1.51(a)(2) as a part of an application must:

(1) Be executed in accordance with either § 1.66 or § 1.68;

(2) Identify the specification to which it is directed;

(3) Indentify each inventor and the residence and country of citizenship of each inventor; and

(4) State whether the inventor is a sole or joint inventor of the invention claimed.

(b) In addition to meeting the requirements of paragraph (a), the oath or declaration must state that the person making the oath or declaration:

(1) Has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration;

(2) Believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought; and

(3) Acknowledges the duty to disclose information which is material to the examination of the application in accordance with § 1.56(a).

(c) In addition to meeting the requirements of paragraphs (a) and (b) of this section, the oath or declaration in any application in which a claim for foreign priority is made pursuant to § 1.55 must identify the foreign application for patent or inventor's certificate on which priority is claimed, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

(d) In any continuation-in-part application filed under the conditions specified in 35 U.S.C. 120 which discloses and claims subject matter in addition to that disclosed in the prior copending application, the oath or declaration must also state that the person making the oath or declaration acknowledges the duty to disclose material information as defined in § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

27. A new § 1.64 is added to read as follows:

§ 1.64 Person making oath or declaration.

(a) The oath or declaration must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, or 1.47.

(b) If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor and, upon information and belief, the facts which the inventor is required to state.

§ 1.65 [Removed]

28. Section 1.65 is removed.

29. Section 1.67 is revised to read as follows:

§ 1.67 Supplemental oath or declaration.

(a) A supplemental oath or declaration meeting the requirements of § 1.63 may be required to be filed to correct any deficiencies or inaccuracies present in an earlier filed oath or declaration.

(b) A supplemental oath or declaration meeting the requirements of § 1.63 must be filed: (1) When a claim is presented for matter originally shown or described but not substantially embraced in the statement of invention or claims originally presented; and (2) When an oath or declaration submitted in accordance with § 1.53(d) after the filing of the specification and any required drawings specifically and improperly refers to an amendment which includes new matter. No new matter may be introduced into an application after its filing date even if a supplemental oath or declaration is filed (§ 1.53(b); § 1.118). In proper cases the oath or declaration here required may be made on information and belief by an applicant other than inventor.

30. Section 1.69 is amended by revising paragraph (b) to read as follows:

§ 1.69 Foreign language oaths and declarations.

* * * * *

(b) Unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be accompanied by a verified English translation, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months

from the date applicant is notified to file the translation.

31. Section 1.70 is amended by revising the title and paragraph (a) to read as follows:

§ 1.70 Oath or declaration under 35 U.S.C. 371(c)(4).

(a) When an applicant of an international application, if the inventor, desires to enter the national stage under 35 U.S.C. 371, he or she must file an oath or declaration in accordance with § 1.63.

* * * * *

32. Section 1.77 is amended by revising paragraphs (h) and (i) to read as follows:

§ 1.77 Arrangement of application elements.

* * * * *

(h) Abstract of the disclosure.

(i) Signed oath or declaration.

* * * * *

33. The center heading preceding § 1.97 and § 1.97 are revised to read as follows:

Information Disclosure Statement

§ 1.97 Filing of information disclosure statement.

(a) As a means of complying with the duty of disclosure set forth in § 1.56, applicants are encouraged to file an information disclosure statement at the time of filing the application or within the later of three months after the filing date of the application or two months after applicant receives the filing receipt. If filed separately, the disclosure statement should, in addition to the identification of the application, include the Group Art Unit to which the application is assigned as indicated on the filing receipt. The disclosure statement may either be separate from the specification or may be incorporated therein.

(b) A disclosure statement filed in accordance with paragraph (a) of this section shall not be construed as a representation that a search has been made or that no other material information as defined in § 1.56(a) exists.

34. Section 1.98 is amended by revising the title and paragraph (a) to read as follows:

§ 1.98 Content of information disclosure statement.

(a) Any disclosure statement filed under § 1.97 or § 1.99 shall include: (1) A listing of patents, publications or other information; and (2) A concise explanation of the relevance of each listed item. The disclosure statement shall be accompanied by a copy of each listed patent or publication or other item of information in written form or of at least the portions thereof considered by the person filing the disclosure statement to be pertinent. All United States patents listed should be identified by their patent numbers, patent dates and names of the patentees. Each foreign published application or patent should be cited by identifying the country or office which issued it, the document number and publication date indicated on the document. Each printed publication should be identified by author (if any), title of the publication, pages, date and place of publication.

* * * * *

35. Section 1.99 is revised to read as follows:

§ 1.99 Updating of information disclosure statement.

If prior to issuance of a patent an applicant, pursuant to his or her duty of disclosure under § 1.56, wishes to bring to the attention of the Office additional patents, publications or other information not previously submitted, the additional information should be submitted to the Office with reasonable promptness. It may be included in a supplemental information disclosure statement or may be incorporated into other communications to be considered by the examiner. Any transmittal of additional information shall be accompanied by explanations of relevance and by copies in accordance with the requirements of § 1.98.

36. Section 1.101 is amended by revising paragraph (a) to read as follows:

§ 1.101 Order of examination.

(a) Applications filed in the Patent and Trademark Office and accepted as complete applications are assigned for examination to the respective examining groups having the classes of inventions to which the applications relate. Applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed except for those applications in which examination has been advanced pursuant to § 1.102 and those applications in which the Office has accepted a request for waiver of patent rights filed under § 1.139. International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met. However, unless a request has been filed under 35 U.S.C. 371(f), no action may be taken prior to 21 months from the priority date.

* * * * *

37. Section 1.118 is revised to read as follows:

§ 1.118 Amendment of disclosure.

(a) No amendment shall introduce new matter into the disclosure of an application after the filing date of the application (§ 1.53(b)). All amendments to the specification, including the claims, and the drawings filed after the filing date of the application must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from or an addition to the original disclosure, cannot be added to the application after its filing date even though supported by an oath or declaration in accordance with § 1.63 or § 1.67 filed after the filing date of the application.

(b) If it is determined that an amendment filed after the filing date of the application introduces new matter, claims containing new matter will be rejected and deletion of the new matter in the specification and drawings will be required even if the amendment is accompanied by an oath or declaration in accordance with § 1.63 or § 1.67.

38. Section 1.123 is revised to read as follows:

§ 1.123 Amendments to the drawing.

No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by bonded draftsmen, at applicant's expense, or by the submission of substitute drawings by applicant. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed for approval by the examiner. The paper requesting amendments to the drawing should be separate from other papers.

39. Section 1.125 is revised to read as follows:

§ 1.125 Substitute specification.

If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification, including the claims, or any part thereof, to be rewritten. A substitute specification may not be accepted unless it has been required by the examiner or unless it is clear to the examiner that acceptance of a substitute specification would facilitate processing of the application. Any substitute specification filed must be accompanied by a statement that the substitute specification includes no new matter. Such statement must be a verified statement if made by a person not registered to practice before the Office.

40. Section 1.131 is amended by revising paragraph (a) to read as follows:

§ 1.131 Affidavit or declaration of prior invention to overcome cited patent or publication.

(a) When any claim of an application or a patent under reexamination is rejected on reference to a domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant or the owner of the patent under reexamination shall make oath or declaration as to facts showing a completion of the invention in this country before the filing date of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, then the patent or publication cited shall not bar the grant of a patent to the applicant or the confirmation of the patentability of the claims of the patent, unless the date of such patent or printed publication is more than one year prior to the date on which the applicant's or patent owner's application was filed in this country.

* * * * *

41. Section 1.132 is revised to read as follows:

§ 1.132 Affidavits or declarations traversing grounds of rejection.

When any claim of an application or a patent under reexamination is rejected on reference to a domestic patent which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits or declarations traversing these references or objections may be received.

42. Section 1.137 is amended by revising paragraph (b) to read as follows:

§ 1.137 Revival of abandoned application.

* * * * *

(b) An application unintentionally abandoned for failure to prosecute, except pursuant to § 1.53(d), may be revived as a pending application if the delay was unintentional. A petition to revive an unintentionally abandoned application must be filed within one year of the date on which the application became abandoned or be filed within three months of the date of the first decision on a petition to revive under paragraph (a) of this section which was filed within one year of the date of abandonment of the application. A petition to revive an unintentionally abandoned application must be accompanied by: (1) A statement that the abandonment was unintentional; (2) A proposed response unless it has been previously filed, and (3) a petition fee as set forth in § 1.17(m). Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the abandonment was unintentional. The three month period set forth in this paragraph may be extended under the provisions of § 1.136(a), but no further extensions under § 1.136(b) will be granted. Petitions to the Commissioner under § 1.183 to waive any time periods for requesting revival of an unintentionally abandoned application will not be considered, but will be returned to the applicant.

* * * * *

43. Section 1.153 is amended by revising paragraph (b) to read as follows:

§ 1.153 Title, description and claim, oath or declaration.

* * * * *

(b) The oath or declaration required of the applicant must comply with § 1.63.

44. Section 1.154 is amended by revising paragraph (e) to read as follows:

§ 1.154 Arrangement of specification.

* * * * *

(e) Signed oath or declaration (See § 1.153(b)).

45. Section 1.162 is revised to read as follows:

§ 1.162 Applicant, oath or declaration.

The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or as provided in §§ 1.42, 1.43, and 1.47). The oath or declaration required of the applicant, in addition to the averments required by § 1.63, must state that he or she has asexually reproduced the plant. Where the plant is a newly found plant the oath or declaration must also state that it was found in a cultivated area.

46. Section 1.163 is amended by revising paragraph (b) to read as follows:

§ 1.163 Specification.

* * * * *

(b) Two copies of the specification (including the claim) must be submitted, but only one signed oath or declaration is required. The second copy of the specification may be a legible carbon copy of the original.

47. Section 1.172 is amended by revising paragraph (a) to read as follows:

§ 1.172 Applicants, assignees.

(a) A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

* * * * *

48. Section 1.174 is amended by revising paragraph (a) to read as follows:

§ 1.174 Drawings.

(a) The drawings upon which the original patent was issued may be used in reissue applications if no changes whatsoever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings of the size required for original drawing.

* * * * *

49. Section 1.175 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1.175 Reissue oath or declaration.

(a) Applicants for reissue, in addition to complying with the requirements of § 1.63, must also file with their applications a statement under oath or declaration as follows:

* * * * *

50. Section 1.324 is revised to read as follows:

§ 1.324 Correction of inventorship in patent.

Whenever a patent is issued and it appears that the correct inventor or inventors were not named through error without deceptive intention on the part of the actual inventor or inventors, the Commissioner may, on petition of all the parties and the assignees and satisfactory proof of the facts and

payment of the fee set forth in § 1.20(b), or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors.

51. Section 1.325 is revised to read as follows:

§ 1.325 Other mistakes not corrected.

Mistakes other than those provided for in §§ 1.322, 1.323, 1.324, and not affording legal grounds for reissue or for reexamination, will not be corrected after the date of the patent.

52. A new § 1.335 is added to read as follows:

§ 1.335 Filing of notice of arbitration awards.

(a) Written notice of any award by an arbitrator pursuant to 35 U.S.C. 294 must be filed in the Patent and Trademark Office by the patentee, or the patentee's assignee or licensee. If the award involves more than one patent a separate notice must be filed for placement in the file of each patent. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the award.

(b) If an award by an arbitrator pursuant to 35 U.S.C. 294 is modified by a court, the party requesting the modification must file in the Patent and Trademark Office, a notice of the modification for placement in the file of each patent to which the modification applies. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the court's order modifying the award.

(c) Any award by an arbitrator pursuant to 35 U.S.C. 294 shall be unenforceable until any notices required by paragraph (a) or (b) of this section are filed in the Patent and Trademark Office. If any required notice is not filed by the party designated in paragraph (a) or (b) of this section, any party to the arbitration proceeding may file such a notice.

PART 5—[AMENDED]

53. Section 5.12 is revised to read as follows:

§ 5.12 Petition for license.

(a) Filing of an application for patent for inventions made in the United States will be considered to include a petition for license under 35 U.S.C. 184 for the subject matter of the application. The filing receipt will indicate if a license is granted. If the initial automatic petition is not granted, a subsequent petition may be filed under paragraph (b) of this section.

(b) Petitions for license under 35 U.S.C. 184 should be presented in letter form and should include petitioner's address, and full instructions for delivery of the requested license when it is to be delivered to other than the petitioner.

Dated: December 23, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 83-1507 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-16-M

federal register

Thursday
January 20, 1983

Part VI

Environmental Protection Agency

Control of Air Pollution From Aircraft Engines; Emission Standard for JT3D Engines

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS FRL-2269-6]

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standard for JT3D Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This amendment eliminates the requirement for retrofitting the remaining unmodified JT3D aircraft engines on aircraft in service to and from United States point with low smoke combustors. This action responds to a petition from AVMARK, Inc., 1120 19th Street, N.W., Washington, D.C. 20036.

EFFECTIVE DATE: January 20, 1983.

ADDRESS: U.S. Environmental Protection Agency, Office of Mobile Sources (ANR-455).

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kittredge, U.S. Environmental Protection Agency, Office of Mobile Sources (ANR-455), 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 382-4961.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA aircraft engine emission standards promulgated in response to Section 231 of the Clean Air Act include a requirement that Pratt and Whitney JT3D engines in service on aircraft serving United States points be retrofitted to comply with smoke standards on a schedule matching that for FAA noise retrofit standards applicable to the same aircraft § 87.31(c), Title 40, Code of Federal Regulations).

On October 21, 1981 the AVMARK Corporation, of Washington, D.C., submitted a petition in behalf of "Ports of Call" travel club of Denver, Colorado, and a group of other small operators of JT3D-powered aircraft, requesting that EPA eliminate this requirement from that aircraft engine emission standards.

On May 11, 1982, EPA published a Notice of Proposed Rulemaking (47 FR 20153), inviting comments on the AVMARK petition and proposing that it be granted. The NPRM also presented additional information, assembled by EPA from available FAA records, which summarized trends in the population and usage of commercial aircraft powered by JT3D engines since the EPA aircraft engine emission standards were first proposed on December 12, 1972 (37 FR 26488).

Comments on the NPRM were received from 26 organizations, including the Air Transport Association (ATA), the International Air Transport Association (IATA), the Airport Operators Council International (AOCI), the Federal Aviation Administration (FAA), one aircraft engine servicing organization and a group of airlines and charter operators of aircraft powered by JT3D engines, who were the intended beneficiaries of the AVMARK petition.

II. Discussion of Issues

The comments were overwhelmingly in favor of granting the petition; only one recommended a denial and one a partial denial. They will be summarized by category. A complete "Summary and Analysis of Comments" document is available for inspection and copying in Docket No. A-82-18 at the address given earlier.

Economic Impact

Twelve commenters, including both large and small aircraft operators and leasing concerns, claimed that cost savings would be realized as a result of eliminating the standard prior to January 1, 1983 (the next scheduled partial compliance date, which requires that 50 percent of each operator's engines be retrofitted). However, only two commenters provided quantitative estimates of cost savings, which each estimated as roughly $500-560,000 over the next two-and-one-half years.

Concerning cost penalties if the standard were eliminated, only one commenter (the Airport Operators Council International) recommended against rescinding the standard, claiming that the costs saved by the aircraft operators would be transferred to their member airports. They offered no evidence to substantiate this position, however.

In response to questions asked in the NPRM, commenters representing large airlines which had incurred some costs in complying with the January 1, 1981 partial compliance date already passed, nevertheless recommended that the standard be withdrawn in any case as being economically beneficial to industry on the whole.

None of the other comments responded affirmatively to the questions in the NPRM which asked whether economic losses or other adverse effects would be experienced by aircraft operators which had made good faith efforts to comply or by the installers of the smoke retrofit kits.

No comments were received on this point from the manufacturer of the smoke retrofit kit.

Environmental Impact

Most of the comments were essentially the same, to the effect that the intent of the JT3D smoke retrofit standard will be met even if the standard is withdrawn, because the aircraft will all have to be retired from U.S. service on January 1, 1985 to comply with the FAA noise standard. The only environmental benefit would be represented by those few aircraft which might be retrofitted to meet the January 1, 1983 50-percent compliance date by operators who found it impossible to develop and submit an acceptable aircraft replacement plan.

One comment challenged this position (AOCI), on the grounds of expected increases in complaints to airport authorities about smoky aircraft engines from residential areas in and around large metropolitan airports. They did not substantiate this position, however, with data which documents any history of complaints of this sort. EPA has received only one or two complaints per year relating to aircraft smoke (or fuel venting) ever since completion of the JT8D smoke retrofit program in 1974. The steadily diminishing number of JT3D-powered aircraft and their reduced usage would suggest that the incidence of complaints will continue to diminish between now and 1985, with or without completion of the retrofit program.

Subsequent to the public comment period, EPA was advised by FAA that an effort was being made by a private organization to develop and certificate a noise retrofit system which could be installed on at least some JT3D-powered aircraft by 1985. To the extent that this effort is successful, it could adversely influence the environmental impact of eliminating the JT3D smoke retrofit requirement. This is because the reduced smoke combustor developed to comply with the smoke standard also results in hydrocarbon emissions less than half the level produced by the original combustor, as shown in the following table.

GASEOUS EMISSIONS FROM JT3D-7 ENGINE

(Kilograms/landing-takeoff cycle)

Pollutant	Original combustors	Reduced smoke combustors
HC	30.3	13.4
CO	24.8	19.6
NO_x	2.6	4.5

EPA estimates that up to 50 of the remaining B707 aircraft might be

retrofitted with the candidate noise suppression system and continue to operate at the rate of 160 hours per month after January 1, 1985. Their annual emissions of hydrocarbons would be roughly 2282 tons per year higher if the remaining three engines per aircraft were not retrofitted with low smoke combustors as required by the present standard. This assumes that one engine per aircraft has already been retrofitted to comply with the January 1, 1981, 25 percent compliance requirement. Therefore, under this scenario, which depends on the advent of a successful noise retrofit system before 1985, there would be a small environmental penalty in terms of hydrocarbon emissions associated with complete withdrawal of the JT3D smoke retrofit standard.

There would also be a lesser increase in carbon monoxide emissions but this is of much less concern with respect to airport air pollution, as pointed out in the preamble to a recently published final rulemaking action (47 FR 58462) which amends other EPA aircraft engine emissions standards.

Concerning the increased visible smoke itself, while this could conceivably result in a higher incidence of public complaints to airport officials as claimed by AOCI, it appears doubtful, in EPA's judgment, that there would be any detectable difference—not enough to justify the costs of installing low smoke combustors on 50 aircraft. These costs could approach $6 million, assuming an installed cost of $40,000 per engine. (This estimate does not allow for any economies which might result if the noise and smoke retrofit operations were done at the same time and place.)

Alternatives To Eliminating Standard

The present regulations provide several mechanisms for achieving relief. An operator can submit a replacement plan to FAA documenting his business arrangements for replacing JT3D-powered aircraft by January 1, 1985, or he can apply to EPA for a temporary exemption to cover problems such as delays in obtaining delivery of replacement parts. He can also simply withdraw the aircraft from U.S. service on or before the compliance date.

Accordingly, the NPRM asked for comments on whether complete elimination of the standard offers any advantages over the various avenues of relief in the existing provisions. Five organizations offered comments on this point, and four advocated complete elimination of the standard. Arguments were that: (1) Time-consuming preparation of exemption requests or aircraft replacement plans would be eliminated, (2) selling or leasing the aircraft between now and 1985 would be easier, and (3) operators still in possession of "retired" aircraft would have the flexibility to reactivate them in response to sudden traffic expansion.

The fifth comment, by FAA, recommended that only the 1983 50-percent compliance date be eliminated. The most important concerns raised by FAA in this regard are: (1) The possibility of penalizing those who have made a good faith effort to comply, and (2) the environmental benefits of the regulation.

In response to FAA's first concern, those operators who have made good faith efforts to comply with the standard—by purchasing and installing smoke retrofit kits—nonetheless recommend that the standard be rescinded. They stated that this would allow them to avoid further costs and give them more flexibility to operate and/or lease the remaining aircraft until 1985.

The intended environmental benefits of the standard suppression of visible smoke during takeoff operations at large metropolitan airports will largely be realized as a by-product of the FAA noise standard which applies to the same aircraft. Compliance with the noise standard will likely be achieved through substitution of a completely different engine (the GE/SNECMA CFM 56) on some DC8 aircraft plus withdrawal of most, if not all, of the remaining DC8 and B707 aircraft from the U.S. service. As the FAA pointed out in its comments, some B707 aircraft may be retrofitted with a noise suppression system which is still under development and has not yet been certificated by the FAA. If this should happen, up to 50 aircraft or so may continue operating after January 1, 1985. Their environmental impact is most readily quantified in terms of hydrocarbon emissions, as pointed out earlier, and the 50 aircraft could emit annual emissions of about 4085 tons HC/year nationwide if the remaining three engines on each of them are not modified to comply with the smoke standard compared to 1803 tons HC/year if they are modified, which yields a net HC penalty of 2282 tons HC/year. However, to put this in perspective, the smallest category of volatile organic emissions source presently included in EPA's Control Technique Guideline Documents for stationary source controls (Magnet Wire Coating) emits 32,500 tons/year nationwide. Therefore, the possible impact of nationwide HC emissions from operations of up to 50 aircraft either with or without reduced smoke combustors after 1985 falls well below the range heretofore considered worth controlling by EPA.

If the costs of the low smoke combustor were charged completely against HC control, the cost effectiveness would amount to $2629/ton, which is higher than that for other sources of volatile organic emissions regulated either by EPA or by the States as control strategies for achieving the National Ambient Air Quality Standard for ozone. Therefore, it does not appear that the small nationwide increase in HC emissions which may result if some B707 aircraft are retrofitted to comply with the noise standard represents a convincing reason to retain the smoke standard. As discussed earlier, the lesser increase in CO emissions and the visual impact of continued operations with a few smoky aircraft do not alter this conclusion.

III. Public Participation

Twenty-six comments were received on the Notice of Proposed Rulemaking and on the benefits, penalties, cost and equity considerations associated with granting the petition. These comments and an EPA analysis are available for review at the EPA Central Dockets Section (Docket Number A-82-18) at the address given earlier.

IV. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Analysis. This rulemaking is not major because it will result in annual adverse effects on the economy of less than $100 million. No comments were received on the overall costs estimated in the proposal.

There are no discernible effects on competition, productivity, investment employment or innovation. For these reasons EPA has not prepared a formal Regulatory Impact Analysis.

This proposal has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291.

V. Impacts on Reporting Requirement

There are no reporting requirements directly associated with this rulemaking.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine when a regulation will have significant effect on a substantial number of small entities so as to require a regulatory flexibility analysis. This rulemaking action will presumably have some effect on the small operators of surplus B707 and DC8 aircraft who are

its intended beneficiaries, although tl effect cannot be established accurately because the exact plans of each such organization are not known to EPA. In fact, only one of the organizations in whose behalf the petition was submitted was identified. There is no reason to believe at this time that the effect would be "significant" and would require a regulatory analysis. Accordingly, I hereby certify that this rulemaking will not have a significant effect on a substantial number of small entities.

VII. Other Information

This rule becomes effective on the date of publication because it is a "substantive rule" which "relieves a restriction" under 5 U.S.C. 553(d)(1) by rescinding the aircraft smoke limitation. Also, EPA finds that there is "good cause" under 5 U.S.C. 553(d)(3) for making this rule immediately effective. Under a later effective date, owners of affected aircraft would, under the existing regulation, be required to retrofit aircraft to meet a smoke standard which became effective on January 1, 1983, while the standard would be rescinded by this rule only a few weeks later. Imposing the existing smoke standard on aircraft owners only to rescind it a few weeks later would create confusion and impose an unreasonable burden on the regulated parties as well as wasting EPA enforcement resources.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft.

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 87—[AMENDED]

For the reasons set forth above, 40 CFR Part 87 is amended as follows:

1. The authority for Part 87 reads as follows:

Authority: Secs. 231, 301(a), Clean Air Act, as amended (42 U.S.C. 7571, 7601(a)).

2. In § 87.31, paragraph (c) is removed; and paragraph (d) is redesignated as (c) and is revised to read as follows:

§ 87.31 Standards for exhaust emissions.

* * * * *

(c) The standards set forth in paragraphs (a) and (b) of this section refer to exhaust smoke emissions emitted during operations of the engine as specified in the applicable section of Subpart H of this part, and measured and calculated in accordance with the procedures set forth in this subpart.

[FR Doc. 83-1518 Filed 1-19-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Thursday
January 20, 1983

Part VII

Department of Agriculture

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1983; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1983; Solicitation of Applications

Special Research Grants Program. Notice is hereby given that under the authority of section 2(c)(1) of the Act of August 4, 1965, Pub. L. 89–106, as amended (7 U.S.C. 450i), the Cooperative State Research Service (CSRS) of the U.S. Department of Agriculture (USDA) will award project grants for certain areas of research. Fundamental and innovative approaches will be sought for the resolution of program problem areas. The total amount available for this program during the Fiscal Year 1983 is $8,934,225. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures The research to be supported is in the following areas:

Soybean Research CSRS Contact: Dr. C. I. Harris; Telephone 202–447–4587	$501,455
Antidesertification CSRS Contact: Dr. C. I. Harris; Telephone 202–447–4587	$1,003,878
Animal Health Research CSRS Contact: Dr. Earl Spitler; Telephone 202–447–5007	$6,927,437
Aquaculture Research CSRS Contact: Dr. Howard S. Teague; Telephone 202–447–3847	$501,455

Alcohol Fuels Research Grants Program

In addition, notice is hereby given that pursuant to the authority of section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95–113, as amended (7 U.S.C. 3154), CSRS, USDA, will award project grants for research in the area of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives. The total amount available for this program during Fiscal Year 1983 is $522,752. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is in the following area:

Alcohol Research CSRS Contact: Dr. Paul Schleusener; Telephone 202–447–5680.	$522,752

The Alcohol program funds are intended to stimulate and support energy-related research. Such research is national in scope, is not designed to meet the needs or address the problems of a particular State, area or locality, does not include demonstration or pilot research projects, and does not involve capital construction.

Proposals submitted in response to this notice will be evaluated in competition with proposals from other institutions. Grants will be awarded for research proposals selected by CSRS, utilizing recommendations of Peer Panels, from funds appropriated for Fiscal Year 1983 (October 1, 1982 through September 30, 1983). Projects may be up to 5 years' duration unless a shorter duration is specified. According to the requirements for Federal assistance program announcements under Pub. L. 95–220, The Federal Program Information Act, the following information is provided with respect to the areas of research described in this announcement for which project grants will be awarded:

(1) As outlined by OMB Circular No. A–89, the official program number and title for the Special Research grants are: 10.200, Grants for Agricultural Research, Special Research Grants.

(2) As outlined by OMB Circular No. A–89, the official program number and title for the Alcohol Research grants are: 10.208, Alcohol Fuels Research.

(3) OMB Circular No. A–95, regarding State and local clearinghouse review of Federal and Federally assisted programs, does not apply.

Subject Matter Guidelines for Fiscal Year 1983, Grants Under Section 2(c)(1) of Pub. L. 89–106, as amended, and Section 1419 of Pub. L. 95–113 as amended.

A. The applicable program should be indicated in Block 7 and the applicable program area and specific area of inquiry should be indicated in Block 8 of Form S&E–661 provided in the Grant Application Kit. Select one program and one program area only. The final determination of the program and program area will be made by the program staff and/or the appropriate panel. The number assigned to the specific area of inquiry must also be cited, if applicable (e.g., 2.1, 2.2), in Block 8 of Form S&E–661.

B. Information concerning the selection of proposals for funding is included in Appendix II. The appropriate format for preparation of the proposal is described in Appendix III. Appendix IV shows the scoring form which will be utilized by peer panel members and Appendix IV–A provides general information concerning proposal evaluation and grant administration. Detailed descriptions of the program areas to be supported follow.

Program Research Grants Program

Program Areas

1.0 *Soybean Research.* The total amount available for soybean research during Fiscal Year 1983 is $501,455. Grant awards will be limited to a maximum of $100,000 for the support of any project in this program area. Proposals requesting in excess of $100,000 will not be evaluated. Proposals submitted for funding should address the following specific areas of inquiry:

1.1 Soybean production research to sustain or increase yields and conserve natural resources. Preference will be given to strategies with broad or national implication.

1.2 Research on soybean genetic mechanisms contributing to tolerance to biotic and abiotic stress.

2.0 *Antidesertification Research.* The total amount available in Fiscal Year 1983 is $1,003,878. Grants will be awarded to fund research proposals seeking solutions to the sustained decline in biological productivity of arid and semiarid lands caused by man-made stresses sometimes in conjunction with extreme natural events. The overall objective is to develop strategies to quantify desertification trends, and sustain or increase productivity of lands undergoing desertification. Proposals submitted for funding should address the following specific areas of inquiry:

2.1 Laboratory or field studies focusing on systems processes (biological, physical, economic and behavioral) for quantifying trends, preventing or reversing desertification. Grant awards will be limited to a maximum of $80,000 for the support of any project in this specific area of inquiry. Proposals requesting in excess of $80,000 will not be evaluated.

2.2 Subsystem and systems oriented, interdisciplinary research projects using generated or extant information and including combinations of at least two of the following disciplines: biological, physical, economic, and socio-political sciences. The spirit of interdisciplinary research from planning to completion should be demonstrated. Grant awards will be limited to a maximum of $200,000 for the support of any project in this specific area of inquiry. Proposals requesting in excess of $200,000 will not be evaluated.

3.0 *Animal Health.* The total amount available for this area during Fiscal Year 1983 is $6,927,437. These funds will be awarded to support research seeking solutions to health problems of liverstock and poultry and major aquaculture species. Grant awards will be limited to a maximum of $150,000 for

the support of any project in this program area. Proposals requesting in excess of $150,000 will not be evaluated. The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfection diseases and internal and external parasites of livestock, poultry, and major aquaculture species. Research will be directed toward: (1) Clarification of infectious and noninfectious diseases and parasites or their interactive effects on animal health; and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses. Research may include clarification of complex or unknown etiologies including environmental interactions; development of improved methods of detecting disease agents or antibodies in animals, animal product, tissues, etc.; clarification of disease pathogenesis; determination of methods of disease transmission including transmission by embryo transfer, artificial insemination and importation of animal products—such studies should mimic as close as possible the normal conditions of collection, preparation and use of these items; development of improved methods of immunization against disease agents that will provide solid and persistent protection without compromising diagnosis; development of alternative pest eradication methods so as to limit the use and dependence on biotoxic substances—such alternatives may include biologic methods, sterile male techniques, artificial pheromones, etc.; and development of other disease prevention, control and eradication technology.

The specific areas of inquiry in which projects will be funded are listed below. The specific areas of inquiry are broken down into subcategories which will be funded in the approximate amounts listed. In the event that there are insufficient meritorious proposals recommended by peer panels to utilize all funds in each specific area of inquiry or in each subcategory, the balance of any such funds will be awarded to meritorious proposals recommended by peer panels under the other subcategories within the specific area of inquiry or the other specific areas of inquiry. Utilizing the recommendations of the peer panels, the Administrator of CSRS will make the final determination on specific grants to be awarded. Only proposals dealing with the following specific areas of inquiry will be selected for funding:

3.1 Beef Cattle. (1) Respiratory disease complex. (Approximately 17 percent of available funds)

(2) Reproductive diseases, especially brucellosis and including but not limited to anestrus, leptospirosis and vibriosis. (Approximately 12 percent of available funds)

(3) Enteric diseases, including but not limited to Johne's Disease. (Approximately 8 percent of available funds)

(4) Parasites (internal and external), including but not limited to anaplasmosis, ticks, flukes, nematodes and interactive effects of internal and external parasites. Metabolic diseases, especially bloat, grass tetany and mineral imbalance. (Approximately 4 percent of available funds)

3.2 Dairy Cattle. (1) Mastitis. (Approximately 6 percent of available funds)

(2) Reproductive diseases, including but not limited to non-detected estrus. (Approximately 5 percent of available funds)

(3) Respiratory diseases. (Approximately 3 percent of available funds)

(4) Digestive and enteric diseases, including but not limited to Johne's Disease. (Approximately 2 percent of available funds)

(5) Foot Rot. (Approximately 2 percent of available funds)

3.3 Swine. (1) Enteric diseases. Viral enteritis, coccidiosis, salmonellosis, colibacillosis and proliferative enteritis. (Approximately 5 percent of available funds)

(2) Respiratory diseases. Hemophilus pleuropneumonia, mycoplasma pneumonia, atrophic rhinitis, and *Pasteurella multocida*. (Approximately 5 percent of available funds)

(3) Reproductive diseases. Parvovirus, Mastitis-metritis-agalactia, pregnancy loss and anestrus. (Approximately 4 percent of available funds)

(4) Other swine diseases. Trichinosis, pseudorabies, external parasites, mycotoxicosis, and lameness. (Approximately 4 percent of available funds)

3.4 Poultry. (1) Respiratory diseases. (Approximately 5 percent of available funds)

(2) Skeletal problems such as femoral head necroses, tibial dyschondroplasia and reovirus infections. (Approximately 4 percent of available funds)

(3) Enteric disorders such as salmonellosis and malabsorption syndrome; immunologic disorders such as infectious bursal disease and adenovirus infections; neoplastic diseases. (Approximately 4 percent of available funds)

3.5 Sheep and Goats. Bluetongue, foot rot, chlamydial polyarthritis, gastrointestinal parasites, caseous lymphadenitis, pneumonia, mastitis, bacterial scours, ram epididymitis and predator control. (Approximately 5 percent of available funds)

3.6 Horses. Especially respiratory diseases, and including but not limited to enteric diseases, reproductive diseases, and musculoskeletal diseases (especially laminitis and lameness). (Approximately 3 percent of available funds)

3.7 Aquaculture. Infectious diseases and parasites. (Approximately 2 percent of available funds)

4.0 Aquaculture Research. The total amount available for this area during Fiscal Year 1983 is $501.455. Grant awards will be limited to a maximum of $80,000 for the support of any project in this program area. Proposals requesting in excess of $80,000 will not be evaluated. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Increased production of freshwater species having high commercial potential such as catfish, trout, bait minnows, crawfish and freshwater shrimp will be included. Proposals focused on aquaculture production in the following specific areas of inquiry will be considered:

4.1 Improved production efficiency in diet formulation, reproduction and breeding, and disease and parasite control.

4.2 Improved water quality for production and factors affecting the quality of water discharge.

Alcohol Fuels Research Grants Program

5.0 Alcohol Research. The total amount available for this program during Fiscal Year 1983 is $522,752. Grant awards will be limited to a maximum of $80,000 for the support of any project in this project in this program area of 2 or 3 years' duration. Proposals requesting in excess of $80,000 or proposing a project period of more than 3 years will not be evaluated. This program will cover research on the evaluation (including economic), treatment, and conversion of biomass resources for manufacture of alcohol.

At least 25 percent of these funds shall be made available for research relating to the production of alcohol, to identify and develop agricultural commodities (including alfalfa, sweet sorghum, black locust and cheese whey) which may be suitable for such

production. At least 25 percent of these funds shall be made available for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.

It has been determined that, because of the need to implement these programs so that research relating to plant production can be initiated in the spring of 1983, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of Special and Alcohol Fuels Research grants in Fiscal Year 1983 will be selected, and the terms and conditions under which such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 11th day of January 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education.

APPENDIX I—APPLICATION PROCEDURES

1. Eligible Institutions

Special Research Grants Program

Grants under section 2(c)(1) of Pub. L. 89–106, as amended, may be made to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research.

Alcohol Fuels Research Grants Program

Grants under section 1419 of Pub. L. 95–113, as amended, may be made to any college, university, Government corporation on Federal laboratory. Research foundations are not eligible to receive research grants under section 1419 of Pub. L. 95–113 unless they independently meet the definition of college and university as set out in section 1404 of Pub. L. 95–113, as amended.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association.

Foreign universities or colleges are not eligible under either of the above programs.

2. Proposal Submission

A. Before submission, write or call the Grants Administrative Management Office (address and telephone number below) for a copy(ies) of the Grant Application Kit.

Proposals should be submitted to the Grants Administrative Management Office at the address shown below. Your submission should include an original and 19 copies of the proposal and Form S&E–661, Grant Application, which is included in the Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures of the principal investigator(s) and the authorized organizational representative. CSRS must have original signatures on file for each application. A principal investigator whose signature does not appear on the Grant Application will not be listed as a principal investigator in the event of an award.

Grants Administrative Management Office, Office of Grants and Program Systems, U.S. Department of Agriculture, Suite 103, Rosslyn Commnowealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209, Telephone: (703) 235–2638.

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identity. If copies of the proposal *are* mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgement of receipt of the proposal will contain a proposal number and title. Later inquires, addenda, etc., should include this information. However, every effort should be make to *assure* that the proposal contains *all pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Grant Application Kit and the format cited in Appendix III of this announcement.

B. To be considered for award, proposals must be prepared in the format prescribed in Appendix III and must be *received* in the Grants Administrative Management Office (GAMO) by the *close of business* on the date specified for each program area as listed below:

Soybean Research—deadline is March 11, 1983

Antidecertification Research—deadline is March 11, 1983

Animal Health Research—deadline March 25, 1983

Aquaculture Research—deadline is April 1, 1983

Alcohol Research—deadline is April 15, 1983

Proposals should not exceed 10 pages (single spaced) excluding the literature citation, vitae appendices, and required forms from the Grant Application Kit.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the pages referenced in the above paragraph, will be evaluated.

C. Research Involving Special Consideration. A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for CSRS support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by CSRS grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish CSRS with a statement that the research plan

has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects. Form S&E–84, Protection of Human Subjects, may be used for this purpose.

3. Budget and Report Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Form S&E–55). While cost sharing is encouraged, it will not be a factor in the selection process.

B. Annual financia reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 2 pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objectives and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted to CSRS within 90 calendar days after the termination date of the grant.

E. Grants awarded under the authority of section 2(c)(1) of Pub. L. 89–106, as amended, and section 1419 of Pub. L. 95–113, as amended, do not require matching or cost sharing, but cost sharing is encouraged.

APPENDIX II—SELECTION OF PROPOSALS FOR FUNDING

A. Selection Criteria. A panel of peer scientists for each specific area of inquiry will evaluate the proposals utilizing selection criteria listed in Appendices IV and IV–A. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposal under review. Utilizing the recommendations of peer panels, CSRS will select the proposals to be funded within the amount availble for each program area.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for a project or where the panel recommends that only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the area of inquiry and another proposal selected from those recommended by the peer panel will be funded. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

C. Disposition of Proposals. After the grants are awarded, the CSRS program manager will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552).

D. Grant Award. The applicants submitting proposals judged most meritorious under the criteria in Appendix IV will be awarded grants for periods not to exceed five years, within the limitations of available funds.

Appendix III—Format for Research Proposal

The Research Grant Application Kit (available from the Grants Administrative Management Office) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described earlier.

Additional information and/or instructions relating to the format and content of the Research Proposal follow:

1. Grant Application (Form S&E–661). A Grant Application with all relevant original signatures must be included with the proposal. All other copies of the proposal should also contain a Grant Application, but facsimile or photocopied signatures will be accepted.

2. Title of Proposal. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

3. Approval Signatures of Appropriate Officials. All proposals from a university, college, or institution must be signed by an authorized official.

4. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

5. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as the sampling plant, experimental design, and analyses anticipated.

6. Justification. This should describe: (1) The importance of the problem to the needs of the Department of Agriculture and to the States or region, being sure to incldue estimates of the magnitude of the problem; (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

7. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete including the title of the article. Literature citations should be appended to the proposal and are not included in the 10-page limit.

8. Current Research. Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions. Show other grants or support in this and related areas.

9. Facilities and Equipment. The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 5, Procedures, but the combination must clearly show needed and available facilities and equipment.

10. Research Timetable. Show all important research phases as a function of time, year by year.

11. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved, include: (1) An estiamte of the time commitments necessary and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae also can be provided as an appendix and will not be included in the 10-page limit. The vitae are to be no more than 2 pages each in length excluding publication listings. Provide for each person a chronological list of the most recent representative publications during the preceding 5 years, including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as they usually appear in journals.

12. Additions to Project Description (if any). Each project description is expected by the members of review committees and the program staffs to be complete in itself. Distribution of

additional materials, other than for the records, will be limited to the principal reviewers. In those instances in which the submission of additional material is necessary (e.g., photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 8 copies or sets, identified by title of the research project and name of the principal investigator(s), should accompany the proposal.

APPENDIX IV—PEER PANEL SCORING FORM

Proposal Identification No.

Institution and Project Title

I. Basic Requirement:

Proposal falls within guidelines? ——— yes ——— no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

		Score 1–10	Weight factor	Score X weight factor	Comments
1.	Scientific and technical quality of the idea		8		
2.	Scientific and technological quality of the approach		8		
3.	Relevance and importance of proposed research to solution of specific areas of inquiry.		6		
4.	Feasibility of attaining objectives during life of proposed research.		5		
5.	Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research.		5		
6.	Adequacy of facilities, equipment, and professional and technical staffing.		5		

Score ———

Summary Comments:

APPENDIX IV-A—EVALUATION OF PROPOSALS

The peer panel, subject to final determination by the Administrator of CSRS, will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines, the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria by the peer panel.

Proposals reflecting a total budget which exceeds the maximum budget allowed for a particular program area will be considered outside the guidelines.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criterion utilizing a scale of 1 to 10. A score of one is low for the selection criterion. A score of 10 is high for the selection criterion. A weighting factor is used for each criterion.

Grant Administration and Allowable Costs

The grants awarded will be administered in accordance with the USDA Uniform Federal Assistance Regulations (7 CFR Part- 3015), applicable OMB Circulars and Form S&E-638, General Provisions for Grants and Cooperative Agreements. A copy of Form S&E-638 is included in the Grant Application Kit.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular A-21

Nonprofit Organizations—OMB Circular A-122

Commercial Firms—FPR 1-15.2

Information collection requirements contained in this document have been approved by OMB Document No. 0524-0010.

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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.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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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	
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