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Federal Register

Thursday
September 13, 1979

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53151 **Child Health Day, 1979** Presidential proclamation

53153 **Trading With the Enemy Act** Presidential determination

53322 **Managing Federal Assistance in the 1980's** OMB gives notice of availability for public comment of working papers, comments by 11-15-79

53410 **Recombinant DNA Research** HEW/NIH issues notice of final plan for program to assess risks of recombinant DNA research; effective 9-12-79 (Part IV of this issue)

53352 **Oil Pollution Prevention Equipment** DOT/CG sets out design and approval requirements; effective 10-10-79 (Part II of this issue)

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53426 **Securities** SEC issues interpretation of rules and requests comments concerning shareholder communications, and shareholder participation in the corporate electoral process and corporate governance, comments by 11-30-79 (Part VII of this issue)

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Presidential Documents

Title 3—

The President

Proclamation 4682 of September 11, 1979

National Hunting and Fishing Day, 1979

By the President of the United States of America

A Proclamation

The millions of hunting and fishing licenses issued each year reflect a widespread appreciation of the healthy recreation, peaceful solitude and closeness to nature these pursuits offer.

America's hunters and fishermen have long been leaders in the conservation movement. They understand the importance of clean air, good water and adequate habitat for wildlife. They support those goals through the purchase of licenses and the payment of taxes on hunting and fishing equipment. They and the organizations that represent them are also effective leaders in the promotion of firearm and boating safety.

It is appropriate that we recognize all of these contributions by the observance of a National Hunting and Fishing Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Saturday, September 22, 1979, and the fourth Saturday of September in each succeeding year, as National Hunting and Fishing Day.

I urge all of our citizens to join with outdoor sportsmen in the wise use and management of our natural resources.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-28625
Filed 9-11-79; 2:40 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4683 of September 11, 1979

Child Health Day, 1979

By the President of the United States of America

A Proclamation

For over 50 years, this Nation has observed Child Health Day. By setting aside this special day each year, we reaffirm our commitment to the improvement of the health of our children. Excellence is the only standard that is acceptable in our efforts to promote good health, prevent disease and disability, and improve conditions that interfere with the ability of each child to reach his or her potential.

In this International Year of the Child, we have accelerated our assault on infant mortality, childhood accidents, acute and chronic diseases and handicapping conditions. I am determined to assure that children receive the expert care they need and to which they are entitled. My goal continues to be excellence in providing for the health needs of our children.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Monday, October 1, 1979, as Child Health Day.

I ask that you join me as we pledge our continuing attainment in the pursuit of excellence of health care for our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-28626
Filed 9-11-79; 2:41 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination of September 12, 1979

Determination Extending the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State, the Secretary of Treasury

Under Section 101(b) of Public Law 95-223 (91 Stat. 1625; 50 U.S.C. App. 5 note), and a previous Determination made by me on September 8, 1978 (43 *Fed. Reg.* 40449 (1978)), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1979.

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

Therefore, pursuant to the authority vested in me by Section 101(b) of Public Law 95-223, I extend for one year, until September 14, 1980, the exercise of those authorities with respect to those countries presently affected by: (1) the Foreign Assets Control Regulations, 31 CFR Part 500, (2) the Transaction Control Regulations, 31 CFR Part 505, (3) the Cuban Assets Control Regulations, 31 CFR Part 515, and (4) the Foreign Funds Control Regulations, 31 CFR Part 520.

The extension of the authorities with respect to the People's Republic of China is in connection with implementation of the Agreement Concerning the Settlement of Claims entered into between the Government of the United States and the Government of the People's Republic of China on May 11, 1979.

This Determination shall be published in the Federal Register.

Jimmy Carter

THE WHITE HOUSE,
Washington, September 12, 1979.

[FR Doc. 79-28736
Filed 9-12-79; 12:16 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 629; Valencia Orange Regulation 628, Amendment 1]

Valencia Oranges Grown in Arizona and Designated Part of California, Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 14–20, 1979, and increases the quantity of such oranges that may be so shipped during the period September 7–13, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective September 14, 1979, and the amendment is effective for the period September 7–13, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908) regulating the handling of Valencia 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 recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The committee met on September 11, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is showing improvement.

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 Valencia 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.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

1. Section 908.929 is added as follows:

§ 908.929 Valencia Orange Regulation 629.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 14, 1979 through September 20, 1979, are established as follows:

(1) District 1: 371,000 cartons;
(2) District 2: 329,000 cartons;
(3) District 3: Unlimited.

(b) As used in this section, "handled" "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

§ 908.928 [Amended]

2. Paragraph (a) (1) and (2) in § 908.9: Valencia Orange Regulation 628 (44 FR 51967), is hereby amended to read:

* * * * *

(1) District 1: 371,000 cartons
(2) District 2: 329,000 cartons

* * * * *

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

Dated: September 12, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-28725 Filed 9-12-79; 11:42 am]
BILLING CODE 3410-02-M

7 CFR Part 981

Handling of Almonds Grown in California; Salable and Reserve Percentages for the 1979–80 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation under the marketing order for California almonds establishes a salable percentage of 100 percent and a reserve percentage of 0 percent for the crop year which began July 1, 1979.

DATES: Effective July 1, 1979 through June 30, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, (202) 447–5053.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 981, as amended, (7 CFR Part 981), regulating the handling of almonds grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Almond Board of California established under this order, it is found that the salable percentage for the 1979–80 crop year should be established at 100 percent and the

reserve percentage established at 0 percent.

In arriving at its recommendation, the Board made the following estimates: 1979 marketable production—322 million pounds; carrying as of July 1, 1979—37 million pounds; carryout as of June 30, 1980—79 million pounds; and, total trade demand—280 million pounds.

It is further found that it is impractical, unnecessary, 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) in that: (1) The 1979–80 crop year began July 1, 1979, and the salable and reserve percentages are applicable for that crop year; and (2) this regulation imposes no restrictions on handlers.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins, (202) 447–5053.

Therefore, the salable and reserve percentages for almonds received by handlers for their own account during the 1979–80 crop year are established as follows:

§ 981.229 Salable and reserve percentages for almonds during the crop year beginning July 1, 1979.

The salable and reserve percentages during the crop year beginning July 1, 1979, shall be 100 percent and 0 percent, respectively.

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

Dated: September 7, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 79-28457 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-RM-20]

Alteration of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates the 700' and 1,200' transition areas at Dickinson, North Dakota. Such action will provide controlled airspace for aircraft executing the new VOR/DME Runway 35, standard instrument approach procedure developed for Dickinson Municipal Airport, Dickinson, North Dakota.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

History

On Monday July 23, 1979 the FAA published for comment a Notice of Proposed Rulemaking (NPRM) to alter the existing 700' and 1,200' transition areas to Dickinson, North Dakota (44 FR 43002). No objections were received in response to this notice.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (FAR's) redesignates the 700' and 1,200' transition areas at Dickinson, North Dakota. This action is necessary to provide controlled airspace for aircraft executing the new VOR/DME Runway 35 standard instrument approach procedure developed for Dickinson Municipal Airport, Dickinson, North Dakota.

Drafting Information

The principal authors of this document are David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective November 29, 1979, as follows:

By amending subpart G, § 71.181 by designating the following 700' and 1,200' transition areas:

Dickinson, North Dakota

That airspace extending upward from 700' above the surface within a 9.5 mile radius of the Dickinson Municipal Airport (latitude 46°47'45"N., longitude 102°48'00"W.) and that airspace extending upward from 1,200' above the surface within a 22 mile radius of the Dickinson VORTAC (latitude 46°51'36"N., longitude 102°46'23"W.) extending clockwise from the Dickinson VORTAC 214° radial to the Dickinson VORTAC 093° radial.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since the regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colorado on August 23, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[FR Doc. 79-28342 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-26]

Alteration of Transition Area: Gallup, N. Mex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Gallup, NM. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Senator Clarke Field. The circumstance which created the need for the action is the establishment of a partial instrument landing system (ILSP) to Runway 06.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Manual R. Hugonnett, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On July 16, 1979, a notice of proposed rulemaking was published in the Federal Register (44 FR 41207) stating that the Federal Aviation Administration proposed to alter the Gallup, NM, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Gallup, NM, transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to Senator Clarke Field.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 (71.181) of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, November 29, 1979, as follows:

Gallup, NM

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Senator Clarke Field (latitude 35°30'35" N., longitude 108°47'00" W.) and within 3.5 miles south and 5.5 miles north of the Gallup VORTAC 241° radial, extending from the 9-mile radius area to 11.5 miles southwest of the Gallup VORTAC. The 1200-foot transition area for the State of New Mexico remains unchanged.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Texas, on August 29, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-28344 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-17]

Designation of Transition Area: Watonga, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Watonga, Okla. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Watonga Airport. The circumstance which created the need for the action is the development of a standard instrument approach procedure using the Kingfisher VORTAC. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On June 21, 1979, a notice of proposed rulemaking was published in the Federal Register (44 FR 36198) stating that the Federal Aviation Administration proposed to designate the Watonga, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Watonga, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Watonga Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, November 29, 1979, as follows:

In Subpart G, 71.181 (44 FR 442) the following transition area is added:

Watonga, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Watonga, Okla., Airport (35°51'35" N. latitutde, 98°25'13" W. longitude).

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Texas, on August 28, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-28340 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-31]

Revocation of Transition Area: Hilltop Lakes, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to revoke the transition area at Hilltop Lakes, Tex. The intended effect of the action is to release unnecessary controlled airspace designated for aircraft executing an instrument approach procedure to the Hilltop Lakes Airport. The circumstance which created the need for the action is the cancellation of the instrument approach procedure to the Hilltop Lakes Airport using the Leona VORTAC.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

In Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) as republished (44 FR 442) the Hilltop Lakes, Tex., transition area is designated for the protection of aircraft executing instrument approach procedures to the Hilltop Lakes Airport. The cancellation of the instrument approach procedure necessitates the revocation of the transition area. This action will release the constraints and, in effect, the impact on the user imposed by the transition area. Therefore, public circularization of this action was not considered necessary.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations

(14 CFR 71) revokes the Hilltop Lakes, Tex., transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, November 29, 1979, as follows:

In Subpart G, 71.181 (44 FR 442) the following transition area is revoked:

Hilltop Lakes, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hilltop Lakes Airport (latitude 31°04'50" N., longitude 96°12'50" W.), and within 2 miles each side of the Leona VORTAC 258° radial extending from the 5-mile radius area to 9 miles west of the VORTAC.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Texas, on August 29, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-28345 Filed 9-12-79; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9104]

J. Walter Thompson Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a New York City advertising agency to cease disseminating advertisements which contain unsubstantiated performance claims for any "product," as the term "product" is defined in the order.

DATES: Complaint issued November 4, 1977. Decision issued August 23, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: On Wednesday, April 18, 1979, there was published in the Federal Register, 44 FR 23090, a proposed consent agreement with analysis In the Matter of J. Walter Thompson Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10-5 Knowingly by advertising agent; § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.265 Tests and investigations. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1710 qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

Carol M. Thomas,

Secretary.

[FR Doc. 79-28414 Filed 9-12-79; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-2984]

Woodland Mobile Homes, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Santa Rosa, Calif. seller of mobile homes and other consumer products and its affiliate, Woodland Mobile Homes, Inc. of Nevada, to cease failing to make to prospective buyers, prior to purchase, the text of written warrantees offered for mobile homes and other consumer products as required by federal regulations.

DATES: Complaint and order issued August 3, 1979.[1]

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: On Monday, January 29, 1979, there was published in the Federal Register, 44 FR 5677, a proposed consent agreement with analysis In the Matter of Woodland Mobile Homes, Inc., a corporation, and Woodland Mobile Homes, Inc. of Nevada, a corporation, and Allan Borgia, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-45 Maintain records. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46); interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; (15 U.S.C. 2310))

Carol M. Thomas,

Secretary.

[FR Doc. 79-28413 Filed 9-12-79; 8:45 am]
BILLING CODE 6750-01-M

[1] Copies of the Complaint and Decision and Order filed with the original document.

[1] Copies of the Compaint and Decision and Order filed with the original document.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-16150]

Short Sales; Interpretation of Rule

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation of rule.

SUMMARY: In order to clarify a possible misunderstanding of its short sale rule, the Commission issues a release explaining that its short sale rule applies to transactions in reported securities, irrespective of whether a transaction occurs on a national securities exchange or in the over-the-counter market.

FOR FURTHER INFORMATION CONTACT: Stephen L. Parker, Room 391, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol St., NW., Washington, D.C. 20549, (202) 272-2890.

SUPPLEMENTARY INFORMATION: On June 20, 21, 27, 28, 29 and July 2, 1979, the Commission held public hearings to consider the amendment of rules of national securities exchanges which limit or condition the ability of members to effect transactions over-the-counter in securities listed and registered or admitted to unlisted trading privileges on an exchange.[1] Specifically, the hearings related to the Commission's proposal of Rule 19c-3 under the Securities Exchange Act of 1934 ("Act"), which would amend those exchange rules to preclude their application to certain securities which were not traded on an exchange on April 26, 1979, or which were traded on an exchange on April 26, 1979, but fail to remain continuously traded on an exchange thereafter.

In the course of its public hearings on proposed Rule 19c-3, several persons, in discussing the possibility of disparate regulation of trading on an exchange and trading otherwise than on an exchange, appeared to be of the view that Rule 10a-1 under the Act, the Commission's "short sale" rule, does not apply to transactions in listed securities effected otherwise than on an exchange (*i.e.*, in the over-the-counter or "third" market).

Rule 10a-1 under the Act provides in pertinent part that:

(a) No person shall, for his own account or for the account of any other person, effect a short sale of any security registered on, or admitted to unlisted trading privileges on, a national securities exchange, if trades in that security are reported pursuant to a consolidated transaction reporting system declared effective under § 240.17a-15 of this chapter (a "consolidated system") and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information, (i) below the price at which the last sale thereof, regular way, was reported in such consolidated system, or (ii) at such price unless such price is above the next preceding different price at which a sale of such security, regular way, was reported in a consolidated system.[2]

Pursuant to Rule 17a-15 under the Act, the Commission has declared effective a joint industry plan ("Plan") providing for the creation of a consolidated system disseminating transaction information with respect to certain listed equity securities ("reported securities") to vendors on a real time basis.[3] Reported securities include all stocks and long-term warrants listed or admitted to unlisted trading privileges on the New York Stock Exchange, Inc. ("NYSE") or American Stock Exchange, Inc. ("Amex") on April 30, 1976, all stocks and long term warrants listed or admitted to unlisted trading privileges on any other exchange which, on April 30, 1976, met either NYSE or Amex listing standards, all stocks and long-term warrants listed or admitted to unlisted trading privileges on any exchange after April 30, 1976, and which substantially meet either NYSE or Amex listing standards, and any right to acquire any of the foregoing securities which is traded on the same exchange as such security.

As discussed above, the record of the Rule 19c-3 proceeding indicates that certain persons are unaware that Rule 10a-1 applies to all transactions in reported securities, whether or not executed on an exchange. The Commission is therefore issuing this statement to remind members of the investing community, particularly broker-dealers and the self-regulatory organizations which are responsible for their surveillance, of the necessity of compliance with Rule 10a-1 under the Act. The Commission emphasizes that it is the primary responsibility of these self-regulatory organizations, particularly the National Association of Securities Dealers, Inc. ("NASD"), to assure compliance with all of the Commission's rules and regulations and therefore the Commission expects each of the exchanges and the NASD to take appropriate steps to assure compliance with the short sale rule.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 30, 1979.

[FR Doc. 79-28011 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 15769 (April 26, 1979), 44 FR 25689.

[2] Rule 10a-1(a).

[3] Securities Exchange Act Release No. 10784 (May 10, 1974), 39 FR 17799.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 101

[DoD Directive 1215.5] [1]

Participation in Reserve Training Programs

AGENCY: Office of the Secretary of Defense.

ACTION: Revision to final rule.

SUMMARY: This Part updates the criteria and training requirements for satisfactory participation by members of the Reserve components of the U.S. Armed Forces, and establishes a uniform DoD policy for training members of such reserve components who may be temporarily residing in sovereign foreign nations.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT: Commander L. C. Foley, Office of the Assistant Secretary of Defense, (Manpower, Reserve Affairs, and Logistics), Washington, D.C. 20301, Telephone 202-695-4125.

SUPPLEMENTARY INFORMATION: In FR Doc 68-2222, appearing in the Federal Register (33 FR 3278) on February 22, 1968, the Office of the Secretary of Defense published Part 101 to implement Title 10 U.S.C., section 270(a), (b), and (c), and Title 32 U.S.C., section 502(a). These laws established criteria governing prescribed training requirements for satisfactory participation in reserve training programs by members of reserve components of the U.S. Armed Forces. A change to this part was issued in FR Doc. 69-5971, appearing in the Federal Register (34 FR 7910) on May 20, 1969. This change revised reserve training requirements under Title 10 U.S.C. 270(a). In FR Doc. 71-17071, appearing in the Federal Register (36 FR 22235) on November 23, 1971, the Deputy Secretary of Defense approved a revision to Part 101.

This revision further modifies DoD policy with regard to training requirements by members of Reserve

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120 Attention: Code 301.

components who are subject to the provisions of Title 10 U.S.C. and Title 32 U.S.C., by amending 32 CFR Part 101 to read as follows:

PART 101—PARTICIPATION IN RESERVE TRAINING PROGRAMS

Sec.
101.1 Reissuance and purpose.
101.2 Applicability.
101.3 Definitions.
101.4 Responsibilities.
101.5 Requirements.
101.6 Criteria for Satisfactory Performance.
101.7 Compliance Measures.
101.8 Reserve Training in Sovereign Foreign Nations.

Authority: Title 10 U.S.C. and Title 32 U.S.C.

§ 101.1 Reissuance and purpose.

This part establishes (a) the criteria and training requirements for satisfactory participation by members of the Reserve components of the U.S. Armed Forces who are subject to the provisions of 10 U.S.C. and 32 U.S.C., and (b) uniform DoD policy for training members of such Reserve components who may be temporarily residing in sovereign foreign nations.

§ 101.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense and the Military Departments.

§ 101.3 Definitions.

For the purposes of administering 10 U.S.C. 270(a), the terms "enlisted" and "appointed" refer to initial entry into an armed force through enlistment or appointment.

§ 101.4 Responsibilities.

The Secretaries of the Military Departments will issue regulations prescribing criteria and training requirements for satisfactory participation in Reserve training programs by members of Reserve components of the U.S. Armed Forces and exceptions thereto, consistent with § 101.5.

§ 101.5 Requirements.

(a) *Reserve Participation.*—(1) *Training Requirements under 10 U.S.C. 270(a).* (i) Each individual inducted, enlisted, or appointed in the U.S. Armed Forces after August 9, 1955, who becomes a member of the Ready Reserve (by means other than through membership in the Army National Guard of the United States (see § 101.5(a)(2)) during the required statutory period in the Ready Reserve, participate or serve as follows, except as provided in 32 CFR 102.

(A) In at least 48 scheduled drills or training periods and not less than 14 days (exlusive of travel time) of active duty training during each year; or

(B) On active duty for training for no more than 30 days each year, unless otherwise specifically prescribed by the Secretary of Defense.

(ii) The provisions of § 101.5(a)(1) do not apply to graduates of the Federal and State Maritime Academies who are commissioned in the Naval Reserve.

(2) *Training Requirements under 32 U.S.C. 502(a) apply to the Secretaries of the Army and Air Force only.* Members of the Army and Air National Guard shall:

(i) Assemble for drill and instruction at least 48 times a year, and

(ii) Participate in training encampments, maneuvers, or other exercises at least 15 days a year, unless excused by the Secretaries of the Army or Air Force.

(3) *Active Duty.* Enlisted members who have served 2 years on active duty or who, under the policy and regulations of the Military Services concerned, were credited with having served 2 years of active duty will not be required to perform duty as described in § 101.5(a)(1)(i)(A) and (B) unless such members:

(i) Enlisted under the provisions of 10 U.S.C. 511(b) or (d) thereby incurring a statutory obligation to participate in the Ready Reserve in an active training status for a specified period of time after the 2 years of active duty described above.

(ii) Performed part or all of their 2 years of active duty as a result of being ordered to active duty under 10 U.S.C. 673a for not participating satisfactorily in a unit of the Ready Reserve. However, the Secretary concerned, or designee, may waive this requirement in those cases where involuntary retention would not be in the best interest of the Service.

(iii) Filled a vacancy in the Selected Reserve that otherwise cannot be filled, following a diligent recruiting effort by the Secretary concerned.

(iv) Executed a separate written agreement incurring an obligation to participate in the Selected Reserve.

(4) *Active Duty Served in a Combat Zone:* (i) Except as specified in § 101.5(a)(4)(ii), enlisted members who (A) have served on active duty in a combat zone for hostile fire pay (or other areas as prescribed by the Secretary of Defense) for a total of 30 days or more, or (B) are wounded while on active duty in hostile areas, will not be required to perform duty involuntarily (as described § 101.5(a)(1)(i)(A) and § 101.5(a)(2). However, these members may be required to participate or serve on active duty for no more than 30 days each year, unless otherwise specifically prescribed by the Secretary of Defense.

(ii) Members, who enlisted under the provisions of 10 U.S.C. 511(b) or (d) and serve on active duty described in § 101.5(a)(4)(i) are obligated to participate in the Ready Reserve in an active duty training status during the statutory period of service in the Ready Reserve.

(5) *Exclusion.* Notwithstanding the exclusion of the member enlisted under the provisions of 10 U.S.C. 511(b) or (d), from the policies set forth in § 101.5(a)(3) and (4), the Secretaries of the Military Departments may, with a the approval of the Secretary of Defense, establish criteria which may excuse certain enlistees from performing the duty described in § 101.5(a), depending upon the particular needs of the Military Department concerned.

§ 101.6 Criteria for satisfactory performance.

Within the general policy outlined in § 101.5(a), the minimum amount of annual training prescribed by the Secretaries of the Military Departments concerned will be no less than the training required to maintain the proficiency of the unit and the skill of the individual. In establishing annual training requirements under this policy, the Secretaries:

(a) May grant exceptions under circumstances outlined below for individuals who are subject to the training requirements set forth in § 101.5(a)(1) and (2):

(1) To the degree that it is consistent with military requirements, the personal circumstances of an individual may be considered in assigning him/her to a training category prescribed in 32 CFR Part 102, except as otherwise provided by 32 CFR Part 100.

(2) Members who have performed a minimum initial tour of extended active duty, as prescribed by the Military Departments concerned may be placed in Category I (no training) as defined in 32 CFR Part 102, when the Secretary of the Military Department concerned determines that no training for mobilization requirement exists because of (i) changes in military skills required; (ii) the degree of military skill held; or (iii) compatibility of the member's civilian occupation with his/her military skill.

(b) May grant exceptions regarding absences after considering the member's manner of performance of prescribed training duty under the provisions of § 101.5(a)(1) and provided that the

absences not so excepted do not exceed 10% of scheduled drills or training periods.

(c) Shall require members to (i) meet the standards of satisfactory performance of training duty set forth in § 101.6(b); or (ii) participate satisfactorily in an officer training program. The placement of such members in the Standby Reserve as a result of the screening process prescribed in 32 CFR Part 44, will continue to constitute satisfactory performance of service.

§ 101.7 Compliance measures.

Under the provisions of 32 CFR Part 100, members of the Ready Reserve who fail to meet the criteria for satisfactory performance, as set forth in § 101.6, may be:

(a) Ordered to active duty; or

(b) Ordered to active duty for training; or

(c) Transferred to, or retained in the Individual Ready Reserve with a tentative characterization of service, normally under other than honorable conditions; or

(d) Discharged for unsatisfactory participation under the provisions of 32 CFR Part 41, when the Military Department concerned has determined that the individual has no potential for useful service under conditions of full mobilization.

§ 101.8 Reserve training in sovereign foreign nations.

(a) The Secretaries of the Military Departments may authorize the conduct of scheduled drills or training periods, correspondence courses, and such other active or inactive duty training as they consider appropriate for members of the Reserve components who may be temporarily residing in sovereign foreign nations which permit the United States to maintain troops of the Active Forces (other then Military Advisory Assistance Group or attached personnel) within their boundaries.

(b) Prior to authorizing such training, the Secretaries of the Military Departments will instruct the attaches representing their respective Departments to inform the U.S. Ambassador and the appropriate officials of the foreign government of the intent to conduct such training. If the foreign government objects, the Secretaries of the Military Departments will furnish all the facts and their recommendations to the Secretary of Defense.

(c) This policy does not prohibit the conduct of inactive duty training, such as correspondence courses, in those sovereign foreign countries in which the United States does not maintain Active Forces and where an agreement exists between the United States and the sovereign foreign nation concerned for the conduct of such training.

(d) This policy does not prohibit for a limited duration the augmentation of Defense Attache Offices by attache reservists (mobilization augmentees or mobilization designees) during periods of local emergencies or for short-term (less than 30 days) training periods, provided the provisions of § 101.8(b) are respected. Attache reservists who are available, possess the expertise required, and reside temporarily in foreign countries, shall be utilized to the maximum extent to augment Defense Attache Offices before the continental United States-based attache reservists are utilized.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

September 11, 1979.

[FR Doc. 79-28485 Filed 9-12-79; 8:45 am]

BILLING CODE 3810-70-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 301

Agency Rules of Procedure

AGENCY: Copyright Royalty Tribunal.

ACTION: Amendment.

SUMMARY: The Copyright Royalty Tribunal is amending its regulations relating to Agency Rules of Procedure. This amendment will reduce the fees charged for the copying of Tribunal records.

EFFECTIVE DATE: September 6, 1979.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: Therefore, 37 CFR Part 301 is amended by revising § 301.22(c) to read as follows:

§ 301.22 Public access.

* * * * *

(c) Fees for copies of Tribunal records are: $.15 per page; $10 for each hour or fraction thereof spent searching for records; $4 for certification of each document; and the actual cost to the Tribunal for any other costs incurred.

Douglas Coulter,

Chairman.

[FR Doc. 79-28541 Filed 9-12-79; 8:45 am]

BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1316-4]

Approval and Promulgation of Implementation Plan Approval of Request for Extensions; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule, Correction.

SUMMARY: In Federal Register Docket 79-23463 appearing on July 30, 1979, 44 FR 44497, the following corrections are made to the Code of Federal Regulations portion of the document. In the first line of Section 52.672(d), Section 52.1982(d), and Section 52.2472(d), the word "Regional" should be omitted. In addition, Section 52.1981, second line, the date should read as follows: "July 1, 1980.".

FOR FURTHER INFORMATION CONTACT: Laurie Kral, Region 10, Seattle, WA, FTS 399-1226 or (206) 442-1226.

Dated: September 6, 1979.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 79-28534 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. D-65]

Federal Employee Parking

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation implements the requirements of OMB Circular A-118, Federal Employee Parking Facilities. It revises previously established assignment priorities for parking spaces, places increased emphasis on vanpooling/carpolling, and provides guidance for agencies to use in collecting parking fees from their employees and depositing them in the appropriate accounts. The intent of this regulation is to ensure that Federal employees comply with national energy conservation policies.

DATES: Effective date: November 1, 1979. Expiration date: August 15, 1980. Comments due on or before: October 1, 1979.

ADDRESS: Comments may be sent to: General Services Administration (PR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul H. Herndon III, Acting Director, Space Management Division, Office of Space Management (202-566-1875), or Jay Cohen, Transportation Specialist, Planning Staff (202-472-1334).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter D to read as follows:

Federal Property Management Regulations Temporary Regulation D-65

To: Heads of Federal agencies.

Subject: Federal employee parking.

1. *Purpose.* This regulation prescribes revised policies and procedures for the assignment of Federal employee parking spaces and the assessment of charges for the use of these spaces.

2. *Effective date.* This regulation is effective November 1, 1979.

3. *Expiration date.* This regulation expires August 15, 1980, unless sooner revised or superseded. Prior to the expiration date, a permanent regulation will be issued. (See paragraph 15, Comments.)

4. *Background.* This regulation is issued pursuant to Office of Management and Budget (OMB) Circular A-118, Federal Employee Parking Facilities.

5. *Definitions.* a. "Agency parking" means vehicle parking spaces under the jurisdiction and/or control of a Federal agency which are used for parking Government vehicles, other official vehicles, visitor vehicles, and employee vehicles.

b. "Carpool" means a group of two or more people using a motor vehicle for transportation to and from work.

c. "Employee parking" means the parking spaces assigned for the use of employee-owned vehicles other than those classified as "official parking" in subparagraph f.

d. "Federal agency" means any executive department or independent establishment in the executive branch of Government, including any wholly owned Government corporation.

e. "Handicapped employee" means a Government employee who has physical or mental impairments that substantially limit one or more major life activities and that, for all practical purposes, preclude use of public transportation. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, and hearing. Justification for this priority may require certification by an agency medical unit, including the Veterans Administration, or by the Public Health Service.

f. "Official parking" means parking spaces reserved for Government-owned or Government-leased vehicles, or for the privately owned vehicles of Federal judges and Members of Congress, or for visitors to Federal facilities.

g. "Parking space" means the area allocated in a parking facility for the temporary storage of one passenger-carrying motor vehicle.

h. "Regular member of a carpool" means a person who travels daily (leave excepted) in a carpool for a minimum distance of 1 mile each way. In addition, an agency may define a regular member as one whose worksite is located within a specific but reasonable distance from the parking facility.

i. "Vanpool" means a group of 8 to 15 persons using a van, specifically designed to carry passengers, for transportation to and from work in a single daily round trip. This excludes automobiles and buses.

j. "Visitor parking" means parking spaces reserved for the exclusive use of visitors to Federal facilities.

6. *Policy.* a. Vehicle parking facilities to accommodate the needs of Federal agencies shall be limited to the minimum necessary to avoid impairment of Government operations and shall be administered in full compliance with carpooling regulations. Federal employees, contractor employees, and occupant employees who are provided parking in Government-controlled space shall be assessed a charge equivalent to the fair monthly rental value for the use of equivalent commercial space, subject to the terms, exemptions, and conditions stated in this regulation.

b. All vehicle parking facilities will be consistent with the character of other properties in the neighborhood and local planning requirements, will not adversely affect the use or appearance of the property, and will not constitute a traffic hazard.

7. *Priority of assignment of parking spaces.* a. Vehicle parking spaces shall first be reserved for OFFICIAL needs in the following order of priority:

(1) Mailcarrier maneuvering area and official Postal Service vehicle parking (including contract mail-hauling vehicles and private vehicles of rural carriers) at buildings containing Postal Service mailing operations.

(2) Government-owned vehicles specially outfitted and used for criminal apprehension law enforcement activities and firefighting and other emergency vehicles.

(3) Privately owned vehicles of Federal judges and Members of Congress. Priority is limited to these individuals for security purposes and does not include members of their staffs.

(4) Government-owned or leased vehicles other than those listed in subparagraphs (1) and (2) of this subparagraph a. These include motor pool dispatch vehicles and vehicles assigned to agencies for general use.

(a) The total number of parking spaces provided for all Government-owned vehicles shall be an amount less than the total number of these vehicles. The type of vehicles involved and the character of the motor pool operation shall determine the ratio of parking spaces to vehicles.

(b) If feasible, areas assigned for Government-owned vehicles may be used during other than early morning or late afternoon hours for visitor and service vehicles or other vehicles as appropriate.

(5) Vehicles of patrons and visitors and service vehicles not accommodated under subparagraph (4)(b) of this subparagraph a. Where required, accommodations will be provided for handicapped visitors.

b. When requested by agencies, the parking spaces not required for "official" parking may be used for EMPLOYEE parking. Under OMB Circular A-118, a monthly fee shall be assessed for all of these parking spaces except where the rate per space is determined to be less than $10 per month or where a specific exemption has been granted by OMB Circular A-118, paragraph 5. In the assignment of employee parking spaces, the following shall be observed:

(1) Handicapped Government employees for whom assigned parking spaces are necessary shall be given priority over all other employee parking. Nonhandicapped drivers who provide transportation for severely handicapped employees shall also be assigned parking spaces. Handicapped employees who utilize a specially equipped vehicle for commuting shall be exempt from parking fees.

(2) Assignments for other privately owned vehicles of employees of occupant agencies not otherwise accommodated shall be made in accordance with the regulations in paragraph 8.

8. *Priorities for employee parking.* Agencies shall encourage the conservation of energy by taking positive action to increase carpooling.

a. *Assignment of spaces.* In meeting their responsibilities to promote carpooling, agencies shall assign employee parking as follows:

(1) Handicapped employees, as indicated in subparagraph 7b(1).

(2) No more than 10 percent of the total spaces available for employee parking at each facility (excluding the spaces assigned to severely handicapped employees) to executive personnel and/or persons who are assigned unusual hours. Executive personnel should make every effort to carpool.

(3) Vanpools.

(4) Carpools based on the number of members.

Note.—If necessary for operational purposes, an agency may issue on a fee basis a limited number of parking permits to individuals who regularly use their privately owned vehicles for Government business. These are vehicles used 12 or more workdays per month for Government business for which the employee receives reimbursement for mileage and parking fees under Government travel regulations. Monthly certification, such as travel vouchers, may be required to establish this entitlement. All individual drivers are urged to carpool whenever possible.

b. *Parking spaces allocated to agencies.* Under most circumstances (see subparagraph c, below, for an exception), available employee parking will be allocated to each agency in proportion to its share of the total building population. The agency, in turn, shall assign spaces to employees using the number of persons in a vanpool/carpool as the primary priority. For the purpose of allocation of parking spaces for carpools, full credit shall be given to any regular member

regardless of where the member is employed, except that at least one member of the carpool must be a fulltime employee of the agency.

c. *Assignment on a zonal basis.* In the Metropolitan Washington, DC, area and in other major metropolitan areas, to achieve more efficient use of space and equality in the availability of parking for all Federal employees, the Regional Administrator, GSA, may have all parking allocations based on a zonal concept rather than on individual sites. In locations where this method is followed, all agencies located in a zone would compete for the available parking in accordance with instructions issued by the Regional Administrator. In establishing this procedure, the Regional Administrator will consult with all affected agencies.

9. *Two-wheeled vehicles.* Subject to the availability of satisfactory and secure space and facilities, agencies shall reserve areas for the parking of bicycles and other two-wheeled vehicles. Bicycles shall be given special consideration, including storage type space in buildings and improved bicycle locking devices where practical and appropriated funds are available. Bicycles shall not be transported on elevators or via stairways or parked in offices. Two-wheeled vehicles are exempt from employee parking charges.

10. *Regular hours.* Agency managers and supervisors shall make every effort to maintain regular arrival and departure times for all employees. Supervisors are reminded of their prerogative, within overall agency policy, to adjust the scheduled duty hours of individual employees to facilitate carpooling and the use of mass transit.

11. *Charges for employee parking.* a. At all facilities where the monthly rate per space is $10 or more, employees shall be charged for the parking they are furnished unless specifically exempt (see subparagraph 7b). For parking spaces under the control of GSA, the charging system will overlay the existing Federal Buildings Fund procedure. That is, GSA will assign blocks of parking spaces, both official and employee, to the agencies and assess the appropriate Standard Level User Charge. The agencies shall make their own individual assignments to their employees consistent with the carpooling requirements. Agencies shall collect the fees at the time the permits are issued to the employees. (See paragraph 12.)

b. On July 1 of each year, GSA will furnish each agency a printout listing the monthly parking charge for the next fiscal year at each GSA-controlled facility where the rate per space exceeds $10. The rates to be charged will be the same as the commercial equivalent value of the spaces determined under the Standard Level User Charge system. Rates for non-GSA-controlled parking may be established by the responsible agency in accordance with 40 U.S.C. 490(k), using generally accepted appraisal techniques. GSA will assist agencies in developing the parking rates for their properties when requested. In this connection, GSA has developed GSA Form 3183, Appraisal of Fair Monthly Parking Rates Per Space, a simplified appraisal from for determining the monthly parking rate. Paragraph 18 provides information and instructions concerning the availability of GSA Form 3183. Rates must be developed by agencies and submitted to the appropriate GSA regional office (attention: Regional Commissioner, PBS) for approval.

c. For the initial period November 1, 1979, through September 30, 1981, the charges to be collected shall be 50 percent of the full rate scheduled to be collected. The full charge shall be collected beginning October 1, 1981.

d. In communities having several Federal facilities, buildings may be grouped or "zoned" for the purpose of establishing a uniform parking rate for the area rather than a building-by-building charge.

12. *Procedures.* a. *GSA-controlled facilities.* (1) In most instances, GSA will make block allocations of parking spaces to agencies, as indicated in subparagraph 8b, for distribution to their employees. GSA periodically will conduct surveys and review parking space allocations of its facilities to determine the total number of parking spaces available and to make sure that each agency has its fair proportion of parking spaces. The spaces will be reallocated if necessary. Agencies must maintain a breakdown of their official and employee parking assignments at each facility so that this information can be provided to GSA upon request.

(2) Agencies will be responsible for the assignments of space to their employees and for ensuring that fees have been collected in a timely manner for each assignment, or that the assignment has been revoked if necessary. The normal method for assigning employees spaces will be through sale of a monthly permit. An alternate method would be the use of a parking management contract where the operator would be repsonsible for fee collection. Permits must be used to identify those who are authorized to park and only one permit will be issued to a vanpool/carpool. The fee will be collected in advance, and agencies will be required to have available adequate documention (e.g., a log) that will show that the monthly fees have been collected from employees for each permit issued.

b. *Non-GSA-controlled facilities.* At non-GSA-controlled facilites, the agency responsible for each facility will allocate employee parking in accordance with OMB Circular A-118 and issue parking permits to employees assigned such parking.

13. *Collection and deposit of fees.* a. Collection of parking fees by agencies shall be handled in accordance with Title 7, Fiscal Procedures, GAO Policy and Procedure Manual, chapter 3, which provides the regulations and instructions applicable to all classes of funds collected by officers and employees of the U.S. Government.

b. The fees collected shall be deposited in accordance with Volume 1-Part 5, Deposit Regulations, Treasury Fiscal Requirements Manual (TFMR), which prescribes the forms and procedures to be observed by all Government departments, agencies, corporations, and others concerned with respect to deposits for credit to the Account of the U.S. Treasury.

c. In developing procedures for the collection and deposit of employee parking fees, agencies should ensure that their regulations, systems, and procedures comply with the reporting requirements of Volume 1-Part 2, Central Account and Reporting, TFMR, and the cash management policies, Volume 1-Part 6, Chapter 8000, Cash Management, TFMR.

d. Inquiries pertaining to the development and implementation of procedures and regulations pursuant to the TFMR's should be directed to the appropriate Department of the Treasury activity referenced in each TFMR chapter.

14. *Appeals.* Formal appeal of the rates established for employee parking may be filed by agencies in accordance with § 101-21.606(c). For properties not under the control of GSA, an appeal of the parking rate may be made directly by an employee to the employee's agency.

15. *Comments.* Comments concerning this regulation may be submitted to the General Services Administration (PR), Washington, DC 20405, until March 31, 1980.

16. *Effect on other directives.* This temporary regulation supersedes §§ 101-20.111-2, 101-20.111-2a, 101-20.117-1, and 101-20.117-2 of Subchapter D of the Federal Property Management Regulations to bring them into conformance with OMB Circular A-118.

17. *Reports.* The report required by this section has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 0225-GSA-AR.

18. *Availability of GSA Form 3183.* Agencies may obtain their initial supply of the appraisal form referred to in subparagraph 11b from General Services Administration (WBRDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (HRM), Washington, DC 20405. An initial distribution of the form will be made to all GSA regional offices for their use and additional supplies of the form should be obtained in the usual manner.

Dated: September 6, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-28603 Filed 9-12-79; 8:45 am]

BILLING CODE 6820-23-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5694]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as

authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this Federal Register publication, October 15, 1979, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Director, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Director, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register, October 15, 1979, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register, October 15, 1979, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128)

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBM's in effect).

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Arizona, Montgomery, city of Norman, 0001B.	050158B	E-8, 11	I	F	Aug. 23, 1974, Oct. 17, 1975.	Sept. 4, 1979	Honorable Duane Cox, Mayor, City Hall, Norman, AR 71960, (501) 334-2310.
Colorado, Weld, town of Eaton, 0001B	080180B	E-8, 11, 12	I	F	May 10, 1974, Feb. 27, 1976.	Sept. 4, 1979	Honorable Harold Christenson, Mayor, Office of Mayor, 223 First Street, P.O. Box 946, Eaton, CO, 80615, (303) 454-2876.
Alabama, Shelby, town of Wilsonville, 0001	010404A	E-5	I	F	Sept. 7, 1979	Sept. 7, 1979	Austin Mitchell, Mayor, P.O. Drawer 70, Wilsonville, AL 35186, (205) 669-6180.
Alabama, De Kalb, town of Lakeview, 0001	010391A	E-5	I	F	Sept. 7, 1979	Sept. 7, 1979	Cleo Chandler, Mayor, Route 1, Fyffe, AL 35971, (205) 659-2726.
Illinois, Piatt, city of Monticello, 01	170550B	E-8, 11, 12, 14	I	F	Dec. 17, 1973, Apr. 30, 1976.	Sept. 7, 1979	Larry Hamilton, Mayor, 211 N. Hamilton, Monticello, IL 61856, Phone: (217) 762-2583.
Illinois, McHenry, village of Prairie Grove, 0001A.	170975	N-5	I	F	Sept. 7, 1979	Sept. 7, 1979	David Master, Village President, P.O. Box 69, Crystal Lake, IL 60014, Phone: (815) 455-3190.
Indiana, Elkhart, town of Middlebury, 0001A	180460	N-5	I	F	Sept. 7, 1979	Sept. 7, 1979	Paul Wilkey, Town Bd. President, 210 West Lawrence, Middlebury, IN 46540, Phone: (219) 825-2752.
Michigan, St. Joseph, village of Centreville, 01.	260509A	E-8, 11, 12, 14	I	F	July 11, 1975	Sept. 7, 1979	James Adams, Mayor, 212 West Main Street, Centreville, MI 49032, Phone: (616) 467-4665.
Michigan, Macomb, city of Sterling Heights, 0001D.	260128	E-11, 12, 14	I	F	June 29, 1973, Apr. 12, 1974, Sept. 10, 1976, Feb. 10, 1978.	Sept. 7, 1979	Lenard Hendricks, City Mgr., 40555 Utica Road, Sterling Heights, MI 48078, Phone: (313) 268-8500.
Ohio, Columbiana, city of Salem, 0001B	390086	E-8, 11, 12, 14	I	F	May 3, 1974, July 23, 1976.	Sept. 7, 1979	Frank Dauria, Mayor, City Hall, 231 South Broadway, Salem, OH 44460, Phone: (216) 332-4241.
Virginia, Frederick, town of Middletown, 01	510274B	E-8, 11, 12, 14	I	F	June 10, 1977	Sept. 7, 1979	John W. Legge, Jr., Mayor, P.O. Box 96, Middletown, VA 22645, Phone: (703) 869-2226.
New Hampshire, Grafton, town of Landaff, 0001.	330060B	E-12	I	F	Dec. 6, 1974, Nov. 19, 1976.	Sept. 7, 1979	Town Clerk, Town of Landaff, Landaff, NH, (603) 787-6961.
New Hampshire, Rockingham, town of Nottingham, 0001-0004.	330137B	E-10, 11, 12	I	F	June 28, 1974, Nov. 19, 1976.	Sept. 7, 1979	Board of Selectmen, Town of Nottingham, Nottingham, NH 03290, (603) 679-5022.
New Hampshire, Grafton, town of Lincoln, 0004, 0007, 0008.	330062B	E-12	I	F	Feb. 21, 1975, Mar. 11, 1977.	Sept. 7, 1979	Board of Selectmen, Town of Lincoln, Lincoln, NH 03251, (603) 745-2757.
Georgia, Bartow, city of Cartersville, 0001	130209C	E-8, 11, 12	I	F	June 28, 1974, Oct. 24, 1975, Apr. 2, 1976.	Sept. 7, 1979	Mayor John Dent, City of Cartersville, P.O. Box 529, Cartersville, GA 30120, (404) 382-1171.

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Maine, Aroostook, town of Orient, 0001–0004	230029A	E-5	I	F	Sept. 7, 1979	Sept. 7, 1979	Board of Selectmen, Town of Orient, Orient, ME 04471, (207) 448-7729.
California, Los Angeles, city of Lancaster, 0001A–0004A.	060672A	N-5	I	F	Sept. 11, 1979	Sept. 11, 1979	Honorable Stanley Kleiner, Mayor, Office of Mayor, 44804 N. Elm Street, Lancaster, CA 93534, (805) 945-1811.
Louisiana, Webster Parish, city of Minden, 0001B.	220237B	E-8, 11, 12	I	F	Mar. 15, 1974, Nov. 21, 1975.	Sept. 11, 1979	Honorable Jack Batton, Mayor, City Hall, Minden, LA 71055, (318) 377-2144.
Georgia, Meriwether and Talbot, city of Manchester, 0001.	130225B	E-8, 11, 12	I	F	Dec. 6, 1974, June 18, 1976.	Sept. 14, 1979	Ellis McCurdy, City Manager, City of Manchester, P.O. Box 186, Manchester, GA 31816, (404) 846-3141.
Tennessee, Putnam, city of Cookeville, 0001, 0002.	470150B	E-12	I	F	May 24, 1974, June 18, 1976.	Sept. 14, 1979	Mr. Bethel Newport, City Manager, City of Cookeville, P.O. Box 998, Cookeville, TN 38501, (615) 526-9591.
Mississippi, Humphreys, town of Silver City, 0001.	280323A	E-5	I	F	Sept. 14, 1979	Sept. 14, 1979	Mr. James Reed, Mayor, Town of Silver City, Silver City, MS 39166, (601) 247-3692.
Alabama, De Kalb, town of Shiloh, 0001	010399A	E-5	I	F	Sept. 14, 1979	Sept. 14, 1979	H. M. Pullen, Mayor, Town of Shiloh, Route 3, Rainsville, AL 35986, (205) 623-2676.
New Hampshire, Coos, town of Whitefield, 0001–0002.	330040B	E-10	I	F	July 26, 1974, Nov. 26, 1976.	Sept. 21, 1979	Town of Whitefield, Town Clerk, Whitefield, NH 03598.
New Hampshire, Belknap, town of Gilmanton, 0001–0004.	330208A	E-12	I	F	Jan. 17, 1975	Sept. 21, 1979	Town of Gilmanton, Town Clerk Office, P.O. Box 94, Gilmanton, Ironworks, NH 03837.
New Hampshire, Merrimack, town of New London, 0001–0002.	330230A	E-11	I	F	Jan. 31, 1975	Sept. 21, 1979	Town of New London, Town Clerk Office, Main Street, New London, NH 03257.
New Hampshire, Grafton, town of Alexandria, 0001–0005.	330041B	E-12	I	F	Feb. 21, 1975, Apr. 1, 1977.	Sept. 21, 1979	Town of Alexandria, Town Clerk, Alexandria, NH 03240.
Florida, Lake, city of Mascotte, 0001	120591A	E-5	I	F	Sept. 21, 1979	Sept. 21, 1979	City of Mascotte, City Clerk Office, P.O. Box 56, Mascotte, FL 32753.
Indiana, Ripley, town of Napoleon, 01	180462A	N-5	I	F	Sept. 21, 1979	Sept. 21, 1979	Edward Coleman, Bd. Pres., Town Hall, Napoleon, IN 47034, Phone: (812) 852-4222.
Ohio, Lawrence, village of Proctorville, 01	390700A	E-8, 11, 12, 14	I	F	Apr 18, 1975	Sept. 21, 1979	Tom Willis, Mayor, P.O. Box 262, Proctorville, OH 45669, Phone: (614) 886-5359.
Wisconsin, Waukesha, village of Lac La Belle, 01.	550565A	E-8, 11, 12, 14	I	F	Jan. 31, 1975	Sept. 21, 1979	Joseph LaKala, Vil. Pres. 526 Lac La Belle Drive, Oconomowoc, WI 53066, Phone: (414) 567-2471.
Nebraska, Pawnee, village of Table Rock, 01A.	310172A	N-11, 12	I	F	Nov. 1, 1974	Sept. 25, 1979	Honorable Willard Binder, Mayor, Village Hall, Table Rock, NB 68447, (402) 839-2281.
Illinois, Williamson, city of Johnston City, 01	170718B	E-11, 12, 14	I	F	June 28, 1974, Apr. 2, 1976.	Sept. 28, 1979	Bill Stevens, Mayor, City Hall, Johnston City, IL 62951, Phone: (618) 983-8651.
Illinois, Tazewell, city of Marquette Heights, 01.	170650B	N-11, 12, 14	I	F	Mar. 8, 1974, Mar. 26, 1976.	Sept. 28, 1979	Les Kleffman, Mayor, City Hall, Pekin, IL 61554, Phone: (302) 382-3603 home, (309) 382-3455 City Hall.

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Indiana, Wabash, town of Lagro, 01	180268B	E-11, 12, 14	I	F	May 24, 1974, Apr. 2, 1976.	Sept. 28, 1979	Steven Berkess, Bd. Pres., Route 1, Lagro, IN 46941, Phone: (219) 782-2451.
Michigan, Leelanau, township of Elmwood, 01, 03, 04, 06, 08 only.	260113B	E-9	I	F	Sept. 20, 1974, Mar. 5, 1976.	Sept. 28, 1979	Michael Akronk, Attorney-at-Law, 13983 W. Day Shore Drive, Traverse City, MI 49684, Phone: (616) 947-6072.
Ohio, Hamilton and Clermont, village of Milford, 0001B.	390227	E-8, 11, 12, 14	I	F	Feb. 8, 1974, Dec. 6, 1974.	Sept. 28, 1979	William Montler, Mayor, 29 High Street, Milford, OH 45150, Phone: (513) 831-4192.
Ohio, Lawrence, village of South Point, 0001A.	390630	E-11, 12, 14	I	F	Jan. 3, 1975	Sept. 28, 1979	Hobert Rye, Mayor, P.O. Box 554, South Point, OH 45680, Phone: (614) 377-4838.
Pennsylvania, Somerset, township of Lower Turkeyfoot, 0001A-0005A.	422517	E-11, 12, 14	I	F	Jan 24, 1975	Sept. 28, 1979	Herbert Smith, Chairman, R.D. #1, Confluence, PA 15424, Phone: (814) 395-5314.
New Hampshire, Merrimack, town of Loudon, 0001-0004.	330117B	E-8, 10, 11, 12	I	F	Aug. 2, 1974, May 31, 1977.	Sept. 28, 1979	Board of Selectmen, Town of Loudon, Town Hall, Loudon, NH 03301, (603) 783-9812.
New Hampshire, Grafton, town of Rumney, 0001, 0003.	330073B	E-11, 12	I	F	Mar. 15, 1974, Mar. 11, 1977.	Sept. 28, 1979	Board of Selectmen, Town of Rumney, Town Hall, Rumney, NH 03266, (603) 786-9511.
New Hampshire, Cheshire, town of Surry, 0001, 0002.	330170B	E-11, 12	I	F	Jan 3, 1975, Sept. 3, 1976.	Sept. 28, 1979	Town Clerk, Town of Surry, Surry, NH 03431, (603) 352-3075.
Alabama, Sumter, city of Livingston, 0001	010195B	E-8, 10, 11, 12	I	F	May 31, 1974, July 2, 1976.	Sept. 28, 1979	City Clerk, City of Livingston, P.O. Drawer W, Livingston, AL 35470, (205) 652-2505.

(44 CFR § 65.3)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: September 4, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-28357 Filed 9-12-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-97; RM-3220]

Radio Broadcast Services; Television Broadcast Station in Marion, Va.; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: Offset designation for Channel *52 at Marion, Virginia, is specified. The designation was inadvertently omitted from the Report and Order in BC Docket 79-97, adopted on August 16, 1979.

EFFECTIVE DATE: October 1, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Released: September 7, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments.* Television Broadcast Stations, (Marion, Virginia), BC Docket No. 79-97, RM-3220, 44 FR 50345, August 28, 1979.

1. On August 17, 1979, a *Report and Order* was adopted in this proceeding which assigned Channel *52 to Marion, Virginia. Inadvertently, the offset designation was omitted. The correct assignment for Marion, Virginia, should read as follows:

City	Channel No.
Marion, Virginia	*52—

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-28440 Filed 9-12-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 75-16; Notice 28]

Air Brake Systems; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule; correction.

SUMMARY: On August 9, 1979, the NHTSA published in the Federal Register a final rule amending the applicability section (S3) of Standard No. 121, *Air Brake Systems.* That notice, which added a sentence to the end of § 3, contained an error in its reference to § 5.7.3. The notice appears to show that the entire section of § 5.7.3 no longer applies to trucks and trailers, when the agency intended only for subparagraphs (a) and (b) to be inapplicable to trucks and trailers. These vehicles do have to comply with § 5.7.3(c). Accordingly, the August 9 notice is corrected by changing the last sentence of section § 3 to read: Notwithstanding any language to the contrary, §§ 5.3.1, 5.3.1.1, 5.3.2, 5.3.2.2, 5.7.1, 5.7.3(a) and 5.7.3(b) of this standard are not applicable to trucks and trailers.

EFFECTIVE DATE: September 13, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Shadle, Office of Crash Avoidance, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2153).

[Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.]

Issued on September 4, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-28136 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

Review of the Regulation of Household Goods Carriers; Informal Conference

AGENCY: Interstate Commerce Commission.

ACTION: Setting this matter for informal conference.

SUMMARY: The Interstate Commerce Commission is responsible for supervising the operations of all household goods carriers engaged in interstate and foreign commerce to assure that consumers are being provided a reasonable and adequate service. To accomplish this regulatory responsibility, the Commission has adopted and published regulations which appear in 49 CFR part 1056. A series of informal conferences are planned to provide a forum where representatives of the public and industry may review with the Commission's staff the application and responsiveness of the regulations and consider ways that the regulatory supervision may be made more effective. The first informal conference will be held at the Commission's offices in Washington, D.C., to review the responsibilities of the Commission and the industry to provide pre-move information about moving to prospective shippers and what is required to improve publications now in use for this purpose. Also at this conference it is intended to consider subjects for discussion at future conferences. Consumer and industry representatives are invited to attend.

DATE: First informal conference—September 27, 1979 at 9:00 a.m.

ADDRESS: Interstate Commerce Commission, 12th and Constitution Ave., NW, Hearing Room C, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, DC 20423 (202) 275-7849.

SUPPLEMENTARY INFORMATION: The regulation of the transportation of household goods is one of the major responsibilities of the Interstate Commerce Commission. Each year over a milllion shipments are transported by the household goods carriers operating under the regulatory supervision of the Commission. The responsiveness of the industry to the needs of shippers who must rely on the industry for safe, efficient transportation is a matter of continued concern to the Commission.

The regulations appearing in 49 CFR Part 1056 are intended to protect the interests of the shippers and to assure the availability of a reasonable and adequate service. Representatives of the industry frequently question the necessity and wisdom of various requirements of the regulations and generally maintain that satisfactory compliance presents an unnecessary regulatory burden. Consumer representatives just as frequently maintain that the regulations do not provide enough protection for novice shippers not familiar with transportation. In recognition of these differing opinions, the Commission's staff will meet with representatives of the industry and consumers in a series of informal conferences to review the present regulations and to consider alternative methods of assuring that the service being provided by the industry results in: (1) The consumer being informed with a reasonable degree of certainty of the probable costs of a move prior to the move; (2) the providing of a service on the dates or between the dates agreed to by the carrier and shipper; (3) the providing of the service at a fair and reasonable cost to the shipper; and, (4) the reasonable and timely handling and disposition of shipper claims for loss, damage or inconvenience.

Dated: September 5, 1979.

By the Commission: Chairman O'Neal.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28467 Filed 9-12-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; Certain National Wildlife Refuges in California

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in California is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory birds and upland game.

EFFECTIVE DATES: October 13, 1979 through January 20, 1980.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address or telephone number listed below in the body of Special Regulations.

General Conditions

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional Special Regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

§ 32.12 Special Regulations: Migratory Game Birds; for individual wildlife refuge areas.

Migratory game birds, except pigeons and doves, may be hunted on the following refuges:

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, California 92233, Telephone number (714) 348-2323.

Special conditions: (1) Hunters using the UNION TRACT must use goose decoys and must hunt from their blind site; (2) No alcoholic beverages are permitted within the hunting area.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215, Telephone Number (805) 725-2767.

Special Conditions: (1) All persons assigned to the space blind unit must remain within 50 feet of the numbered steel post (blind site), except when pursuing cripples, placing decoys or traveling to and from the parking lot; (2) Hunters assigned to the space blind unit must travel to and from parking areas and blind sites with firearms unloaded.

Merced National Wildlife Refuge; Headquarters: San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93215, Telephone number (805) 725-2767.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934-2801.

Special Conditions: (1) All persons assigned to the spaced blind unit must remain in their blind except when pursuing cripples or retrieving birds, placing decoys or traveling to and from

the parking lot. All shooting must be from assigned blinds only, except when pursuing crippled birds; (2) No snipe may be taken in the spaced blind unit; (3) Hunters assigned to the spaced blind unit must travel to and from parking areas and blinds with firearms unloaded.

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934–2801.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934–2801.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934–2801.

Kesterson National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, Telephone number (209) 836–3508.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, Telephone number (209) 826–3508.

Clear Lake National Wildlife Refuge, Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 76, Tulelake, California 96134, Telephone number (916) 667–2231.

Special Conditions: (1) Air-thrust and inboard water-thrust boats are prohibited.

Lower Klamath National Wildlife Refuge, Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone number (916) 667–2231.

Special Conditions: (1) During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting; (2) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones; (3) Air-thrust and inboard water-thrust boats are prohibited; (4) Bow hunters must follow the same regulations as firearm hunters, the use of long bow is permitted; (5) Legal waterfowl shooting hours end at 1:00 p.m. daily on all California portions of the refuge; (6) No person may possess any weapon or ammunition that may not be legally used for the taking of waterfowl or pheasants.

Tule Lake National Wildlife Refuge, Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 75, Tulelake, California 96134, Telephone number (916) 667–2231.

Special Conditions: (1) During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting; (2) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones; (3) Air-thrust and inboard water-thrust boats are prohibited; (4) In designated spaced blind areas, hunters may not possess any loaded firearm further than 100 feet from the established blind stakes. Hunters will select blind sites by lottery at the beginning of each day's hunt. Hunters may shoot only from within their assigned blind sites; (5) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl or pheasants. Certain assigned blinds will be limited to possession and use of designated steel or lead shot loads in conjunction with a scientific study; (6) The use of long bow is permitted. Bow hunters must follow the same regulations as firearm hunters; (7) Legal waterfowl shooting hours end at 1:00 p.m. daily; (8) The Tule Lake Field Hunting Unit will be closed to hunting until the opening day of the Goose Season—October 27.

Modoc National Wildlife Refuge, P.O. Box 1610, Alturas, California 96101, Telephone number (916) 233–3572.

Special Conditions: (1) First weekend only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age; (2) After first weekend, hunting permitted on Tuesdays, Thursdays, and Saturdays during authorized seasons; (3) Hunters are required to enter hunting area via designated parking sites; (4) Hunting area is open for access from 90 minutes prior to legal shooting hours until 90 minutes after sunset on days hunting is permitted.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Ring-necked pheasant only may be hunted on the following refuge areas:

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934–2801.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934–2801.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215, Telephone number (805) 725–2767.

Special Condition: No pheasant hunting is permitted in the spaced blind unit.

Merced National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, Telephone number (209) 826–3508.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934–2801.

Special Condition: No pheasant hunting is permitted in the spaced blind unit.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934–2801.

Lower Klamath National Wildlife Refuge, Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone number (916) 667–2231.

Special Conditions: (1) Pheasant may not be hunted in the controlled waterfowl hunting area or in the retrieving zones; (2) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Advance reservations are required for the first two days of the hunt. Advance reservations are also available for the following seven days; (3) No person may possess any weapon or ammunition that may not be legally used for the taking of pheasant.

Tule Lake National Wildlife Refuge, Headquarters, Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone number (916) 667–2231.

Special Conditions: (1) Pheasant may not be hunted in the controlled waterfowl hunting area or in the retrieving zones; (2) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Advance reservations are required for the first two days of the hunt. Advance reservations are also available for the following seven days; (3) No person may possess any weapon that may not be legally used for the taking of pheasant.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final

Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Lynn C. Howard, Sacramento Area Office, telephone FTS 468-2771, com'l (916) 484-4771.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: September 6, 1979.

Ed Collins,

Acting Area Manager, California-Nevada, U.S. Fish & Wildlife Service.

[FR Doc. 79-28416 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; National Wildlife Refuges in Colorado, Utah, and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of certain national wildlife refuges to migratory game bird and resident game hunting in Colorado, Utah, and Wyoming is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below.

Robert H. Shields, Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, Salt Lake City, UT 84138. Telephone: 801-524-5630.

Melvin T. Nail, Refuge Manager, Alamosa-Monte Vista National Wildlife Refuge, P.O. Box 1148, Alamosa, Colorado 81101. Telephone: 303-589-4021.

Eugene C. Patten, Refuge Manager, Arapaho/Pathfinder National Wildlife Refuge, P.O. Box 457, Walden, CO 80480. Telephone: 303-723-4717.

James A. Creasy, Refuge Manager, Browns Park National Wildlife Refuge, Maybell, CO 81640. Telephone: 303-365-3695.

Ned I. Peabody, Refuge Manager, Bear River Migratory Bird Refuge, P.O. Box 459, Brigham, City, UT 84302. Telephone: 801-744-2488.

Glen W. Elison, Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, UT 84022.

Herb G. Troester, Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, UT 84078. Telephone: 801-789-0351.

Joe B. Rodriguez, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Kemmerer, WY 83101. Telephone: 307-877-6334.

SUPPLEMENTARY INFORMATION:

General

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuge and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System, published in November 1976.

Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual refuge areas.

Colorado

Alamosa-Monte Vista National Wildlife Refuge

EFFECTIVE DATES: September 29, 1979 through January 17, 1980.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on Alamosa-Monte Vista National Wildlife Refuges, Colorado, but only on the areas designated by signs as being open to hunting. The Alamosa Refuge area comprising 3,946 acres, and the Monte Vista Refuge area comprising 5,314 acres, are delineated on maps available at refuge headquarters, Alamosa, Colorado and from the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe subject to the following special conditions:

(1) The refuge will be open to hunting of mourning doves and Wilson's snipe only during the established waterfowl seasons—September 29, 1979 through October 12, 1979, inclusive, and November 10, 1979 through January 17, 1980, inclusive.

(2) Shooting hours will be from sunrise to sunset on mourning doves and Wilson's snipe.

(3) Admittance—Entrance to the area open to hunting, and parking of vehicles will be restricted to designated parking areas.

(4) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(5) Boats—The use of boats is prohibited. One or two-man life rafts that can be carried by an individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

Browns Park National Wildlife Refuge

Hunting of duck, coot, and merganser will be permitted on the Browns Park National Wildlife Refuge on approximately 10,000 acres as posted during the regular Colorado split season.

EFFECTIVE DATES: September 29, 1979 through October 12, 1979 inclusive and November 3, 1979 through January 20, 1980 inclusive.

Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special condition.

(1) Hunting of Canada geese shall be only from November 3, 1979 through December 9, 1979 inclusive and the bag

limit shall be one goose per day and one in possession.

Utah

Bear River Migratory Bird Refuge

EFFECTIVE DATES: Ducks, coots, mergansers and whistling swans, October 6, 1979 through January 6, 1980 inclusive; Geese, October 13, 1979 through December 23, 1979 inclusive.

Public hunting of ducks, geese, coots, mergansers, and whistling swans is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres, are delineated on maps available at the refuge headquarters, Brigham City, and from the Area Office Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required in 12 gauge guns on all days in both Hunting Area "A" and Area "B" for the entire season. Lead shot may be used in all other gauges. The possession of 12 gauge lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Hunting Areas.* No hunting is permitted from roadways or within 100 yards of any roadway in Area "A". No hunting is permitted from roadway or adjacent area as posted by signs in Area "B". Permanent blinds such as sink boxes may not be erected in either area.

(3) *Boat Use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Unit 2 on weekends and holidays. Airboats may be launched only from designated boat ramps. Boats may be left at designated sites one week prior to and during the hunting season. All boats and trailers must be removed within two weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter Check Station.* All hunters entering Area "A" are required to self register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to Area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

(7) *Hours of Entry.* There is no admittance beyond refuge headquarters earlier than 1 hour before shooting time. All hunters must check out of hunting areas no later than 1½ hours after the close of official shooting hours.

Fish Springs National Wildlife Refuge

EFFECTIVE DATES: October 6, 1979 through January 6, 1980 inclusive.

Hunting for ducks, coots, and mergansers only is permitted on Fish Springs National Wildlife Refuge on areas designated by signs as being open to hunting comprising 6,773 acres, is delineated on maps available at the refuge headquarters, 66 miles southwest of Dugway, Utah, and from the office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all State and Federal regulations applicable to the hunting of ducks, coots, and mergansers, subject to the following conditions:

(1) Hunting of geese and swans is prohibited.

(2) All hunters must register at the Visitor Information Station prior to hunting each day and must check out at the end of each day.

(3) Shooting from, upon, or across dikes or roads, open to vehicular traffic is prohibited.

(4) The use of small boats, canoes, etc. is permitted, but outboard motors or air thrust boats are prohibited.

(5) Dogs may be used for hunting, but must be kept under control at all times.

Ouray National Wildlife Refuge

EFFECTIVE DATES: October 6, 1979 through January 6, 1980.

Migratory game bird hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. These areas, comprising 1,375 acres, are delineated on maps available at the refuge headquarters and from the office of the Area Manager, Salt Lake City, Utah. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Ducks, mergansers and coots only may be hunted. Goose hunting is not permitted.

(2) Vehicle travel within the refuge will be restricted to designated routes and parking areas.

Wyoming

Pathfinder National Wildlife Refuge

EFFECTIVE DATES: As established by Wyoming Game and Fish Commission for Calendar Year 1979.

Hunting of ducks, geese, coots, and mergansers is permitted on Pathfinder National Wildlife Refuge, Wyoming in accordance with dates established by Wyoming Game and Fish Commission, but only on areas of Pathfinder Refuge known as Goose Bay, DeWeese Creek, and Sage Creek-Platte Units. This open area, comprising 3,760 acres, is delineated on maps available at refuge headquarters in Walden, Colorado and from the office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special conditions:

(1) Blinds—The construction of permanent blinds or pits is not permitted. Portable blinds may be used but not left on the refuge.

Seedskadee National Wildlife Refuge

EFFECTIVE DATES: As established by Wyoming Game and Fish Commission for the Calendar Year 1979.

Public hunting of ducks, geese, coot and mourning doves is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting and shall be in accordance with all applicable State regulations governing the hunting of Migratory Game birds.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Colorado

Arapaho National Wildlife Refuge

Hunting of sage and sharp-tailed grouse is permitted on Arapaho National Wildlife Refuge, Colorado in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 12,180 acres.

Maps delineating these areas are available at the Refuge Headquarters in Walden, Colorado. All portions of the refuge area open except within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of sage and sharp-tailed grouse.

Wyoming

Pathfinder National Wildlife Refuge

EFFECTIVE DATES: As established by the Wyoming Game and Fish Commission for the Calendar Year 1979.

Public hunting of Cottontail Rabbits is permitted on Pathfinder National Wildlife Refuge, Wyoming. All of the refuge area, comprising 16,807 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, and the Area Office. Hunting shall be in accordance with all applicable State regulations governing the hunting of Cottontail Rabbits.

Seedskadee National Wildlife Refuge

EFFECTIVE DATES: As established by the Wyoming Game and Fish Commission for the Calendar Year 1979.

Public hunting of Sage Grouse is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting and shall be in accordance with all applicable State regulations governing the hunting of Sage Grouse.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Colorado

Arapaho National Wildlife Refuge

Hunting of antelope is permitted on Arapaho National Wildlife Refuge, Colorado in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 12,180 acres. Maps delineating these areas are available at the refuge headquarters in Walden, Colorado. All portions of the refuge are open except areas within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of antelope.

Wyoming

Pathfinder National Wildlife Refuge

Hunting of deer and antelope is permitted on Pathfinder National Wildlife Refuge, Wyoming in accordance with dates and areas designated in the Wyoming 1979 Orders regulating deer and antelope hunting. These areas, comprising 16,807 acres, are composed of four separate units and are delineated on maps available at refuge headquarters in Walden, Colorado and from the office of the Area Manager, Fish and Wildlife Service, 1311 Federal Building, 125 South State Street, Salt Lake City, UT 84138. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and antelope.

Seedskadee National Wildlife Refuge

EFFECTIVE DATES: As established by Wyoming Game and Fish Commission for the Calendar Year 1979.

Public hunting of Antelope, mule deer and moose is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and as designated by signs, is open to hunting. Hunting shall be in accordance with all applicable State regulations governing the hunting of Antelope.

The provisions of these special regulations, supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: September 4, 1979.

Mitchell G. Sheldon,

Assistant Area Manager, Area 5.

[FR Doc. 79-28417 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; Opening of Alamosa National Wildlife Refuge, Colo. to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of pheasant, cottontail rabbits, and white and black-tailed jack rabbits on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 29, 1979 through January 17, 1980.

FOR FURTHER INFORMATION CONTACT: Melvin T. Nail, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colorado 81101, telephone (303) 589-4021; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone (801) 524-5630.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Alamosa National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

Hunting for pheasants, cottontail rabbits, white and black-tailed jack rabbits is permitted on the Alamosa National Wildlife Refuge, Colorado, but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres are delineated on maps available at refuge headquarters, Alamosa, Colorado, and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Cottontail rabbits and white and black-tailed jack rabbits—September 29, 1979 through October 12, 1979, inclusive, and

November 10, 1979 through January 17, 1980, inclusive.

(2) Shooting hours for pheasants, cottontail rabbits, and white and black-tailed jack rabbits will be from ½ hour before sunrise to sunset.

(3) Pheasant hunting will be permitted in accordance with State seasons and regulations for the San Luis Valley.

(4) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(5) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(6) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb).

September 6, 1979.

Melvin T. Nail,

Refuge Manager.

[FR Doc. 79-28419 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; Opening of Monte Vista National Wildlife Refuge, Colo. to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of pheasants, cottontail rabbits and white and black-tailed jack rabbits on the Monte Vista National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 29, 1979 through January 17, 1980.

FOR FURTHER INFORMATION CONTACT: Melvin T. Nail, Refuge Manager, Monte Vista National Wildlife Refuge, P.O. Box 1148, Alamosa, Colorado 81101, telephone number (303) 589-4021; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone number (801) 524-5630.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Monte Vista National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas

Hunting of pheasant, cottontail rabbits and white and black-tailed jack rabbits is permitted on the Monte Vista National Wildlife Refuge, Colorado, but only on the areas designated by signs as being open to hunting. These areas comprising 5,314 acres delineated on maps available at refuge headquarters, Alamosa, Colorado and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of pheasants, cottontail rabbits and white and black-tailed jack rabbits, subject to the following special conditions:

(1) Cottontail rabbits and white and black-tailed jack rabbits—September 29, 1979 through October 12, 1979, inclusive, and November 10, 1979 through January 17, 1980, inclusive.

(2) Shooting hours for pheasants, cottontail rabbits, and white and black-tailed jack rabbits will be from ½ hour before sunrise to sunset.

(3) Pheasant hunting will be permitted in accordance with State seasons and regulations for the San Luis Valley.

(4) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated areas.

(5) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(6) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb).

Melvin T. Nail,

Refuge Manager.

September 6, 1979.

[FR Doc. 79-28420 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; Opening of the Oxbow National Wildlife Refuge, Mass.

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Oxbow National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 10, 1979, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: David Beall, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742, Telephone No. 617-369-5518.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not

inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Oxbow National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

Public hunting of woodcock and snipe on the Oxbow National Wildlife Refuge, Massachusetts, is permitted on the area designated by signs as open to hunting.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland birds and small game on the Oxbow National Wildlife Refuge, Massachusetts, is permitted on the area designated by signs as open to hunting.

These open areas, comprising 600 acres, are shown on maps available at refuge headquarters, Concord, Massachusetts, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds and upland game, subject to the following special conditions:

(1) The total number of hunters on the area will be limited to fifty (50) hunters at one time.

(2) Permits will be required daily.

(3) Hunters must check in, obtain a permit, and check out at Fort Devens' check station in building number T-245 each day.

(4) Vehicles are restricted to designated parking areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Administrative needs require that the Oxbow Refuge Hunting seasons be held concurrent with the Massachusetts State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

September 4, 1979.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb).

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-28418 Filed 9-12-79; 8:45 am]

[BILLING CODE 4310-55-M

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50 CFR Parts 32, 33

Opening of Certain National Wildlife Refuges to Hunting and Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Felsenthal National Wildlife Refuge, Arkansas, and D'Arbonne National Wildlife Refuge, Louisiana, to the list of refuge areas open for the hunting of migratory game birds, upland game, and big game. Felsenthal National Wildlife Refuge, Arkansas, J. N. "Ding" Darling National Wildlife Refuge, Florida, and D'Arbonne National Wildlife Refuge, Louisiana, are also added to the list of refuge areas open to sport fishing. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the areas, would be compatible with principles of sound wildlife management, would otherwise be in the public interest and that such use is compatible with the management objectives established for each refuge. Hunting and sport fishing, subject to annual special regulations will provide additional public recreational opportunities.

EFFECTIVE DATE: September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is also the primary author of this final rule. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting or sport fishing until officially opened by regulations. On July 16, 1979, there was published (44 FR 41274) a notice of proposed rulemaking adding Felsenthal National Wildlife Refuge, Arkansas, J. N. "Ding" Darling National Wildlife Refuge, Florida, and D'Arbonne National Wildlife Refuge, Louisiana, to the list of open areas for sport fishing. On July 25, 1979, a second proposed rulemaking was published (44 FR 43496) adding Felsenthal National Wildlife Refuge, Arkansas, and D'Arbonne National Wildlife Refuge, Louisiana, to the lists of open areas for the hunting of migratory game birds, upland game, and big game. In each instance the public was provided a 30-day comment period and was advised that pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment had been prepared on each of these proposals. These assessments are available for public inspection and copying at room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail addressing the Director at the address given above. On the basis of these assessments, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

Numerous letters were received concerning the proposed opening of Felsenthal National Wildlife Refuge to hunting and sport fishing. Letters from 59 individuals and one resolution supported the proposal.

In addition, 11 petitions signed by 1,003 individuals supported the proposed rulemaking. One letter was received in opposition to opening Felsenthal National Wildlife Refuge to hunting.

One letter was received in support of the opening of D'Arbonne National Wildlife Refuge to hunting. No other letters were received regarding these proposed rulemakings.

In the one letter of objection, the following issues were raised concerning the hunt at Felsenthal National Wildlife Refuge.

1. There is no resting area for waterfowl.

Response: Waterfowl hunting will be limited to a 25,438 acre area south of Highway 82. The remaining 39,537 acres will not be open to the taking of waterfowl. Years of uncontrolled hunting prior to establishment of the

refuge clearly demonstrated that overhunting and late shooting had consistently driven waterfowl concentrations out of the area within 4–7 days. In order to encourage greater waterfowl use on the hunt area, hunting will be restricted to three half-days per week during the statewide waterfowl season. Eliminating afternoon hunting will reduce disturbance from roost shooting that was common in the area prior to establishment of the refuge.

2. There are only a few wild turkeys because the over pressure of hunting has wiped them out.

Response: Turkey populations are not sufficiently high enough to justify a refuge hunt. Counts of known flocks during 1977 indicated a refuge-wide population of approximately 60 birds. A hunting season will be reconsidered when turkeys respond to other restricted hunting uses, habitat management and restocking.

The Director has determined that the proposed use is compatible with the major purposes for which the areas were established and that funds are available for the development, operation and maintenance of the permitted forms of recreation. This action will be in accordance with the provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management and will otherwise be in the public interest.

Because of the time limitation involved to coordinate the State and Federal hunting regulations and the rapid approach of the hunting season, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3), of the Administrative Procedure Act to expedite the implementation of this rulemaking, therefore the effective date of this final rule is September 15, 1979.

Note.—The Department of the Interior determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, after consideration of all interests and concerns, §§ 32.11, 32.21, 32.31, and 33.4 of 50 CFR Parts 32 and 33 are amended by the addition of Felsenthal National Wildlife Refuge, J. N. "Ding" Darling National Wildlife Refuge, and D'Arbonne National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

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Arkansas

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Felsenthal National Wildlife Refuge

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Louisiana

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D'Arbonne National Wildlife Refuge

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§ 32.21 List of open areas; upland game.

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Arkansas

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Felsenthal National Wildlife Refuge

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Louisiana

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D'Arbonne National Wildlife Refuge

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§ 32.31 List of open areas; big game.

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Arkansas

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Felsenthal National Wildlife Refuge

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Louisiana

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D'Arbonne National Wildlife Refuge

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§ 33.4 List of open areas; sport fishing.

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Arkansas

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Felsenthal National Wildlife Refuge

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Florida

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J. N. "Ding" Darling National Wildlife Refuge

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Louisiana

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D'Arbonne National Wildlife Refuge

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Dated: September 10, 1979.

Rolf L. Wallenstrom,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-28439 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder); Emergency Regulations

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

ACTION: Extension of emergency regulations.

SUMMARY: An amendment to the Fishery Management Plan for Atlantic groundfish (FMP), emergency regulations to implement this amendment, and a request for public comment on the emergency regulations were published in the Federal Register on July 23, 1979 (44 FR 42977). The purpose of the amendment and emergency regulations was to prevent closures of all cod and haddock fisheries in the fishery conservation zone of the Northwest Atlantic during the last quarter of the 1978–1979 fishing year (July 1–September 30). This action temporarily increased optimum yields (OY's) for cod and haddock to provide revised fourth quarter allocations. This action was consistent with the established management objectives for this fishery and was based upon the best information on the abundance of the groundfish resources. The emergency regulations were implemented for 45 days. They are hereby extended through the end of the 1978–1979 fishing year which ends on September 30, 1979.

EFFECTIVE DATE: The emergency regulations are extended from 0001 hours September 5, 1979, and they will remain in effect through September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: On October 1, 1978, the New England Fishery Management Council's FMP for cod, haddock, and yellowtail flounder was implemented on a fishing year basis (October 1–September 30) (43 FR 45872). Due to heavy fishing pressure, the annual catch quotas established for the 1978–1979 fishing year were either attained or exceeded by July 1, 1979. At the request of the Council, NOAA promulgated emergency regulations under authority of Section 305(e) of the

Fishery Conservation and Management Act of 1976, as amended, to implement the increased OY's and domestic commercial quotas for cod and haddock. The increases were required to prevent closures of the cod and haddock fisheries from July through September 1979. The institution of closures would have resulted in serious social and economic problems for the fishermen and related industries. In addition, scientific data showed some improvement in the cod and haddock stocks.

The Assistant Administrator for Fisheries, NOAA, finds that this situation still exists and has determined that extension of the emergency regulations is necessary to prevent immediate closures of certain cod and haddock fisheries. On October 1, 1979, regulations for the 1979–1980 fishing year will be issued.

The Assistant Administrator has determined that continuation of the emergency regulations through the remainder of the current fishing year is a non-significant action under Executive Order 12044. A Final Environmental Impact Statement and three Final Supplements concerning the management of the Atlantic groundfish fishery are on file with the Environmental Protection Agency.

Signed in Washington, D.C. this the 6th day of September, 1979.

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

Jack W. Gehringer,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 79-28537 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 179
Thursday, September 13, 1979

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

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 611]

Soil Surveys; Cartographic Operations

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to review existing regulations.

SUMMARY: The Soil Conservation Service (SCS) intends to review existing regulations concerning soil survey cartographic operations (7 CFR, Chapter VI Subchapter B, Part 611, Subpart C). The purpose of the review is to determine whether there is a need to change existing regulations to meet current operating procedures and public demands.

DATES: Comments must be received by November 30, 1979. Comments and suggestions will be considered during the review scheduled to commence on or about December 1, 1979. Proposed changes, if needed, will be published for comments on or about February 1, 1980.

ADDRESSES: Comments regarding the proposed review should be sent to: Jerome A. Gockowski, Director, Cartographic Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jerome A. Gockowski, Director, Cartographic Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, telephone (202) 447-6923.

Dated: August 31, 1979.

Paul M. Howard,

Assistant Administrator for Field Services, Soil Conservation Service.

[FR Doc. 79-28548 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 79-FIM-22]

Alteration of Transition Area and Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the 1,200' transition area and control zone at Butte, Montana to provide controlled airspace for aircraft executing the new 1LS Runway 15, standard instrument approach procedure to the Bert Mooney-Sivler Bow County Airport, Butte, Montana. There will be no change to the 700' transition area.

DATES: Comments must be received on or before September 21, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM-539), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

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

The Proposal

The Federal Aviation Administration is considering an amendment to subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1,200' transition area and control zone at Butte, Montana. This proposal is necessary to provide controlled airspace for aircraft executing the new 1LS Runway 15, standard instrument approach procedure to the Bert Mooney-Silver Bow County Airport, Butte, Montana. Accordingly the Federal Aviation Administration proposes to amend subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending § 71.171 by designating the following control zone:

Butte, Mont.

Within a 5-mile radius of the Bert Mooney-Silver Bow County Airport, Butte, Montana, (latitude 45°57'15" N., longitude 112°29'50" W.) and within 2 miles each side of the Butte vortac 115° radial extending from the 5-mile radius zone to the vortac; within 3 miles each side of the Bert Mooney-Silver Bow County Airport Runway 15 localizer course extending from the 5-mile radius zone to a point 13 miles northwest of the airport.

By amending § 71.181 by designating the following transition area:

Butte, Mont.

. . . ; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the vortac 325° radial extending from the vortac to 18.5 miles northwest of the vortac, and within 4.5 miles west and 9.5 miles east of the vortac 002° radial extending from the vortac to 18.5 miles north of the vortac, and within 10 miles north and 7 miles south of the Whitehall, Montana, VOR 096° and 276° radials, extending from 20 miles east to 19 miles west of the VOR, and within an area bounded by a line beginning at latitude 46°25'00" N., longitude 112°48'00" W.; to latitude 46°27'00" N., longitude 112°31'00" W.; to latitude 45°49'00" N., longitude 112°22'00" W.; to latitude 45°47'00" N., longitude 112°39'00" W., thence to point of beginning.

Drafting Information

The principal authors of this document are David M. Laschinger, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

(Sec. 307(a) of the Federal Aviation Act of 1058, as amended, (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on August 23, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[FR Doc. 79-28343 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-ASW-30]

Proposed Alteration of Transition Area: Oklahoma City, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Oklahoma City, Oklahoma. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing the istrument approach procedures to the Clarence E. Page Municipal Airport. The circumstance which created the need for the action is the development of an Area Navigation (RNAV) approach procedure to the Clarence E. Page Municipal Airport. In addition, this action changes the name of the airport from Cimarron Airport to Clarence E. Page as described in the Federal Register.

DATES: Comments must be received on or before October 15, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

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

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Oklahoma City, Oklahoma, will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101. All communications received on or before October 15, 1979 will be considerd before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Oklahoma City, Oklahoma. The FAA believes this action will enhance IFR operations at the Clarence E. Page Municipal Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using RNAV. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Oklahoma City, Oklahoma, transition area by deleting

. . . and within a 5-mile radius of the Cimarron, Okla., Municipal Airport (latitude 35°29'15" N., longitude 97°49'00" W.)."

and by substituting the following therefor:

. . . and within a 6.5-mile radius of the Clarence E. Page Municipal Airport (latitude 35°29'15" N., longitude 97°49'00" W.)."

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Forth Worth, Texas, on August 29, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-28341 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2, 3d, 131, 156, and 157]

[Docket Nos. RM79-69 and RM79-70]

Floodplain Management and Protection of Wetlands; Extension of Time for Comment

September 10, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Extension of Time for Comment.

SUMMARY: On August 20, 1979, the Federal Energy Regulatory Commission issued two Notices of Proposed Rulemaking. [Floodplain Management and Protection of Wetlands, 44 FR 49466, August 23, 1979; Regulations Implementing the National Environmental Policy Act of 1969, 44 FR 50052, August 27, 1979] Both notices prescribed a comment period ending September 17, 1979. The comment period on both rulemakings has been extended.

DATE: Comments on both rulemakings are now due on or before October 1, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4166.

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106, 825 North Capitol Street, NE., Washington, D.C. 20426. Phone (202) 275-0422.

Kenneth F. Plumb,

Secretary.

[FR Doc. 28543 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[18 CFR Part 282]

[Docket No. RM79-47]

Statewide Exemptions From Incremental Pricing; Extension of Time To File Comments

September 10, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Extension of Time to File Comments.

SUMMARY: In a Notice issued on July 3, 1979 (44 FR 40898, July 13, 1979), the Commission announced that it had established Docket No. RM79-47 to receive comments on the question of whether a rulemaking proceeding should be established with respect to statewide exemptions from incremental pricing.

This notice announces that the period for filing comments in Docket No. RM79-47 is extended indefinitely, until further notice.

DATE: Period for filing comments is extended indefinitely, until further notice.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-0426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28298 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 207]

[Docket No. R-79-710]

Amendments Concerning Section 223(f) Target Area Preservation Projects

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 207—Amendments Concerning Section 223(f) Target Area Preservation Projects

This interim rule would amend 24 CFR 207.32a, which contains the regulations for mortgage insurance for existing multifamily housing projects as authorized by section 223(f) of the National Housing Act. The amendments would facilitate a demonstration of the use of this insurance in older, declining urban areas selected under the Target Area Preservation Demonstration Programs.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., September 10, 1979.

Jay Janis,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 79-28484 Filed 9-12-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

[27 CFR Parts 170, 231, and 240]

[Ref: Notice No. 320]

Recodification of Wine Regulations; Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 320, Recodification of Wine Regulations, an additional six months. Notice No. 320 was published in the Federal Register on May 22, 1979 (44 FR 29691).

DATE: The comment period for Notice No. 320 is extended until February 20, 1980.

ADDRESS: Comments should be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Attn: Chief, Regulations and Procedures Division—Notice 320).

FOR FURTHER INFORMATION CONTACT: Thomas Minton, Research and Regulations Branch, Bureau of Alcohol,

Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On May 22, 1979, the Bureau of Alcohol, Tobacco and Firearms (ATF) published an advance notice of proposed rulemaking to obtain comments on contemplated revisions to 27 CFR Part 170, Subpart Z (Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use), Part 231 (Tax-paid Wine Bottling Houses), and Part 240 (Wine). ATF intends to combine all the regulations concerning wine into a new comprehensive Part 24. ATF also intends to—

(1) Eliminate unnecessary regulatory sections;

(2) Incorporate ATF rulings and industry circulars into the new part; and

(3) Rewrite the regulations into language that is more understandable.

Comments from consumers and industry members will aid the Bureau in attaining these goals. Therefore, ATF is extending the comment period for the advance notice until February 20, 1980.

Disclosure of Comments

Written comments or suggestions may be inspected at the ATF Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC, during normal business hours. After consideration of all comments and suggestions, ATF may issue a notice of proposed rule-making. The proposals discussed in the advance notice may be modified due to the comments and suggestions received.

Drafting Information

The principal author of this document is Thomas Minton of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

This notice is issued under the authority contained in 26 U.S.C. 7805 (68a Stat. 917).

Signed: September 7, 1979.

G. R. Dickerson,

Director.

[FR Doc. 79-28486 Filed 9-12-79; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

[28 CFR Part 42]

Revision of Target Dates for Proposed Regulations

AGENCY: Department of Justice/Law Enforcement Assistance Administration.

ACTION: Change in target date for proposed regulations.

SUMMARY: LEAA is revising its target dates for amending its Equal Employment Opportunity Program Guidelines and proposing its Equal Service Program Guidelines.

DATES: LEAA is now intending to publish both sets of Guidelines, for comment, in November 1979 and to publish final Guidelines in February 1980.

FOR FURTHER INFORMATION CONTACT: Thomas J. Madden, General Counsel, LEAA (202) 724-7792.

SUPPLEMENTARY INFORMATION: In the semiannual agenda of regulations, published on April 20, 1979 (44 FR 23772-73), LEAA stated its intention to publish proposed revisions of its Equal Employment Opportunity Program Guidelines, 28 CFR 42.301, et seq., for comment in the Federal Register in August 1979. It also said it would publish proposed Equal Service Program Guidelines for comment at the same time. LEAA is now intending to publish both sets of Guidelines, for comment, in November 1979, and to publish final Guidelines in February 1980.

Henry S. Dogin,

Administrator, LEAA.

[FR Doc. 79-28542 Filed 9-12-79; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 207]

Navigation Regulations; Cape Cod Canal, Mass.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: These proposed amendments establish policies and procedures for the use, administration and navigation of the Cape Cod Canal, Massachusetts. The amendments are necessary to control the changes in the types of traffic using the Canal since the last revision in 1962.

DATE: Comments must be received by October 15, 1979.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, telephone No. (202) 272-0201.

SUPPLEMENTAL INFORMATION: Regulations were promulgated by the Department of the Army in 33 CFR Part 207.20 to establish policies and procedures for the use, administration and navigation of the Cape Cod Canal, Massachusetts. These regulations were established on December 27, 1956 and last amended on August 8, 1962. This revision is necessary to strengthen and clarify the existing regulations and to reflect changes that have occurred at the Cape Cod Canal.

Note.—The Corps of Engineers has determined that these regulations do not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

The Corps of Engineers proposes to amend the regulations in 33 CFR Part 207.20 as set forth below:

§ 207.20 Cape Cod Canal, Mass.; use, administration and navigation.

(a) *Limits of Canal.*—The Canal, including approaches extends from the Canal Station (minus)—100 in Cape Cod Bay, approximately 1.6 statute miles seaward of the Canal Breakwater Light through dredged channels and land cuts to Cleveland Ledge Light in Buzzards Bay approximately four (4) statute miles southwest of Wings Neck.

(b) *Supervision.* (1) The movement of ships, boats and craft of every description through the Canal and the operation and maintenance of the waterway and all property of the United States pertaining thereto, shall be under the supervision of the Division Engineer, U.S. Army Engineer Division, New England, Corps of Engineers, Waltham, Massachusetts or his authorized representative, the Engineer-In-Charge of the Cape Cod Canal. The Division Engineer or the Engineer-In-Charge from time to time will prescribe rules governing the dimensions of vessels which may transit the waterway, and other special conditions and requirements which will govern the movement of vessels using the waterway.

(2) The Engineer-In-Charge through the Marine Traffic Controller on duty will enforce these regulations and monitor traffic through the Canal. The Marine Traffic Controller on duty is the

individual responsible for interpretation of these regulations with respect to vessels transiting through the Canal.

(3) The government has tugs stationed at the West Boat Basin for emergency use on an on-call basis. A patrol vessel is manned and operational 24 hours a day.

(c) *Communications.* There is a Marine Traffic Controller on duty 24 hours a day, seven days a week, in the traffic control center located at the Canal Administrative Office. The primary method of communications between the Canal and vessels transiting will be by VHF–FM marine radio. The Traffic Controller can also be contacted by telephone.

(1) For radio communications, call the Traffic Controller on channel 16 to establish contact. The transmissions will then be switched to channel 12 or 14 as the working channel to pass information. Channel 13 is also available at the Canal office; however, channel 13 use should be limited to emergency situations or whenever vessels do not have one of the other channels. All four channels are monitored continuously by the Traffic Controller. Radio discipline will be adhered to in accordance with FCC rules and regulations.

(2) For telephone communications with the Traffic Controller, call 617–759–4431.

(3) Vessels shall maintain a radio guard on marine VHF–FM channel 13 during the entire passage through the Canal.

(4) All radio communications in the vicinity of the Canal are tape recorded for future reference.

(d) *Vessels allowed passage.* The Canal is open for passage to all adequately powered vessels properly equipped and seaworthy, of sizes consistent with safe navigation as governed by the controlling depth and widths of the channel and the vertical and horizontal clearances of the bridges over the waterway. The granting of permission for any vessel to proceed through the waterway shall not relieve the owners, agents and operators of full responsibility for its safe passage. No vessel having a greater draft forward than aft will be allowed to transit the Canal. Craft of low power and wind driven are required to have and use auxiliary power during passage throughout the Canal as defined in paragraph (a) above. Low powered vessels will be required to await slack water or favorable current for Canal transit.

(e) *Tows.* (1) Tows shall be made-up outside the Canal entrances. All vessels engaged in towing other vessels not equipped with a rudder shall use two tow lines or a bridle and one tow line. If the vessel in tow is equipped with a rudder or a ship shaped bow, one tow line may be used. All tow lines or hawsers must be hauled as short as practicable for safe handling of the tows. No towboat will be allowed to enter the waterway with more than two barges in tow unless prior approval is granted by the Engineer-In-Charge; requests must be submitted 12 hours in advance of the passage.

(2) The maximum length of pontoon rafts using the Canal will be limited to 600 feet, and the maximum width to 100 feet. Pontoon rafts exceeding 200 feet in length will be required to have an additional tug on the stern to insure that the tow is kept in line. The tugs used must have sufficient power to handle the raft safely.

(3) Dead ships are required to transit the Canal during daylight hours and must be provided with the number of tugs sufficient to afford safe passage through the Canal. (A dead ship will not be allowed to enter the Canal unless prior approval is granted by the Engineer-In-Charge; requests must be submitted 12 hours in advance of the passage).

(f) *Dangerous Cargos.* Vessels or tows carrying dangerous cargos must notify the Marine Traffic Controller prior to entering the Canal. Dangerous cargos are defined as those items listed in 33 CFR 124.14(b), plus explosives, liquified natural gas and liquified propane gas. Transportation of dangerous cargos through the Canal shall be in strict accordance with existing regulations prescribed by law and all vessels shall comply with the following requirements:

(1) All vessels must have sufficient horsepower to buck the tide or they will be required to wait for favorable current condition. Otherwise the services of an assist tug must be obtained.

(2) All transits will be during daylight hours.

(3) No transit will be permitted when visibility conditions are unstable or less than 2 miles at the approaches and throughout the entire length of the Canal.

(4) All transits must await a clear Canal for passage.

(5) A radio guard will be maintained throughout the passage on Marine VHF–FM channel 13.

(g) *Obtaining clearance.* (1) Vessels under 65 feet in length may enter the Canal without obtaining clearance. All craft are required to make a complete passage through the Canal. When the railroad bridge span is in the closed (down) position, all vessels are directed not to proceed beyond the points designated by stop signs posted east and west of the railroad bridge. Vessels proceeding with a fair tide (with the current) should turn and stem the current at the designated stop points until the railroad bridge is in the raised (open) position.

(2) Vessels over 65 feet in length will not enter the Canal until clearance has been obtained from the Marine Traffic Controller by radio. See paragraph 207.20(c) "Communications" for procedures. If a vessel, granted prior clearance, is delayed or stops at the mooring basins, State Pier, or the Sandwich bulkhead, a second clearance must be obtained prior to continuing passage through the Canal.

(3) Clearance priority—Ordinarily, vessels will be given clearance in the order of arrival, but when conditions warrant one-way traffic, or for any reason an order of priority is necessary, clearance will be granted in the following order:

(i) First-To vessels owned or operated by the United States, including contractors' equipment employed on Canal maintenance or improvement work.

(ii) Second-To passenger vessels.

(iii) Third-To tankers and barges docking and undocking at the Canal Electric Terminal.

(iv) Fourth-To cargo vessels, towboats, commercial fishing vessels, pleasure boats and miscellaneous craft.

(4) Procedures in adverse weather—Vessels carrying flammable or combustible cargos as defined in 46 CFR 30.25 will be restricted from passage through the Canal when visibility is less than ½ mile. Other vessels may transit the Canal in thick weather by use of radar with the understanding that the United States Government will assume no responsibility, and provided that clearance has been obtained from the Marine Traffic Controller, and that a radio guard is maintained on marine VHF/FM channel 13 throughout the passage.

(h) *Traffic lights.* There are three sets of traffic lights showing red, green and amber yellow that are operated on a continuous basis at the Canal. The traffic lights apply to all vessels over 65 feet in length and are a secondary system that is operated in support of the radio communications system. The traffic lights are located at the easterly Canal entrance, Sandwich and at the westerly entrance of Hog Island Channel at Wings Neck. A third traffic light is located at the Canal Electric terminal basin on the south side of the Canal in Sandwich, and applies only to vessels arriving and departing that terminal.

(1) Westbound traffic—When the green light is on at the eastern (Cape Cod Bay) entrance, vessels may proceed westward through the Canal. When the red light is on, any type of vessel over 65 feet in length must stop clear of the Cape Cod Bay entrance channel. When the amber yellow light is on, vessels over 65 feet in length and drawing less than 25 feet may proceed as far as the East Mooring Basin where they must stop; prior to continuing passage through the Canal clearance must be obtained from the Marine Traffic Controller.

(2) Eastbound traffic—When the green light is on at Wings Neck, vessels may proceed eastward through the Canal. When the red light is on, vessels over 65 feet in length and drawing less than 25 feet, must keep southerly of Hog Island Channel Entrance Buoys Nos. 1 and 2 and utilize the general anchorage areas adjacent to the improved channel. Vessel traffic drawing 25 feet and over are directed not to enter the Canal channel at the Cleveland Ledge Light entrance and shall lay to or anchor in the vicinity of Buzzards Bay Buoy No. 11 (FLW & Bell) until clearance is granted by the Canal Marine Traffic Controller or a green traffic light at Wings Neck is displayed. When the amber yellow light is on, vessels may proceed through Hog Island Channel as far as the West Mooring Basin where they must stop; prior to continuing passage through the Canal clearance must be obtained from the Marine Traffic Controller.

(i) *Railroad Bridge Signals.* The following signals at the Buzzards Bay Railroad Bridge will be given strict attention.

(1) The vertical lift span on the railroad bridge is normally kept in the raised (open) position, except when it is lowered for the passage of trains, or for maintenance purposes. Immediately preceding the lowering of the span, the operator will sound two long blasts of an air horn. Immediately preceding the raising of the span, the operator will sound one long blast of an air horn. When a vessel or craft of any type is approaching the bridge with the span in the down (closed) position and the span cannot be raised immediately, the operator of the bridge will so indicate by sounding danger signals of four short blasts in quick succession.

(2) When the lift span is in the down (closed) position in foggy weather or when visibility is obscured by vapor, there will be four short blasts sounded from the bridge every two minutes.

(j) *Speed.* All vessels are directed to pass mooring and boat basin facilities, the State pier, and all floating plant engaged in maintenance operations of the waterway at a minimum speed consistent with safe navigation. In order to coordinate scheduled rail traffic with the passage of vessels, to minimize erosion of the Canal banks and dikes from excessive wave wash and suction, and for the safety of vessels using the Canal, the following speed regulations must be observed by vessels of all types, including pleasure craft. The minimum running time for the land cut, between East Mooring Basin (Station 35) and the Administration Office in Buzzards Bay (Station 388) is prescribed as follows:

Head tide, 60 min.; fair tide, 30 min.; and slack tide, 45 min.

The minimum running time between the Administration Office (Station 338) and Hog Island Channel westerly entrance Buoy No. 1 (Station 661) is prescribed as follows:

Head tide, 46 min.; fair tide, 23 min.; and slack tide, 35 min.

The running time at slace water will apply to any vessel which enters that portion of the Canal between Stations 35 and 661, within the period of one half hour before or after the predicted time of slack water as given in the National Ocean Survey publication "Current Tables, Atlantic Coast, North America". The minimum running time during a head tide or a fair tide shall apply to any vessel which enters that portion of the Canal between Station 35 and 661 at any time other than designated above for time requirements at slack tide. Vessels of any kind unable to make a through transit of the land cut portion of the Canal against a head current of 6.0 knots within a maximum time limit of 2 hours-30 minutes shall be required to obtain the assistance of a helper tug at the vessel owners expense or await favorable tide conditions prior to receiving clearance from the Marine Traffic Controller. In the event vessels within the confines of the Canal fail to perform and are unable to make sufficient headway against the currents, the Marine Traffic Controller may activate a helper tug in accordance with paragraph 207.20(k).

(k) *Management of Vessels.* (1) The Canal is an inland waterway of the United States and the pilot rules for such waterways as contained in the United States publication "Navigation Rules" are applicable concerning matters not otherwise covered in this section.

(2) All vessels subject to the navigation laws of the United States and carrying passengers or cargo for hire and propelled by gas, oil, naphtha or electric motors and displacing in excess of 1000 gross tons register (pursuant to the provisions of 46 CFR 157.20–40) shall be under the control of a duly qualified pilot licensed by the U.S. Coast Guard for the waters of Cape Cod Canal and approaches. Clearance to enter the Canal will not be granted until the Marine Traffic Controller has been notified of the name of the pilot that will be handling the vessel.

(3) The master of a vessel will be responsible for notifying the Marine Traffic Controller as soon as emergency situation appears to be developing. When in the opinion of the Marine Traffic Controller an emergency exists, he can request the master to accept the assistance of a helper vessel. Whether or not assistance is given by a government vessel or by a private firm under contract to the government, the government reserves the right to seek compensation from the vessel owners for all costs incurred.

(4) Right of Way—All vessels proceeding with the current shall have the right of way over those proceeding against the current. All craft up to 65 feet in length shall be operated so as not to interfere with the navigation of vessels of greater length.

(5) Passing of Vessels—The passing of one vessel by another when proceeding in the same direction is prohibited except when a leading low powered ship is unable to make sufficient headway. However, extreme caution must be observed to avoid collision, and consideration must be given to the size of the ship to be overtaken, velocity of current and wind, and atmospheric conditions. Masters of vessels involved shall inform the Marine Traffic Controller on duty of developing situations to facilitate coordination of vessel movement. Meeting or passing of vessels at the easterly end of the Canal between station −40 and station +60 will not be permitted, except in cases of extreme emergency, in order to allow vessels to utilize the center line range to minimize the effects of hazardous eddies and currents. Due to bank suction and tidal set, meeting and passing of vessels at the following locations should be avoided:

(i) Sagamore Bridge.
(ii) Bourne Bridge.
(iii) Railroad Bridge.
(iv) Massachusetts Maritime Academy.

(6) Unnecessary delay in Canal—Vessels and other type craft must not obstruct navigation by unnecessarily idling at low speed when entering or passing through the Canal.

(7) Stopping in the waterway—Anchoring in the Cape Cod Canal Channel is prohibited except in emergencies. For the safety of Canal operations it is mandatory that the

Masters of all vessels anchoring in the Canal Channel (Cape Cod Bay to Cleveland Ledge Light) because of mechanical deficiencies, grounding in or adjacent to the channel limits, or for any other reason, immediately notify the Marine Traffic Controller.

(8) Utilization of mooring and boat basins and the Sandwich Bulkhead—Vessels mooring or anchoring in the mooring or boat basins and at the Sandwich bulkhead must do so in a manner not to obstruct or impede vessel movements to and from facilities. These facilities are of limited capacity and permission to occupy them for periods exceeding 24 hours must be obtained in advance from the Marine Traffic Controller. Mooring in the West Boat Basin at Buzzards Bay, near the railroad bridge, is not permitted except in an emergency. Fishing boats, yachts, cabin cruisers and other craft utilizing the East Boast Basin on the south side of the Canal at Sandwich, Massachusetts, are not permitted to tie up at the Corps of Engineers landing float or anchor in a manner to prevent Canal floating plant from having ready access to the float. All vessels or barges left unattended must be securely tied with adequate lines or cables. The United States assumes no liability for damages which may be sustained by any craft using the bulkhead at Sandwich or the Canal mooring or boat basin facilities. Vessels shall not be left unattended along the face of the government bulkhead. A responsible person with authority to authorize and/or accomplish vessel movement must remain onboard at all times.

(l) *Grounded, wrecked or damaged vessels.* In the event a vessel is grounded, disabled or so damaged by accident as to render it likely to become an obstruction and/or hazard to navigation in the waterway, the Division Engineer or his authorized representative shall supervise and direct all operations that may be necessary to remove the vessel to a safe locality.

(m) *Commercial statistics.* Masters of vessels shall furnish the Marine Traffic Controller on each passage through the Canal their own names, the pilots name and an accurate oral or written statement of passengers, freight, and other pertinent vessel data as required.

(n) *Deposit of refuse.* No oil or other allied liquids, ashes, or materials of any kind shall be thrown, pumped or swept into the Canal or its approaches from any vessel or craft using the waterway, nor shall any refuse be deposited on Canal grounds, marine structures, or facilities.

(o) *Trespass or injury to property.* Subject to the provisions of paragraph (207.206), trespass upon the Canal property or injury to the Canal lands, banks, revetment, bridges, breakwaters, dikes, dolphins, fences, buildings, culverts, trees, lights, telephone or power lines, or any other property of the United States pertaining to the Canal is prohibited.

(p) *Bridges over the Canal.* The Government owns, operates and maintains all bridges across the Canal which include one railroad bridge and two highway bridges. The Division Engineer or his authorized representative may establish rules and regulations governing the use of these bridges.

(q) *Recreational use of Canal.*

(1) Policy.

(i) It is the policy of the Secretary of the Army acting through the Chief of Engineers to provide the public with safe and healthful recreational opportunities within all water resource development projects administered by the Chief of Engineers.

(ii) Unless otherwise indicated herein, the term "Division Engineer" shall include the authorized representatives of the Division Engineer.

(iii) All water resource development projects open for recreational use shall be available to the public without regard to sex, race, creed, color or national origin. No lessee, licenses, or concessionaire providing a service to the public shall discriminate against any person or persons because of sex, race, creed, color or national origin in the conduct of his operations under the lease, license or conession contract.

(2) Motor vehicles—Operations of motor vehicles, motor-cycles, minibikes, mopeds, motorbikes, snowmobiles, and all types of off-road motor vehicles is prohibited on government lands and servive roads not specifically designated for access and parking of public motor vehicles.

(3) Swimming—Swimming, skin diving, snorkling, and scuba diving in the Canal between the east entrance in Cape Code Bay and the west entrance at Cleveland Ledge Light are prohibited. Diving operations may be authorized by the Engineer-In-Charge in conjunction with operation and maintenance of the Canal.

(4) Camping—Overnight tenting or camping on Government land is prohibited except in areas designated by the Division Engineer. Bourne Scenic Park and Scusset Beach State Reservation are designated camping areas. Persons asleep during hours of darkness in or out of vehicles shall be considered as campers.

(5) Fishing—Persons at their own risk may fish with rod and line from the banks of the Canal on federally owned property except areas designated by the Division Engineer. Fishing and lobstering by boat in the Cape Cod Canal between the east entrance in Cape Cod Bay and the west entrance at Cleveland Ledge Light are prohibited. Fishing by boat is permitted in the area west of the State Pier in Buzzards Bay, provided that all craft stay out of the channel as defined by United States Coast buoys and beacons. Fish and game laws of the United States and the Commonwealth of Massachusetts will be enforced.

(6) Hunting—Hunting is permitted in accordance with game laws of the United States and the Commonwealth of Massachusetts.

(7) Fires—No open fires will be allowed at any time except by special permission and then shall be in compliance with State or Town laws.

(8) Control of horse, dogs, cats, and pets.

(i) No person shall bring or have horses in camping, picnic, swimming beaches, or developed recreation areas.

(ii) No person shall bring dogs, cats, or other pets into developed recreation areas unless penned, caged, or on a leash no longer than six feet in length or otherwise under physical restrictive controls at all times.

(9) Restrictions.

(i) The Division Engineer may establish a reasonable schedule of visiting hours for all or portions of the project area and close or restrict the public use of all or any portion of the project by the posting of appropriate signs indicating the extent and scope of closure. All persons shall observe such posted restrictions.

(ii) The operation or use of any audio or other noise producing device including but not limited to communications media and vehicles in such a manner as to unreasonably annoy, endanger persons or affect vessel traffic through the Canal is prohibited.

(10) Explosives, firearms, other weapons and fireworks.

(i) The possession of loaded firearms, ammunition, projectile firing devices, bows and arrows, crossbows, and explosives of any kind is prohibited unless: in the possession of a law enforcement officer or Government employee on official duty; used for hunting during the hunting season as permitted under paragraph 207.20(q)(6) of this section, or unless written permission has been received from the Division Engineer.

(ii) The possession or use of fireworks is prohibited unless written permission has been received from the Division Engineer.

(11) Public property—Destruction, injury, defacement or removal of public property including natural formation, historical and archeological features and vegetative growth is prohibited without written permission of the Division Engineer.

(12) Abandonment of personal property.

(i) Abandonment of personal property is prohibited. Personal property shall not be left unattended upon the lands or waters of the project except in accordance with this regulation. After a period of 24 hours, abandoned or unattended personal property shall be impounded and stored at a storage point designated by the Division Engineer. The Division Engineer shall assess a reasonable impoundment fee, which shall be paid before the impounded property is returned to its owners.

(ii) The Division Engineer shall by public or private sales or otherwise, dispose of all lost, abandoned, or unclaimed personal property that comes into his custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, his heirs or next of kin, or his legal representative. If the owner, his heirs or next of kin, or his legal representative is determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at his last known address. When diligent effort to determine the owner, his heirs or next of kin, or his legal representative is unsuccessful, the property may be disposed of without delay, except that if it has a fair market value of $25 or more the property may not be disposed of until three months after the date it is received at the Cape Cod Canal Administrative Office. The net proceeds from the sale of property shall be placed into the Treasury of the United States as miscellaneous receipts.

(13) Lost and found articles—All lost articles shall be deposited by the finder at the Canal Administrative area or with the Ranger. The finder shall leave his name, address and phone number. All lost articles shall be disposed of in accordance with procedures set forth in paragraph 207.20(q)(12) above.

(14) Advertisement—Advertising by the use of billboards, signs, markers, audio devices or any other means whatever is prohibited unless written permission has been received from the Division Engineer.

(15) Commercial activities—The engaging in or solicitation of business without the express written agreement of the Division Engineer is prohibited.

(16) Unauthorized structures—The construction or placing of any structure of any kind under, upon or over the project lands or waters is prohibited unless a permit therefore has been issued by the Division Engineer. Structures not under permit are subject to summary removal by the Division Engineer.

(17) Special events—Prior approval must be obtained from the Engineer-In-Charge for special events, recreational programs and group activities. The public shall not be charged any fee by the sponsor of such event unless the Division Engineer has approved in writing the proposed schedule of fees.

(18) Interference with government employees—Interference with any Government employee in the conduct of his official duties pertaining to the administration of these regulations is prohibited.

(40 Stat. 266; 33 U.S.C. 1)

Dated: September 6, 1979.

Forrest T. Gay III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 79-28394 Filed 9-12-79; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1318-7]

Approval and Promulgation of Implementation Plans; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On August 1, 1979, the U.S. Environmental Protection Agency proposed approval/disapproval of various revisions to the Texas State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment and maintenance of National Ambient Air Quality Standards. In response to Several requests for an extension of time for the filing of comments, the comment period is extended to September 14, 1979.

DATES: Comments must be received on or before September 14, 1979.

ADDRESSES: Comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, Attn: Jerry Stubberfield.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials, Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

Dated: September 7, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79-28529 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 180]

[FRL 1317-8; PP 7E2010/P84]

Proposed Tolerances for the Pesticide Chemical Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide chlorpyrifos on broccoli, Brussels sprouts, cabbage, and cauliflower at 2 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish maximum permissible levels for residues of chlorpyrifos on broccoli, Brussels sprouts, cabbage, and cauliflower.

DATE: Comments must be received October 15, 1979.

ADDRESS COMMENTS TO: Mrs. Patricia Critchlow, (TS-767) Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, (202/426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Hawaii, Idaho, Michigan, New York, Oregon, Utah, Washington, and Wisconsin, has submitted a pesticide petition (PP 7E2010) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.342 be amended by the establishment of tolerances for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-

trichloro-2-pyridyl) phosphorodithioate) and its metabolite 3,5,6-trichloro-1-pyridinol in or on the raw agricultural commodities broccoli, Brussels sprouts, cabbage, and cauliflower at 2 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat feeding/oncogenicity study which showed a negative oncogenic potential with a no-observed-effect level (NOEL) of greater than 3 and 0.1 milligram (mg)/kilogram (kg) of body weight (bw)/day based on systemic and anticholinesterase effects, respectively; a two-year dog feeding study with an NOEL of greater than 3 and 0.1 mg/kg bw/day based on systemic and anticholinesterase effects, respectively; a three-generation rat reproduction study (no maternal toxic signs up to 1 mg/kg bw/day); a hen neurotoxicity study, negative at 100 mg/kg; a rat acute oral lethal dose (LD_{50}) study; a rabbit acute dermal (LD_{50}) study; an acute inhalation lethal concentration (LC_{50}) study; and primary eye and skin irritation studies. Based on the two-year feeding studies and anticholinesterase effects, the acceptable daily intake (ADI) is 0.01 mg/kg bw/day, and the maximum permissible intake (MPI) is 0.6 mg/day for a 60-kg man. The human exposure to this compound from previously established tolerances has been calculated to be 0.26 mg/person/day. Established tolerances result in a theoretical maximum residue contribution (TMRC) of 50.1 percent of the ADI. Establishment of the proposed tolerances will not exceed the ADI, and the proposed tolerances will not significantly increase the exposure to the daily diet (about 0.027 mg/person/day).

Data lacking include a teratology study and an oncogenicity study in a second species. Both studies are currently in progress and the results will be submitted to the Agency by late 1979. The metabolism of chlorpyrifos is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. The established tolerances for residues in eggs, meat, milk, and poultry are adequate to cover secondary residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2). There are presently no actions pending against the continued registration of this chemical.

The pesticide is considered useful for the purpose for which tolerances are being sought, and it is concluded that the tolerances of 2 ppm established by amending 40 CFR 180.342 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before October 15, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 7E2010/P84". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 107, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: September 6, 1979.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Herbert S. Harrison,

Acting Director, Registration Division.

It is proposed that Part 180, Subpart C, § 180.342 be amended by alphabetically inserting tolerances on Brussels sprouts, broccoli, cabbage, and cauliflower at 2 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Broccoli	2
Brussels sprouts	2
Cabbage	2
* * * * *	
Cauliflower	2
* * * * *	

[FR Doc. 79-28535 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 160 and 163]

[CGD 74-140]

Vessel Equipment Specifications; Pilot Hoist, Pilot Ladder, and Chain Ladder

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period on proposed rules.

SUMMARY: The Coast Guard published proposed rules in the Federal Register of July 23, 1979, that would establish a new safety equipment specification for pilot hoists, and that would revise existing specifications for pilot ladders and chain ladders. This notice extends the comment period for the proposal to October 22, 1979. The original closing date for comments was September 21, 1979. The extension has been provided in response to a request by the American Pilots' Association for additional time to review the proposal.

DATES: Comments on the proposed rules must be received on or before the extended closing date of October 22, 1979.

ADDRESSES: Written comments should be submitted to the Commandant (G-CMC/TP24) (CGD 74-140), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/TP24), Room 2418, 2100 Second Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION: Mr. Robert Markle, U.S. Coast Guard Office of Merchant Marine Safety (G-MMT-3), Room 2203, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20590, (202) 426-1444.

SUPPLEMENTARY INFORMATION: The proposed rules were published on pages 43016-43030 of the Federal Register of July 23, 1979. As explained above, the American Pilots' Association has requested an extension of the comment period on the proposal in order to allow additional time for their review of its provisions. The Association intends to hold a meeting of their members and other interested persons on October 4-5, 1979. Discussion of the proposed proposed rules is planned at the meeting to be followed by preparation of written comments for submission to the Coast Guard.

The Coast Guard considers the request for extension to be a valid one and, accordingly, an extended comment period is being provided.

Drafting Information

The principal persons involved in drafting this document are: Mr. Robert Markle, Project Manager, Office of Merchant Marine Safety, and Mr. William Register, Project Attorney, Office of the chief counsel.

(46 U.S.C. 375, 391a, 416, and 481; 49 U.S.C. 1655(b); and 49 CFR 1.46)

Dated: September 10, 1979.

W. D. Markle,

Deputy Chief, Office of Merchant Marine Safety.

[FR Doc. 79-28540 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-149; RM-3343; and RM-3465]

FM Broadcast Station in St. Simons Island and Waycross, Ga.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving FM channel assignments in St. Simons Island and Waycross, Georgia. The additional time is given so that parties can respond to a counterproposal which requests the assignment of the same channel to Waycross instead of to St. Simons Island.

DATE: Reply comments must be received on or before September 7, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: August 27, 1979.

Released: August 31, 1979.

In the matter of amendment of § 73:202(b), *Table of Assignments*, FM Broadcast Stations. (St. Simons Island and Waycross, [1] Georgia), BC Docket No. 79-149, RM-3343, RM-3465.

1. On June 7, 1979, the Commission adopted a Notice of Proposed Rule Making, 44 FR 34979, concerning the proposed assignment of FM Channel 249A to St. Simons Island, Georgia. The date for filing reply comments is presently August 27, 1979.

2. On August 6, 1979, a counterproposal was filed by Jack R. Mays requesting the assignment of FM Channel 249A to Waycross, Georgia. This request conflicts with the earlier proposal to assign Channel 249A to St. Simons Island, Georgia, as set forth in the Notice. Since the Waycross counterproposal is entitled to be considered as a timely filed request in this proceeding, we have consolidated it herein on our own motion.

3. Public Notice of this counterproposal (RM-3465) was given on August 27, 1979. Pursuant to that action, the Commission, also on its own motion, is extending the time for filing reply comments in order to give all parties an opportunity to prepare a response to the counterproposal.

4. Accordingly, it is ordered, that the date for filing reply comments in BC Docket No. 79-149 is extended to and including September 7, 1979.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-28441 Filed 9-12-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-155; RM-3261 and RM-3469]

FM Broadcast Station in Mountain Home, Ark.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments to the Notice of Proposed Rule Making concerning a proposed FM channel assignment at Mountain Home, Arkansas. The additional time is needed to respond to a counterproposal that was submitted in comments.

DATE: Reply comments must be filed on or before September 28, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: August 31, 1979.

Released: September 5, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Mountain Home, Arkansas), BC Docket No. 79-155, RM-3261, RM-3469.

1. On June 18, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 37518, concerning the above-entitled proceeding. The date for filing reply comments is presently September 10, 1979.

2. On August 20, 1979, a petition was filed by Mountain Valley Broadcasters, Inc. to assign FM Channel 282 to Mountain Home, Arkansas, instead of Channel 288A which was previously proposed. Since this petition was timely filed and the Commission has accepted it as a counterproposal (RM-3469, Report No. 1191), Tri-Rivers Broadcasting Company has requested additional time until September 28, 1979, to respond to this proposal.

3. Under these circumstances, we are granting an extension in order to provide sufficient time to respond to the counterproposal.

4. Accordingly, it is ordered, that the request for extension of time for filing reply comments is extended to and including September 28, 1979.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-28442 Filed 9-12-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[49 CFR Parts 192 and 195]

[Docket No. PS-58, Notice 1]

Transportation of Gas or Liquid by Pipeline; Temperature Limits on Cold Expanded Steel Pipe

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend the pipeline design regulations in Part 192 and Part 195 by increasing to 900° F the temperature limit to which cold expanded steel pipe may be heated (other than by welding) without a 25 percent reduction in design pressure as normally calculated under § 192.105 for gas pipelines and § 192.106 for liquid

[1] This community has been added to the caption.

pipelines. The existing temperature limit is 600° F and temperatures above 800° F for up to 1 hour are needed for removal of material defects called "hard spots" by heat tempering. Research shows that temperatures up to 900° F can be applied for up to 1 hour without adversely affecting safety.

DATE: Interested persons are invited to submit written comments on this proposal before December 1, 1979. Late filed comments will be considered to the extent practicable.

ADDRESS: Comments should be sent in triplicate to: Docket Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, 202-426-2392.

SUPPLEMENTARY INFORMATION: Currently § 192.105(b), governing the design of gas pipelines, and § 195.106(a), governing the design of hazardous liquid pipelines, require a 25 percent reduction in the allowable pipe design pressure for cold worked[1] steel pipe that is heated, other than by welding, to 600° F or more. This 25 percent in design pressure is intended to compensate for any reduction in material strength or other adverse effects on the material that could result from high temperatures. As explained below, MTB believes that these pipe steels can be subjected to temperatures as high as 900° F for limited periods of time without reduction of the material properties to a level that would be detrimental to the safe operation of the pipeline.

The ASME Gas Piping Standards Committee has petitioned (Pet. 76-26) the MTB to amend § 192.105(b) to raise the current 600° F temperature limit to 825° F in order to permit the removal of "hard spots" in steel pipe by heat tempering. While the petition did not seek an amendment to § 195.106(b), because of the similarity of the two rules, MTB has adopted the ASME petition as a basis for proposing to amend both requirements. The petition is available for review and copying in the docket for this proceeding.

Hard spots occur during the manufacturing of steel pipe. If steel plate which has been heated to a temperature in excess of 1,550° F for rolling to the thickness of pipe is suddenly cooled (quenched), for any reason, it becomes extremely hard and brittle.

Occasionally, during the manufacturing of pipe, water may be sprayed or unintentionally spilled on the hot steel in a localized area, causing a hard spot to be formed on the surface of the steel. Unless that hard spot is subsequently reheated to a high temperature for a sufficient amount of time to allow the metal to soften (called tempering), the hard spot will appear on the surface of the finished pipe.

If pipe containing a hard spot with a measure of hardness greater than 360 Brinell Hardness Number (BHN) is buried in soil that is slightly caustic (chemically basic) and is subjected to a moderate to high stress (internal pressure would supply this) in the presence of hydrogen (which could result from corrosion protection), the pipeline may fail due to hydrogen-stress cracking. Removal of any one of these three conditions from the environment of the hard spot or elimination of the hard spot will prevent pipe failure from hydrogen-stress cracking.

A report entitled "The Effect of Tempering on the Mechanical Properties of Cold-Expanded Line-Pipe Steel," by Groenveld et. al., dated December 21, 1970, done by Battelle Memorial Institute under the sponsorship of the American Gas Association, is cited by ASME Committee as justification for the petition. The Battelle report concludes that the present 600° F limitation in § 192.105(b) could be increased to permit heating up to 825° F, provided the increase in temperature is limited to a total time of 1 hour. The report is available for review and copying in the public docket.

On page 2 of the Battelle report, it stated that "steels having actual yield strengths below 150,000 pounds per square (psi) (ultimate tensile strengths below about 170,000 psi or hardness below about 350 BHN) do not fail at applied stresses of the magnitude encountered in normal operations when pipelines in soils are cathodically protected." Battelle then states that the objective in tempering of hard spots is to reduce "hardness below 350 BHN" and further states, "* * * To achieve a hardness of about 350 BHN after tempering, the hard spots should be tempered at about 800° F.* * *" On page 10 of the report, the following phrase appears: "Since 800° F is the minimum tempering temperature, from the standpoint of softening hard spots, that should be used * * *"

While MTB believes that the Battelle report adequately establishes the need to attain a temperature of 800° F minimum if hard spots are going to be removed by heat tempering, various metals handbooks (e.g., "Steel and Its Heat Treatment," Vol. I-5th Ed., by D. K. Bullens, page 53) indicate that the temperature required to reduce hard spots in most pipeline quality steels to less than 350 BHN would be higher than, or only at the top end of the 600° - 825° F range. MTB therefore questions the practically of the 825° F temperature limit suggested by ASME since control of the temperature of the pipe to a minimum of 800° F (needed for tempering) with no more than an allowable 25° F variation would be very difficult if not impossible with the heating equipment that is currently available.

In examining the effects of increased temperatures above 800° F on pipe steels, MTB reviewed the data presented in the Battelle study. This data shows that:

A. Heating of X-52 cold expanded pipe at 900° F for 1 hour at temperature results in an average reduction in yield strength of 2 percent, which is considered to be within the test error. (One test resulted in a reduction of 4.7 percent, the others being materially unaffected.)

b. Short-time heating of X-52 pipe material at 850° F to 900° F (up to 30 minutes) results in a slight average increase in yield strength.

c. Heating of X-60 and X-65 cold expanded pipe at 900° F for 1 hour at temperature results in an average increase in yield strength.

d. Heating X-52, X-60, and X-65 pipe materials in the range of 800° to 900° F for 1 hour has shown no significant degradation of properties, including fracture toughness.

Thus, on a short-time basis (1 hour or less), the Battelle report shows that the current 600° F limitation is too restrictive with respect to heating of cold expanded line pipe inasmuch as temperatures as high as 900° F do not significantly affect the yield strength of the steel. The Battelle data further indicates that a 1 hour heating time is both adequate to permit the tempering of hard spots, and restrictive enough to prevent actual reduction of properties in the surrounding metal. (Since this rulemaking is concerned only with heating for a time sufficient to permit the removal of hard spots, MTB has not examined the effects of heating above 600° F for longer than 1 hour.) Based on the Battelle tests, MTB believes that a 900° F temperature limit is safe and more practical than the 825° F recommendation. Thus, MTB proposes to limit to one hour the time that cold expanded steel pipe may be exposed to temperatures in excess of 600° F (to a maximum of 900° F) without requiring a 25 percent reduction in design pressure.

[1] Note: Hereafter the term "cold expanded" is used instead of "cold worked", both for consistency with the language of the API line pipe specifications referenced in Part 192 and to avoid possible confusion with cold finished seamless pipe. Provisions of both the present and the proposed regulations do not apply to cold finished seamless pipe with regard to subsequent heating.

Although Parts 192 and 195 do not address toughness of pipeline steels, it is noted that the Battelle report found no adverse effect on toughness due to heating in the range of 800°–900° F.

Since the ASME petition was received new pipeline steels have been introduced and referenced and specifications have been adopted in Part 192 (Amdt. 192–22, 41 FR 13591, March 31, 1976) that permit the use of steels with an SMYS of 70,000 psi. Data on tempering of steels with this higher SMYS has not been available to MTB. Since no problems are anticipated, MTB has included the X–70 steels in this rulemaking. However, it is requested that commenters provide any data available on the tempering of X–70 pipeline steels to assist MTB in further evaluating whether X–70 steels should be included with the other X-grade steels in this rulemaking or specifically excluded from the proposed relaxation of the present temperature limitation in §§ 192.105(b) and 195.106(a).

The existing §§ 192.105(b) and 195.106(a) cite welding as an exception to the heating limitation, but omit mention of possible stress relieving as a part of welding. Because § 192.239(g) specifies minimum stress-relieving temperatures of 1,100° F and 1,200° F for various steels, this notice proposes to include stress relieving as an exception to the existing temperature limitation.

With the time and temperature limitation proposed §§ 192.105(b) and 195.106(c), MTB believes that a specified procedure is necessary for removal of hard spots from steel pipe to assure that the proposed constraints are met. For this reason, MTB is proposing to add a new paragraph (c) to §§ 192.713 and 195.422 requiring that if hard spots are removed by thermal methods, they must be removed in accordance with established written procedures consistent with the temperature limitations of § 192.105(b) or § 195.106(a), as appropriate.

The MTB is studying the problems of hard spots in steel pipe to determine the need for a possible requirement for detection and removal of such hard spots under operating conditions that are hazardous or likely to become hazardous. Currently, we have insufficient information to make such a determination.

The MTB has determined that this document does not require a full draft evaluation, since the proposal has a minimal impact upon the industry. The proposal is a relaxation of present temperature limitations to permit hard spots to be removed from cold expanded steel pipe by heat tempering when the operator wishes to do so.

In consideration of the foregoing, MTB proposes that Title 49, Code of Federal Regulations, Parts 192 and 195 be amended as follows:

1. By revising § 192.105(b) to read as follows:

§ 192.105 Design formula for steel pipe.

* * * * *

(b) If steel pipe that has been subjected to cold expansion to meet the SMYS is subsequently heated, other than by welding or stress relieving as a part of welding, the design pressure is limited to 75 percent of the pressure determined under paragraph (a) of this section if:

(1) The temperature of the pipe exceeds 482° C (900° F) at any time; or

(2) The temperature of the pipe is held above 316° C (600° F) for more than 1 hour.

2. By amending the description of the term "F" in § 195.106(a) as follows:

§ 195.106 Internal design pressure.

(a) * * *

F=A design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located offshore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and has been subsequently heated, other than by welding or stress relieving as a part of welding, to a temperature higher than 482° C (900° F) for any period of time or over 316° C (600° F) for more than 1 hour.

* * * * *

3. By adding a new paragraph (c) to § 192.713 to read as follows:

§ 192.713 Transmission Lines; permanent field repair of imperfections and damages.

* * * * *

(c) If hard spots are removed by thermal methods, they must be removed in accordance with written procedures which ensure that the temperature and time limitations of § 192.105(b) are met.

4. By adding a new paragraph (c) to § 195.422 to read as follows:

§ 195.422 Pipeline repairs.

* * * * *

(c) If hard spots are removed by thermal methods, they must be removed in accordance with written procedures which ensure that the time and temperature limitations of § 195.106(a) are met.

(49 U.S.C. 1672; 49 U.S.C. 1804; 18 U.S.C. 831–835; 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106.)

Issued in Washington, D.C., on September 7, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-28482 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-62-M

[49 CFR Part 195]

[Docket PS-53, Notice 3]

Transportation of Liquids by Pipelines; Valve Spacing on Pipelines Carrying Highly Volatile Liquids

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Amended Notice of Proposed Rulemaking.

SUMMARY: This notice is intended to resolve conflicting information received as the result of Notice 1, Docket No. PS–53, that proposed to require the installation of remotely controlled valves at 7.5 mile intervals on pipelines transportating highly volatile liquids (HVL). This notice proposes alternative courses of regulatory action that would require remotely controlled valves on HVL pipelines at pump stations and terminals or at intervals spaced in accordance with a class location concept similar to that in 49 CFR, Part 192 for gas transmission pipelines.

DATES: Comments must be filed by October 30, 1979. Late filed comments will be considered as far as practicable. As discussed hereafter, a public hearing will be held October 11, 1979 at 9 a.m.

ADDRESS: Comments must be sent in triplicate to the Docket Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

The public hearing will be held in Room 2230 at Nassif Building, 400 7th Street, SW., Wash., D.C.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202–426–2392.

SUPPLEMENTARY INFORMATION:

Need for This Amended Notice

To ensure that carriers can rapidly isolate a failed section of pipeline carrying a highly volatile liquid (HVL) and thereby reduce the amount of commodity spilled and the ensuing accident effects, the MTB published a notice (43 FR 39402, September 5, 1979) proposing the installation of automatic or remotely controlled valves at 7.5 mile intervals or less on new pipelines transporting HVL in inhabited areas. The notice also provided for equipping existing valves located more than 3.75 miles from another valve on existing

HVL pipelines in inhabited areas with remote control. An inhabited area was defined in the notice as "* * * an onshore area that extends 1 mile on either side of any continuous 2-mile length of the pipeline that has more than 10 buildings intended for human occupancy.* * *" A definition of a highly volatile liquid was adopted in Amendment 195–15 under Part 195 in Notice 3 of Docket PS–51 (44 FR 41197, 16 July 1979), and is repeated here: "Highly Volatile Liquid or 'HVL' is a commodity which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kpa (40 psia) at 37.8° C (100° F)."

Sixteen commenters responded to the notice. There was a great disparity of conflicting views in the responses to the notice. Some totally rejected the idea of installing valves. Others recommended installing valves only at pump stations and terminals. Still others recommended adopting the valve spacing requirements of Part 192 for gas transmission pipelines or some variation thereof. Few of the recommendations were well supported with information demonstrating how the recommendation would be effective. In view of the disparity of views, and the general lack of supporting information, the MTB believes a search for further information is appropriate before selecting a final course of regulatory action.

The notice stated that HVL pipeline spills pose a greater hazard than spills of other liquids and quoted Departmental pipeline accident statistics which showed that HVL accidents caused 66 percent of the deaths, 50 percent of the injuries, and 30 percent of the property damage, although HVL accidents comprised only 10 percent of the total liquid pipeline accidents. Four commenters from industry noted that these statistics represent an average of four deaths per year, seven injuries per year and $500,000 of property damage annually. One of these commenters argued that a single accident of another transportation mode carrying HVL's could generate accident figures that would far exceed the total for all HVL pipelines for a year. Another commenter from industry maintained that the relatively small effects from HVL pipeline accidents indicated that a problem does not exist. The National Transportation Safety Board (NTSB) viewing the same figures, stated in its comments that there is an urgent need for rulemaking to require pipeline carriers of highly volatile liquids to take those actions necessary for the rapid shutdown of a failed section of HVL pipeline in order to reduce the accident effects.

The MTB believes that the accident records clearly show HVL to be more hazardous than other commodities. The MTB further believes that a review of past accident statistics is not sufficient by itself to assess the potential hazard of an HVL spill in a populated area. The MTB believes that a significant spill of HVL in a populated region resulting in a vapor cloud covering a large area could cause a major disaster that would dwarf any previous HVL pipeline accident. It is this inordinate potential for damage together with the record of past accidents illustrating the hazardous nature of a HVL that leads the MTB to conclude that accidental spills of HVL are indeed a serious safety problem.

Information cited in Notice 1 further shows that rapid shutdown, limiting the amount of commodity released from a failed pipeline section, can reduce the accident effects. Most commenters agreed directly or by inference that remotely operated valves located upstream and downstream from the leak site can serve to reduce the amount of commodity spilled by rapidly isolating a failed section from pressurized sections of the pipeline. However, there was disagreement among the commenters concerning the appropriate number and location of such valves. More important, there was also disagreement over whether a reduction in the amount of commodity spilled by operation of closely spaced valves would reduce the potential for damage from a spill.

Five commenters argued with regard to flammable HVL that placing remotely controlled or automatic valves along a pipeline at 7.5 mile intervals as proposed in the NPRM would not reduce the potential for damage from a spill any more than spacing valves at much greater intervals. These commenters argued that the damage from a flammable HVL accident is caused by the initial ignition and burning of the vapor cloud and that the subsequent continuing spillage does not increase the size of the fire and therefore does not increase the damage. Consequently, the amount spilled before ignition occurs (i.e., the size of the vapor cloud) would have to be reduced in order to reduce the potential for damage. These commenters argued that the critical factors in reducing the amount spilled before ignition is (1) the time required to (a) detect the leak, (b) shut down pump stations to stop normal flow to the failed pipeline section, and (c) close valves on each side of the leak site to help reduce pressure in the failed section and (2) the necessity of performing these operations in the order given. These commenters argued that because HVL is relatively incompressible, loss of a small amount of HVL will reduce the pressure in long lengths of pipeline. Hence, valves on each side of the leak site located at large distances such as at pump stations and terminals will reduce pressure in the failed section as effectively as valves spaced at closer intervals. These commenters argued that any further segmenting of the pipeline by closing intermediate valves would not reduce the damage from an initial spill because ignition would occur before such valves could be closed. These commenters recommended that remotely operated valves be required only at pump stations and terminals. One of these commenters, the American Petroleum Institute (API) estimated the cost to bring existing pipelines into compliance with the proposed valve spacing requirements as $160 million and would not produce a comparable benefit. Other commenters argued against the proposal on the basis of an unfavorable cost/benefit ratio.

The MTB questions the validity of the argument that closely spaced valves would not be more effective than valves spaced at greater distances in view of the inconsistency between this argument and industry's recommended practice in American National Standards Institute (ANSI) B31.4 Code "Liquid Petroleum Transportation Piping Systems". Paragraphs 434.15.2(c) and (f) of ANSI B31.4, 1974 edition require remotely operated valves at 7.5 mile intervals maximum on piping systems transporting LPG in residential, commercial and industrial areas. Furthermore, Paragraph 434.15.1 states "Block and isolating valves shall be installed for limiting hazard and damage from accidental discharge and for facilitating maintenance of the piping system." Three industry commenters supported the valve spacing provision of the B31.4 Code. If the closely spaced valves will not reduce the accident effects as some commenters argue, why does the B31.4 Code recommend such valves for installation in populated areas? If the distance between valves has no significant effect on accident damage, why does the B31.4 Code recommend spacing at 7.5 mile intervals maximum? Why does B31.4 require these valves to be remotely controlled? The MTB requests comments and analyses concerning the effect of closely spaced and remotely controlled valves on the potential for damage of an accidental spill of flammable HVL.

Although the commenters did not raise the issue, the MTB also requests

similar comments and analyses regarding spills of nonflammable HVL such as anhydrous ammonia. Presumably the argument against installing closely spaced valves on pipelines transporting flammable HVL will not hold true for nonflammable HVL because a vapor cloud of nonflammable HVL and the attendant hazard will continue to increase in size as the spill continues. The MTB specifically requests replies to the questions just raised.

Three industry commenters and one individual recommended that class locations and valve spacing requirements of 49 CFR, Part 192 (§ 192.179) for gas transmission lines or some variation thereof be adopted for HVL pipelines. The apparent basis for this recommendation is that a safety standard suitable for HVL pipelines should not be any less stringent than the standard for gas pipelines.

Considering the differences in the nature of the hazard created when each commodity is released to the atmosphere, will adoption of valve spacing requirements of 49 CFR, Part 192, § 192.179 reduce accident effects on HVL pipelines? Must such valves be remotely controlled for rapid closure in order to be effective? Comment on these issues is specifically requested.

Three commenters argued that the proposed valves spaced at 7.5 mile intervals would create hazards. These commenters argued that such valves would be subject to unauthorized operation, vandalism, or sabotage and would increase the complexity of the pipeline which would result in accidents caused by mechanical failure. Here again, the MTB notes the inconsistency between the argument of these commenters and the requirements of ANSI B31.4. Comment on this issue is specifically requested.

Amended Notice of Proposed Rulemaking

From the foregoing, it is apparent that the information on hand is conflicting and inconclusive. As a result, by this notice the MTB is amending the original proposal in Notice 1 to propose adoption of two alternative valve spacing requirements and to request further comments regarding valve spacing as a means of reducing the effects of HVL pipeline accidents.

One alternative proposal would adopt the concept of class locations and valve spacing requirements similar to the requirements of §§ 192.5 and 192.179 of 49 CFR, Part 192 for new HVL pipelines and for existing HVL pipelines which are relocated, replaced or otherwise changed. However, as in Notice 1, the proposed valves would be remotely controlled from attended locations and the class location unit would be an area that extends 1 mile on either side of any continuous 2 mile length of pipeline in order to cover the area subjected to hazard by an accidental release of HVL. This size of class location unit was chosen because HVL can migrate as far as 1 mile before being ignited or dispersed (see National Transportation Safety Board report NTSB-PSS-71-1, "Effects of Delay in Shutting Down Failed Pipeline Systems and Methods of Providing Rapid Shutdown).

Because the proposed class location unit is 16 times as great in area as the class location unit in Part 192, the number of buildings describing the proposed various onshore class locations would be increased by a factor of 16. Thus, a proposed class 1 location would have 160 or less buildings intended for human occupancy; a proposed class 2 location would have more than 160 but less than 736 buildings; a proposed Class 3 location would have 736 or more buildings, or an area of public assembly or building normally occupied by 20 persons or more within 1 mile of the pipeline; and a class 4 location would be an area where buildings with 4 or more stories above ground are prevalent. The spacing of valves for each class location would be the same as that in § 192.179 specifically: at 20 mile spacing in Class 1 locations; at 15 mile spacing in Class 2 locations; at 8 mile spacing in Class 3 locations, and at 5 mile spacing in Class 4 locations. As in Notice 1, valves would not be required offshore.

Under this proposal, existing valves on existing pipelines would have to be equipped for remote control from attended locations unless they are located within one half of the required spacing from a remotely controlled valve.

If commenters believe that the class location concept would be an effective option, but the number of class locations or density of buildings or valve spacing should vary from the requirements of Part 192, the MTB solicits views and supporting information regarding such variations. The MTB also solicits information regarding the costs of adopting valve spacing similar to the requirements of Part 192 or variations of those requirements.

The second proposed alternative would require installation of remotely controlled valves from attended locations on both new and existing onshore HVL pipelines to permit isolation of pipeline segments from pump station to pump station and from pump station to terminal. As in the first alternative, the MTB solicits information regarding the effectiveness and cost of this proposal.

It should be noted that neither of these alternative proposals provides for the installation of automatic valves in lieu of remotely controlled valves as did the proposal in Notice 1. Some of the responses to Notice 1 indicated that automatic valves are not reliable especially in pipelines transporting several commodities of different physical characteristics such as might frequently be found in HVL pipelines. For this reason, the option to use automatic valves has been deleted in these proposals.

The eventual selection of a final rule may be one of these two proposals or some modification thereof and will depend largely on which alternative most effectively reduces the accident effects.

Public Hearing

In addition to written comments submitted to the Docket Room, the MTB will conduct a public hearing concerning this notice to give all interested persons ample opportunity to furnish further supporting information. The public hearing will be conducted at 9:00 a.m., October 11, 1979 in Room 2320, Nassif Bldg., 400 Seventh Street, S.W., Washington, D.C. The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross examination of persons presenting statements. A staff member of the MTB will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their initial oral statements.

After all initial oral statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements. Additional procedures for the conduct of the hearing will be announced at the hearing.

Interested persons are invited to attend the hearing and present oral or written statements on the matters set for hearing. These statements will be made a part of the record of the hearing, the transcript of which will be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Office of Pipeline Safety Regulation or call Toni Reed at (202) 426-2392 by September 27, 1979, stating the amount of time required for his initial statement. All communications concerning the hearing should be addressed to the Associate Director for Pipeline Safety Regulation,

Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

The MTB has determined that the alternative proposals would not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). A draft regulatory evaluation is available in the docket.

(18 U.S.C. 831–835, 49 U.S.C. 1655, 49 CFR, Part 1.53(b), Appendix A of Part 1, and Appendix A of Part 106.)

Issued in Washington, D.C., on September 7, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-28483 Filed 9-12-79; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1104A]

[Ex Parte MC129 [1]]

1977–1978 Platform Study of Class I and Class II Motor Common Carriers of General Freight Subject to Accounting Instruction 27

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rulemaking is to determine whether, and to what extent, the study results and proposals in the newly-released 1977–1978 study of motor common carrier platform handling costs should be adopted by the Commission.

To the extent any of these results or proposals are adopted, the Commission would permit their use by motor common carriers of general freight in proceedings where the allocation of platform handling costs is required. This permission would be made explicit by the creation of a new Part 1104A of Title 49, Chapter X, of the Code of Federal Regulations.

DATES: Statements of intent to participate (an original and one copy) should be filed no later than September 20, 1979. Parties actively participating will be required (1) to file an original and 15 copies with the Commission and (2) to serve on all parties appearing on the service list a copy of all written representations. A service list will be sent to all parties in sufficient time to enable them to comply with the filing deadline. Opening written representations should be filed with the Commission on or before November 13, 1979. Replies should be filed on or before December 3, 1979.

ADDRESSES: All written submissions, including requests for copies of the report (entitled 1977–1978 Motor Carrier Platform Study, Statement 2S1–79), shall be sent to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Harvey Gobetz (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission has recently released the report containing the results of its 1977–1978 study of motor carrier platform handling costs. Copies of the report are available upon request to the Commission. This proceeding specifically undertakes to elicit public comments and opinion concerning this study.

If these study results or proposals are adopted, carriers would be allowed to incorporate them into formulas such as Highway Form A, *Formula for the Determination of the Costs of Motor Carriers of Property,* which would determine the manner of allocating those expenses assigned to performing platform operations for the various kinds of shipments. This particular cost formula is used for determining average costs by motor common carriers of general freight.

The report contains two major proposals based on analysis of study results.

First, it is proposed that platform expenses be allocated on the basis of both pieces and weight. The current Highway Form A procedure provides that platform expenses be distributed on the basis of weight (cwt.) and density (pounds per cubic foot). However, because the study results show platform handling time to be a function of pieces and weight, platform expense allocation would proceed along these lines.

The lack of sufficient data prevents the immediate implementation of a costing procedure which best reflects both the weight and piece factors. The "short" procedure relies heavily on the construction of the number of shipments platformed and on use of the "weight alone" formula which does not show the difference in handling time for shipments with different numbers of pieces. The "long" method more acurately distributes platform costs than the "weight alone" method. However, since the "short" procedure can provide immediately ueful results, it is proposed that this procedure be used where appropriate data necessary for use of the preferred method is unavailable.

Second, it is proposed that a national equation be used in lieu of regional combinations. Data from the standard 13 regions were combined into four regional groupings on the basis of statistical tests. It was found that these regional groupings had little in common in terms of geography or operations, and those groupings found statistically homogeneous for the "weight and piece" equation differed from those found homogeneous for the "weight alone" equation.

The text of the proposed rule appears in the appendix to this notice.

The written representations may include views as to the reliability of the study results both in an absolute sense and in terms of relative usefulness when compared to the current manner of allocating platform expenses.

If we approve the procedures recommended in the study for the allocation of platform handling costs, we propose not to entertain challenges to the validity of those procedures in subsequent individual rate proceedings. However, we would still consider challenges concerning such matters as whether the carriers have properly applied the procedures or whether the carriers' underlying data are valid.

Participants should indicate in the statement of intent whether they intend to participate actively, in which case they will be placed on the service list, or whether they merely wish to receive copies of decisions of the Commission. Participants actively participating in this proceeding by submitting written representations must serve copies of their representations on all parties appearing on the service list. All replies to written representations must similarly be served.

Participants seeking oral hearing should include in their written request a brief outline of likely questions to be asked.

This proposed rule does not appear to affect significantly the quality of the human environment or conservation of energy resources.

This rulemaking is instituted pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553, 559,

Decided: August 31, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Trantum, and Gaskins. Commissioner Gresham not participating. Commissioner Gaskins not participating.

Agatha L. Mergenovich,

Secretary.

Apendix

It is proposed in this rulemaking that Chapter X of Subtitle B of Title 49 of the

[1] Formerly docketed as No. 36388.

Code of Federal Regulations be amended to include a new Part 1104A to read as follows:

PART 1104A—USE OF 1977–1978 STUDY OF MOTOR CARRIER PLATFORM HANDLING COSTS

§ 1104A.1 Scope.

The provisions of this part apply only to Class I and II motor common carriers of general freight subject to accounting instruction number 27 of the Commission's Uniform System of Accounts (49 CFR Part 1207).

§ 1104A.2 Purpose.

(a) In any proceeding requiring the allocation of platform handling costs, carriers may use the results and recommended procedures contained in the Commission's study of platform costs, entitled *1977–1978 Motor Carrier Platform Study, Statement 2S1–79,* or any other reasonable and equitable method which they can substantiate.

(b) Use of the recommended procedures to allocate platform costs in justification of rate proposals will not by itself be a ground for suspending the rate proposals or finding them unreasonable or otherwise unlawful.

[FR Doc. 79-28514 Filed 9-12-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611 and 656]

Atlantic Mackerel Fishery; Approval and Partial Disapproval of the Fishery Management Plan

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

ACTION: Approval and partial disapproval of the fishery management plan for the Atlantic mackerel fishery, proposed regulations, and request for comments.

SUMMARY: The Assistant Administrator for Fisheries (Assistant Administrator), NOAA, has approved, with the exception of one provision, the Fishery Management Plan for the Atlantic Mackerel Fishery of the Northwest Atlantic Ocean (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council). The proposed regulations to implement the management measures contained in the FMP would establish: (1) annual quotas for United States and foreign fishing vessels harvesting Atlantic mackerel; (2) recreational and commercial allocations of the annual domestic quota and criteria for réallocating between these fisheries; (3) mandatory reporting by vessel operators and dealer/processors; and (4) a permit system required of all commerical vessels and party and charter boats catching Atlantic mackerel in the United States fishery conservation zone (FCZ).

All regulations governing foreign fishing for Atlantic mackerel contained in 50 CFR Part 611 are incorporated by reference in regulations implementing the FMP. Those regulations are currently in effect, but may be commented upon during the comment period mentioned below.

DATES: Comments on the FMP, these proposed regulations, and the draft regulatory analysis (RA) relating to this proposed action are invited for a 60-day period. All comments must be submitted in writing on or before November 30, 1979.

ADDRESSES: All comments on the FMP and these proposed regulations should be sent to: Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, MA 01930. Mark "Comments on proposed mackerel regulations" on the outside of the envelope.

Copies of the draft RA required under provisions of Executive Order 12044 may be obtained by writing to: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, DC 20235. All comments on the draft RA should be sent to the Assistant Administrator for Fisheries at the above address. Mark "Comments on draft RA for mackerel fishery" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Allen E. Petersen, Jr., Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, MA 01930; telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: The Assistant Administrator approved, with one exception, the FMP for the Atlantic mackerel (*Scomber scombrus*) fishery on July 3, 1979. This FMP covers both the domestic and foreign mackerel fisheries in the FCZ. When implemented through final regulations, it will supercede the Preliminary Fishery Management Plan for Atlantic Mackerel, which has controlled the fishery conducted by foreign vessels since March 1, 1977.

One provision of the FMP was not approved and will not be implemented. The disapproved portion of the FMP would have prevented fishing for mackerel in two areas of the Mid-Atlantic Bight totaling approximately 750 square miles. These areas are located approximately 50 miles off Ocean City, MD, and 106 miles off Delaware Bay, and are dumpsites for municipal sewage sludge and industrial wastes, respectively. The FMP contains no information concerning the accumulation of potentially toxic compounds in migratory pelagic fish stocks such as mackerel. Therefore, the recommended measure has not been shown to be a necessary and appropriate conservation and management measure, as required by Section 303 of the Fishery Conservation and Management Act of 1976.

A. Fishery Management Unit.

Atlantic mackerel range from Labrador to North Carolina. Within this range, there are two populations of mackerel: (1) a southern population that overwinters from southern New England to the Mid-Atlantic Bight and migrates as far north as Maine in summer; and (2) a northern population that overwinters off Cape Cod and migrates as far north as Labrador in the summer. The populations intermingle off Northern New England in the spring and fall and are treated as one stock for management purposes. The FMP has as its management unit all Atlantic mackerel under United Stated jurisdiction. This management unit includes both the FCZ and States territorial waters. These regulations do not restrict the catch of mackerel from any State. However, all U.S. mackerel landings, whether caught in State waters or the FCZ, will be counted against the annual domestic quotas.

B. Optimum Yield.

Biological data indicate that the mackerel stock is depressed. To increase the opportunity for recreational and commerical fishermen to catch mackerel and maximize the economic benefits for the nation, the Council has set as one of its objectives the maintenance of the spawning stock of mackerel at or above its size in 1978. Recognizing the present depressed condition of the mackerel stock, the Council reduced the maximum sustainable yield (MSY) of between 210–230,000 metric tons (mt) to an acceptable 1979–1980 catch of mackerel of 55,200 mt. Since the range includes Canadian waters, the Council estimated, based upon past catch data and representations made by the Government of Canada, that 40,000 mt of mackerel would be harvested in those waters. The remainder of the acceptable catch of mackerel for 1979–1980, 15,200 mt, is the optimum yield (OY) in waters

under the jurisdiction of the Federal and State governments.

C. Annual Domestic Harvest.

The level of domestic harvest specified in the FMP is 14,000 mt. This is divided into 9,000 mt for recreational fishing and 5,000 mt for commercial fishing. The FMP contains a formula for reallocating between these user groups as deemed necessary and advisable by the Assistant Administrator with the advice of the Council. These quota levels are somewhat higher than the recent recorded harvest in either the recreational or commercial fisheries, but well below the maximum historical level of harvest in the recreational fishery. The Council established these quotas to accommodate the expansion of fishing effort which is anticipated as new markets develop, the abundance of other non-regulated species (such as sea scallops) declines, and the strict quotas and possible closures for groundfish encourage vessels to shift effort to alternate species. The Council determined that mackerel should be managed primarily as a recreational fishery, at least until the stock rebuilds. The Council's stated intent is to maximize the contribution of recreational fishing for mackerel to the national economy. For more than 20 years the recreational harvest of mackerel has been significantly greater than the commercial harvest, which is the basis for allocating more than 60 percent of the domestic quota to the recreational segment of the fishery.

D. Conservation and Management Measures.

The Council included recommended management measures in the FMP; these were considered and used as a basis for these proposed regulations.

Quotas. The principal management measure in the FMP is the establishment of annual quotas for the recreational (9,000 mt) and commercial (5,000 mt) mackerel fisheries. The FMP predicts that about 50 percent of the recreational catch and 30 percent of the commercial catch will be taken in State waters. To ensure the integrity of the OY, the Council, through its FMP, requires the Secretary of Commerce to establish a program to monitor the U.S. catch and to make appropriate reallocations between the commercial and recreational fisheries. For this reallocation procedure, guidelines for the expected harvest of mackerel in the FCZ for the commercial (3,500 mt) and the recreational (4,500 mt) fisheries are utilized. The Council recognized the Secretarial authority to preempt State jurisdiction in territorial waters, but discouraged such action unless all other management methods fail. Establishment of annual catch quotas is the principal conservation and management measure contained in the FMP. Therefore, these regulations provide for fishery closures as a means of maintaining catches within the specified OY of 15,200 mt.

The Council has specified the OY at a level which it believes will result in the greatest overall benefit to the nation. Consistent with the objectives of the FMP, the level of OY allows for moderate growth in the domestic commercial and recreational fisheries and provides for a limited TALFF. This TALFF of 1,200 mt will enable foreign nations to pursue directed fisheries for hakes and squids in which mackerel may be taken incidentally.

Reallocations. The Assistant Administrator is authorized to make in-season reallocations of mackerel between the domestic commercial and recreational fisheries to prevent a closure in either fishery, if he determines that one of the quotas will not be totally harvested. Consequently, while the fisheries could be closed independently, the reallocation scheme should operate to adjust the quotas to close both fisheries, if necessary, at the same time.

Permits. The FMP requires all commercial fishing vessels and all party and charter boats that fish for mackerel to obtain a Federal fisheries permit and to report their catch of mackerel wherever taken. Identification of the fishing vessels and information obtained from them form an important part of the management data base.

Fishing Year. The FMP establishes a fishing year of April 1 to March 31. This fishing year designation coincides with the beginning of the inshore migration of mackerel which starts the recreational fishing season in the Mid-Atlantic area.

A notice of availability of the final Environmental Impact Statement was published January 1979 (44 FR 109).

Note.—The Assistant Administrator has determined that this is a significant action under Executive Order 12044, and a draft regulatory analysis has been provided to the Chief Economist of the Department of Commerce.

Signed at Washington, D.C., this the 4th day of September, 1979.

Jack W. Gehringer,

Deputy Assistant Administrator, National Marine Fisheries Service.

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

It is proposed to add a new Part 656 to 50 CFR to read as follows:

PART 656—ATLANTIC MACKEREL FISHERY

Subpart A—General Provisions

Sec.
656.1 Purpose and scope.
656.2 Definitions.
656.3 Relation to other laws.
656.4 Vessel permits and fees.
656.5 Recordkeeping and reporting requirements.
656.6 Vessels identification.
656.7 Prohibitions.
656.8 Enforcement.
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Subpart B—Management Measures

656.20 Fishing year.
656.21 Harvest levels.
656.22 Catch quotas.
656.23 Reallocation.
656.24 Closure of fisheries.
656.25 Area/time limitations [Reserved].
656.26 Vessel gear/equipment limitations [Reserved].
656.27 Effort limitations [Reserved].

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 656.1 Purpose and scope.

(a) The regulations implement the Fishery Management Plan for the Atlantic Mackerel Fishery of the Northwest Atlantic Ocean, which was prepared and adopted by the Mid-Atlantic Fishery Management Council and approved by the Assistant Administrator.

(b) The regulations in this Part govern fishing for Atlantic mackerel by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority.

(c) The regulations governing fishing for Atlantic mackerel by foreign vessels in the fishery conservation zone are contained in 50 CFR Part 611.

§ 656.2 Definitions.

In addition to the definitions in the Act, the terms used in this Part have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*

Assistant Administrator means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Atlantic mackerel or mackerel means the species *Scomber scombrus.*

Authorized Officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(4) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Catch, take, or *harvest* includes, but is not limited to, any activity which results in mortality to any mackerel or in bringing any mackerel on board a vessel.

Charter or party boat means any vessel which carries passengers for hire to engage in fishing.

Commercial fishing means fishing with the purpose of selling part or all of any fish harvested, except as provided for under the definition of personal use.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Atlantic Mackerel Fishery of the Northwest Atlantic Ocean, and any amendments thereto.

Fishing includes any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2) or (3) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) fishing, or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including but not limited to preparation, supply, storage, refrigeration, transportation, or processing.

Fishing week means the weekly period beginning 0001 hours Sunday and ending 2400 hours Saturday.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by a person described in paragraph (1), (2), or (3) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Person who receives mackerel for a commercial purpose means any person (excluding governments and governmental entities) engaged in commerce who is the first purchaser of mackerel. This includes, but is not limited to, dealers, brokers, processors, cooperatives, or fish exchanges. This does not include a person who only transports mackerel between a fishing vessel and a first purchaser.

Personal use (of mackerel) means (1) non-commercial use as bait, or for human consumption; or (2) use for other purposes including sale or barter in amounts not to exceed 100 pounds (45.4 kilograms) per fishing vessel per trip.

Recreational fishing means fishing other than commercial fishing.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, or a designee.

Regulated species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

United States harvested mackerel means mackerel caught, taken, or harvested by vessels of the United States under this Part, whether or not such mackerel is landed in the United States.

Vessel of the United States means:

(a) Any vessel documented or numbered by the United States Coast Guard under United States law; or

(b) Any vessel under five net tons which is registered under the laws of any State.

§ 656.3 Relation to Other Laws.

(a) Nothing in this Part 656 shall be construed as relieving any person from compliance with other requirements imposed by any regulation or statute of the United States or of any State.

(b) All fishing activity, regardless of species sought, is prohibited pursuant to 15 CFR Part 924, on the *USS Monitor* Marine Sanctuary, which is located off the coast of North Carolina (35° 00' 23" N., 75° 24' 32" W.).

§ 656.4 Vessel permits and fees.

(a) *General.* Every fishing vessel which fishes for Atlantic mackerel under this Part must have a Federal fisheries permit issued under this section. Vessels, other than party and charter boats, which take Atlantic mackerel for personal use are exempt from the requirements of this section.

(b) *Eligibility* [Reserved].

(c) *Application.* (1) An application for a Federal fisheries permit under this Part must be submitted and signed by the owner of the vessel or a designee on appropriate forms obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide the following information:

(i) The name of the vessel;

(ii) The vessel's United States Coast Guard documentation number or State registration number;

(iii) The name, mailing address (including ZIP code), and telephone number (including area code) of the owner;

(iv) The vessel's principal port of landing;

(v) The length, gross tonnage, and approximate fish hold capacity of the vessel;

(vi) The radio call, main engine horsepower, year built, and average crew size of the vessel;

(vii) The type of construction, type of propulsion, and type of echo sounder of the vessel;

(viii) The permit number of any current or previous Federal fisheries permit issued to the vessel;

(ix) The type of fishing gear used by the vessel; and

(x) Any other information concerning vessel and gear characteristics requested by the Regional Director.

Any change in the information specified in paragraph (c)(2) of this section shall be submitted in writing to the Regional Director by the owner within 15 days of any such change.

(d) *Issuance.* The Regional Director shall issue a permit to the owner within 30 days of the receipt of a complete and legible application.

(e) *Expiration.* A permit shall expire upon any change in vessel ownership, registration, name, length, gross tonnage, fish hold capacity, or the regulated fisheries in which the vessel is engaged.

(f) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, suspended, or modified pursuant to 50 CFR Part 621.

(g) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit which has been intentionally altered, erased, or mutilated is invalid.

(h) *Replacement.* Replacement permits may be issued by the Regional Director upon a receipt of a written request from the owner or his designee stating the need for replacement, the name of the vessel, and the Federal fisheries permit number assigned.

(i) *Transfer.* Permits issued under this Part are not transferable or assignable.

(j) *Display.* Any permit issued under this Part must be carried on board the fishing vessel at all times. The permit shall be presented for inspection upon request of any Authorized Officer.

(k) *Revocation.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of sanctions against a permit issued under this Part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Act or these regulations, or if a civil penalty or criminal fine imposed under the Act is not paid.

(l) *Fees.* No fee is required for any Federal fisheries permit issued under this Part.

§ 656.5 Recordkeeping and reporting requirements.

(a) *Fishing vessel records.* (1) The operator of any fishing vessel issued a permit to fish for mackerel under this Part shall:

(i) Maintain on board the vessel an accurate and complete fishing logbook on forms supplied by the Regional Director. The logbook shall contain information on a daily basis for the entirety of any trip during which any regulated species are caught, regardless of where they are caught, and shall contain information for all fish which are caught;

(ii) Keep each fishing logbook for one year after the date of the last entry in the logbook; and

(iii) Submit fishing logbook records, as specified in § 656.5(a)(2).

(2) The owner or operator of any fishing vessel conducting fishing operations subject to this Part shall:

(i) Submit a complete fishing logbook record to the Regional Director 48 hours after the end of any fishing week or fishing trip (whichever time period is longer) during which any regulated species are caught; or

(ii) Submit a statement to the Regional Director, 48 hours after the end of any calendar week, that fishing for any regulated species did not occur during that week.

(3) A request for exemption from the provisions of paragraph (a)(2)(ii) of this section shall be submitted, in writing, to the Regional Director. Such request shall state the reasons for the exemption and the period of time for which the exemption is to apply. The Regional Director shall issue an exemption if fishing is seasonal or if fishing will not occur for a period of not less than two months nor more than ten months. If an exemption is issued, the Regional Director must be notified, in writing, of the permittee's intent to resume fishing before fishing may be resumed.

(4) The Assistant Administrator may revoke, modify, or suspend, in accordance with the provisions of 50 CFR Part 621, the permit of a fishing vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section.

(b) *Fish dealers or processor reports.* Any person who receives Atlantic mackerel for a commercial purpose from a fishing vessel subject to this Part shall:

(1) File a weekly report (Sunday through Saturday) with the Regional Director on forms supplied by him within 48 hours of the end of any week in which mackerel is received. This report shall include information on all transfers, purchases, or receipts of all mackerel and other fish made during the week; and

(2) Permit an Authorized Officer, or an employee of the National Marine Fisheries Service designated by the Regional Director to inspect any records or books relating to any transfers, purchases, or receipts of mackerel.

§ 656.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this Part and over 25 feet in length shall display its Official Number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft. The Official Number is the documentation number issued by the Coast Guard or the registration of number issued by a State or the Coast Guard for undocumented vessels.

(b) *Numerals.* (1) The Official Number shall be at least 18 inches in height for fishing vessels of 65 feet in length and at least 10 inches in height for all other vessels over 25 feet in length, and shall be painted legibly in block Arabic numerals in contrasting color.

(2) The Official Number shall be permanently affixed to or painted on the vessel. However, charter or party boats may use non-permanent markings to display the Official Number whenever the vessel is fishing for mackerel.

(c) *Vessel length.* The length of a vessel, for purposes of this section, is that length set forth in Coast Guard or State records.

(d) *Duties of operator.* The operator of each fishing vessel shall:

(1) Keep the Official Number clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel, its rigging, or its fishing gear obstructs the view of the Official Number from an enforcement vessel or aircraft.

§ 656.7 Prohibitions.

It is unlawful for any person to:

(a) Use any vessel for the taking, catching, harvesting, or landing of any Atlantic mackerel unless the vessel has a valid permit issued pursuant to this Part, and the permit is on board the vessel;

(b) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application for a vessel;

(c) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this Part;

(d) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, landing, purchase, sale, or transfer of any mackerel;

(e) Fail to affix and maintain permanent markings as required by § 656.6 of this Part;

(f) Possess, have custody or control of, ship, transport, offer for sale, purchase, import, export, or land any Atlantic mackerel taken in violation of the Act, this Part, or any regulation promulgated under the Act;

(g) Fish for, take, catch, or harvest any Atlantic mackerel from the FCZ after the fishery has been closed pursuant to § 656.24;

(h) Transfer directly or indirectly, or attempt to so transfer, any United States harvested mackerel to any foreign fishing vessel, while such vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit, under section 204 of the Act, which authorizes the receipt by such vessel of United States harvested mackerel;

(i) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in

connection with the enforcement of this Act, this Part, or any regulation promulgated under the Act;

(j) Fail to comply immediately with enforcement an boarding procedures specified in § 656.8 of this Part;

(k) Forcibly assault, resist, oppose, impede, intimidate, threaten or interfere with any Authorized Officer in the conduct of any search or inspection under the Act;

(l) Resist a lawful arrest for any act prohibited by this Part;

(m) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this Part;

(n) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Part;

(o) Violate any other provision of this Part, the Act, or any regulation promulgated pursuant thereto.

§ 656.8 Enforcement.

(a) *General.* The operator of any fishing vessel shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of the fishing vessel shall be alert for communications conveying enforcement instructions. VHF-FM radiotelephone is the normal method of communicating between vessels. Should radiotelephone communications fail however, other methods of communication, including visual signals, may be employed. The following signals extracted from the International Code of Signals are among those which may be used, and are included here for the safety and information of fishing vessel operators:

(1) "L" means "You should stop your vessel instantly;"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you;" and

(3) "AA AA AA etc." which is the call to an unknown station, to which the signaled vessel shall respond by illuminating the vessel's official number required by § 656.6.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the Authorized Officer and his/her party to come aboard;

(2) Provide a ladder for the Authorized Officer and his/her party;

(3) When necessary to facilitate the boarding, or when requested by an Authorized Officer, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as are necessary to insure the safety of the Authorized Officer and his/her party to facilitate the boarding.

§ 656.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Part 620 (Citations) and Part 621 (Civil Procedures), and any other applicable civil and criminal laws.

Subpart B—Management Measures

§ 656.20 Fishing year.

The fishing year for Atlantic mackerel begins April 1 and ends March 31 of the following year.

§ 656.21 Harvest levels.

(a) *United States fishery.* The allowed levels of harvest on a fishing year basis for Atlantic mackerel are 9,000 mt for vessels engaged in recreational fishing and 5,000 mt for vessels engaged in commercial fishing.

(b) *Foreign fishery.* The allowable level of harvest on a fishing year basis for Atlantic mackerel for vessels of foreign nations is 1,200 mt.

§ 656.22 Catch quotas.

(a) *Quotas.* (1) The annual catch quotas on a fishing year basis for Atlantic mackerel for vessels of the United States are the same as the levels of harvest specified in section 656.21:

(A) 9,000 mt for vessels engaged in recreational fishing, and

(B) 5,000 mt for vessels engaged in commercial fishing.

(2) For the purposes of providing for a timely reallocation, if any, as specified in § 656.23, guidelines for the expected harvest of Atlantic mackerel in the FCZ are established as follows:

(A) 4,500 mt for vessels engaged in recreational fishing, and

(B) 3,500 mt for vessels engaged in commercial fishing.

(b) *Territorial waters.* These regulations do not limit harvests of Atlantic mackerel in the territorial waters of any State. Harvests from State waters, however, shall be counted against the annual harvest levels set forth in § 656.21(a).

§ 656.23 Reallocation.

(a) *General.* This section established a procedure which will be followed to make timely reallocations, if necessary, between vessels engaged in recreational fishing and those in commercial fishing, of part of either allocation which will not be harvested.

(b) *Procedure.* (1) Initial determination. The Assistant Administrator shall review the status of the United States Atlantic mackerel fishery: (i) each October; (ii) at the harvest of 5,000 mt of Atlantic mackerel by vessels engaged in either commercial or recreational fishing; or (iii) when 70 percent of the expected catch in the FCZ as specified in § 656.22(a)(2) by either the commercial or recreational fisheries has been harvested, whichever comes first. If the Assistant Administrator determines, based upon relevant past catch data and projections of future harvesting performance for the remainder of the fishing year, that either the commercial or recreational levels of harvest will not be attained, he may reallocate amounts of Atlantic mackerel that are projected not to be harvested between the commercial and recreational catch quotas to prevent the possibility of closure in either fishery.

(2) Publication of intent to reallocate. If the Assistant Administrator determines that a reallocation will be made to catch quotas, he shall publish in the Federal Register a notice of intent to reallocate a specified amount of Atlantic mackerel from the catch quota which he determined will not be totally harvested. A copy of any such notice of intent shall be sent to holders of permits issued under this Part.

(3) Public comment. The public shall be given no less than 15 days from the date of publication of the notice of intent to reallocate to submit written comments concerning the amount of Atlantic mackerel to be reallocated. Comments shall be sent to the Regional Director.

(4) Consultation. During the 15-day public comment period, the Assistant Administrator or a designee shall consult with the appropriate committee of the Mid-Atlantic Fishery Management Council to determine whether the proposed reallocation of Atlantic mackerel is consistent with the objective contained in the FMP.

(5) Final determination. The Assistant Administrator shall make a final determination of the amount of Atlantic mackerel to be reallocated after taking into account:

(i) The current harvest of Atlantic mackerel by vessels fishing for the catch quota to which the Assistant

Administrator proposes to reallocate a specific amount of Atlantic mackerel;

(ii) The intent and capability of vessels, fishing for the catch quota from which the Assistant Administrator proposes a reallocation, to harvest Atlantic mackerel during the remainder of the fishing year;

(iii) The consistency of any reallocation with the objectives contained in the FMP;

(iv) Any other information determined by the Assistant Administrator to be relevant.

(6) Publication of reallocations. The Assistant Administrator shall publish regulations in the Federal Register to accomplish any reallocation of Atlantic mackerel pursuant to paragraph (b)(5) of this section approximately 15 days prior to the effective date of the reallocation. Comments received during the comment period, all relevant information used by the Assistant Administrator in making a final determination on reallocation, and the most recent catch statistics for the domestic harvest of Atlantic mackerel shall be summarized in the Federal Register.

§ 656.24 Closure of Fisheries.

(a) *General.* The Regional Director shall periodically monitor total catch and landings of Atlantic mackerel and shall project the date when the annual catch quotas will be harvested. The fishery conducted by vessels engaged in either commercial or recreational fishing shall be closed when its annual catch quota, as modified by any reallocation made pursuant to § 656.23, less an anticipated incidental catch during the period of closure for that fishery, is reached.

(b) *Recommendation of closure.* When 80 percent of an annual catch quota specified in § 656.22(a)(1), as modified by any reallocation made pursuant to § 656.23, has been harvested, the Assistant Administrator shall close the effected fishery.

(c) *Notice of closure.* Upon a determination by the Assistant Administrator pursuant to paragraph (b) of this section that a closure of either fishery for Atlantic mackerel is necessary, the Assistant Administrator shall:

(1) Notify in advance the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils of the closure;

(2) Mail notifications to all persons holding permits issued under § 656.5 of the closure at least 72 hours prior to the effective date of the closure; and

(3) Publish a notice of closure in the Federal Register.

(d) *Incidental catch.* During a period of closure, affected fishing vessels may catch, take, or harvest Atlantic mackerel incidental to fishing for other species of fish, provided that the amount of Atlantic mackerel harvested is no more than 10 percent by weight of the total catch of all other fish on board the vessel at the end of any fishing trip.

§ 656.25 Area/Time Limitations—[Reserved]

§ 656.26 Vessel Gear/Equipment Limitations—[Reserved]

§ 656.27 Effort Limitations—[Reserved]

Fishery Management Plan for the Atlantic Mackerel Fishery of the Northwest Atlantic Ocean

June 1979.

Mid-Atlantic Fishery Management Council in Cooperation With New England Fishery Management Council, South Atlantic Fishery Management Council, National Marine Fisheries Service

Abbreviations and Definitions of Terms Used In This Document

cm = centimeter
EIS = Environmental Impact Statement
fathom = 6 feet
FCZ = Fishery Conservation Zone
fishing year = the 12 month period beginning April 1
FMP = Fishery Management Plan
fork length = length of a fish measured from the most anterior point to the end of the median ray of the tail
FRG = Federal Republic of Germany
GDR = German Democratic Republic
GIFA = Governing International Fishery Agreement
ICNAF = International Commission for the Northwest Atlantic Fisheries
km = kilometer
knot = a unit of speed equal to one nautical mile (1.15 miles) per hour
metric ton = 2204.5 pounds
MSY = maximum sustainable yield
NMFS = National Marine Fisheries Service
NOAA = National Oceanic and Atmospheric Administration
OY = optimum yield
PMP = Preliminary Fishery Management Plan
Secretary = Secretary of Commerce
TAC = Total Allowable Catch
TALFF = Total Allowable Level of Foreign Fishing

Management Plan for the Mackerel Fishery of the Northwestern Atlantic Fishery Ocean.

II-1. Responsible Federal Agency

US Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

II-2. Name of Action

(X) Administrative ( ) Legislative

II-3. Description of the Action

The Fishery Conservation and Management Act of 1976 (FCMA), enacted and signed into law on April 13, 1976, established a fishery conservation zone and provided for exclusive US regulation over all fishery resources except highly migratory species (i.e., tuna) within the Zone. This management plan for the mackerel fishery of the northwestern Atlantic Ocean was prepared by the Mid-Atlantic Fishery Management Council in consultation with the New England and South Atlantic Fishery Management Councils in accordance with the FCMA. It replaces the Preliminary Fishery Management Plan currently in effect. A Fishery Management Plan for Atlantic Mackerel for 1978 was prepared by the Mid-Atlantic Fishery Management Council during the fall of 1977. The Draft EIS/FMP was taken to public hearings and was reviewed pursuant to the NEPA process. A Final EIS/FMP for 1978 was submitted to NMFS for review and was approved for printing in May, 1978. Copies of the Final EIS/FMP were distributed for review and comment pursuant to NEPA. Because of this recent review of the proposed action, that is, the adoption of an FMP for Atlantic mackerel, it is felt that the review procedures for a supplemental EIS are adequate to insure public review and comment. This Draft Supplemental Environmental Impact Statement Fishery Management Plan for 1979 incorporates the revisions to the 1978 EIS/FMP proposed during the review process and incorporates the same basic data and policy recommendations as the 1978 plan. There is one significant difference between the two plans. This difference involves the management until but implicitly used as a management unit for the plan. The 1978 plan did not explicitly define a management unit but implicity used as a management unit all Atlantic mackerel throughout the range of the stock. The management unit for this plan for 1979 is defined as all Atlantic mackerel under US jurisdiction. A discussion of the alternative management units considered and the reasons for selecting the management unit selected are set forth in Section XII. The objectives of the plan are to:

1. Provide opportunity for increased domestic recreational and commercial catch;
2. Maximize the contribution of recreational fishing for Atlantic mackerel to the national economy;
3. Maintain the spawning stock size of Atlantic mackerel at of above its size in 1978;
4. Achieve efficient allocation of capital and labor in the mackerel fishery; and
5. Minimize costs to taxpayers of development, research, management, and management, and enforcement in achieving these objectives.

The natural range of, and fishery for, Atlantic mackerel extends from approximately Cape Hatteras, North Carolina, to Labrador, Canada. Within US waters this resource and its harvest are found both in the territorial sea and the FCZ.

The management unit of this FMP is all Atlantic mackerel under US jurisdiction. This unit was so defined because of uncertainty concerning the possibility of a US/Canadian bilateral fishing agreement and the need to develop an FMP that would be valid with or without such an agreement. A discussion of this issue, possible alternative management unit, and the specification of the optimum yield (OY) for this management unit and FMP are set forth in Section XII.

It is recommended that the following measures be adopted to achieve the objectives:

1. Restrict US Atlantic mackerel catches in the FCZ so that the total domestic catch from the territorial sea and the FCZ does not exceed 14,000 metric tons for the 1979–1980 fishing year, allocating 9,000 metric tons to the sport fishery and 5,000 metric tons to the domestic commercial fishery. The Council will reevaluate these allocations in October, 1979, or at capture of 5,000 tons of mackerel in either the sport or commercial fishery, or when 70% of either allocation has been taken in the FCZ, whichever comes first. The Regional Director of the NMFS, with the concurrence of the Council, may then redistribute these allocations between the US recreational and commercial fisheries for the balance of the fishing year.

2. Restrict accumulative foreign Atlantic mackerel harvest to 1,200 metric tons for the 1979–1980 fishing year. This amount is intended to provide only for incidental foreign catches of mackerel. At such time as a foreign nation takes its allocation of Atlantic mackerel, it will be required to cease fishing operations that would lead to an additional catch of Atlantic mackerel.

3. That all vessels fishing commercially for Atlantic mackerel, either directly or as a by-catch from other fisheries, be registered. This provision shall also apply to all vessels for hire for fishing recreationally directly or indirectly for mackerel.

4. That weekly reports on mackerel catches be filed by foreign and domestic fishermen and that domestic dealers and processors submit weekly reports on any transactions involving mackerel.

Implementation of FMPs by the Secretary of Commerce have been defined as major Federal actions significantly affecting the environment.

II–4. Summary of Impact

The basic purpose of this FMP is to manage the Atlantic mackerel fishery off the east coast of the US for optimum yield, and to conserve, protect, and rebuild this fishery resource for future generations.

This plan favors recreational interests and seeks to restore domestic fishing opportunities to levels of catch per effort experienced in the past. The quota set for commercial interests exceeds the annual level of harvest experienced in the past and is, therefore, nonrestrictive. The plan discourages the expansion and development of the fishery in the near future so that the resource can repopulate to a more desirable level of abundance.

The proposed action recommended herein should have no adverse impact on the environment.

II–5. Alternatives

Alternatives for which comments are desired are:

1. No Action—No action to limit the catches of Atlantic mackerel could result in an acceleration in the rate of decline of Atlantic mackerel stocks. The destruction of this resource would seriously affect the long-range viability of this fishery, both commercial and recreational, domestic and foreign.

2. Changes in Optimum Yield—This Fishery Management Plan proposes an optimum yield based upon the best scientific evidence currently available, estimated economic and social impact of the catch level to the US fishing industry and affected communities, possible interim and/or long-term bilateral agreements with Canada for management of this transboundary stock, the possibility of the growth of the Canadian mackerel fishery beyond that level judged most desirable by the US to achieve the objectives of this FMP, analysis of historical incidental catches of mackerel by foreign fisheries for other species, and environmental considerations. Stock rebuilding would be accelerated by closing the fishery or significantly reducing the catch in the US FCZ. However, an evaluation of the impact of the size of the anticipated commercial and recreational catch on the total stock as compared to the cost of enforcing a closure or a reduction makes this alternative unacceptable at this time. If the stocks do not rebuild as anticipated with curtailment of only the directed foreign fishery, further domestic controls will be necessary.

3. Reporting by Private Boat Owners—The Mackerel Advisory Subpanel suggested that the reporting requirements be expanded to include private boat owners. The Council did not include this provision in the proposed plan because of the complexity of the issue and the cost of enforcing such a provision and of processing the information that would the supplied.

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IV. Introducton

IV–1. Development of the Plan

This management plan for mackerel was prepared by the Mid-Atlantic Fishery Management Council in cooperation with the New England and South Atlantic Fishery Management Councils. It contains management measures to regulate fishing for mackerel and an environmental impact statement (EIS) prepared in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190). Section 102(2) of Pub. L. 91–190 requires the preparation of an EIS in the case of major Federal actions that may significantly affect the quality of the human environment. Implementation by the Secretary of Commerce or her delegate of the management measures contained in this plan to regulate the foreign and domestic harvesting of mackerel will constitute such a major Federal action.

This fishery management plan, once approved and implemented by the Secretary of Commerce, will establish regulations on both foreign and domestic fleets harvesting mackerel within the FCZ and will supersede the PMP currently in effect.

IV–2. Overall Management Objectives

The Mid-Atlantic Council adopted the following goals to guide management and development of the mackerel fishery in the northwestern Atlantic. They are:

1. Provide opportunity for increased domestic recreational and commercial catch;

2. Maximize the contribution of recreational fishing for Atlantic mackerel to the national economy;

3. Maintain the spawning stock size of Atlantic mackerel at or above its size in 1978.

4. Achieve efficient allocation of capital and labor in the mackerel fishery.

5. Minimize costs to taxpayers of enforcement and management of the resource; and

6. Maximize marine food resources.

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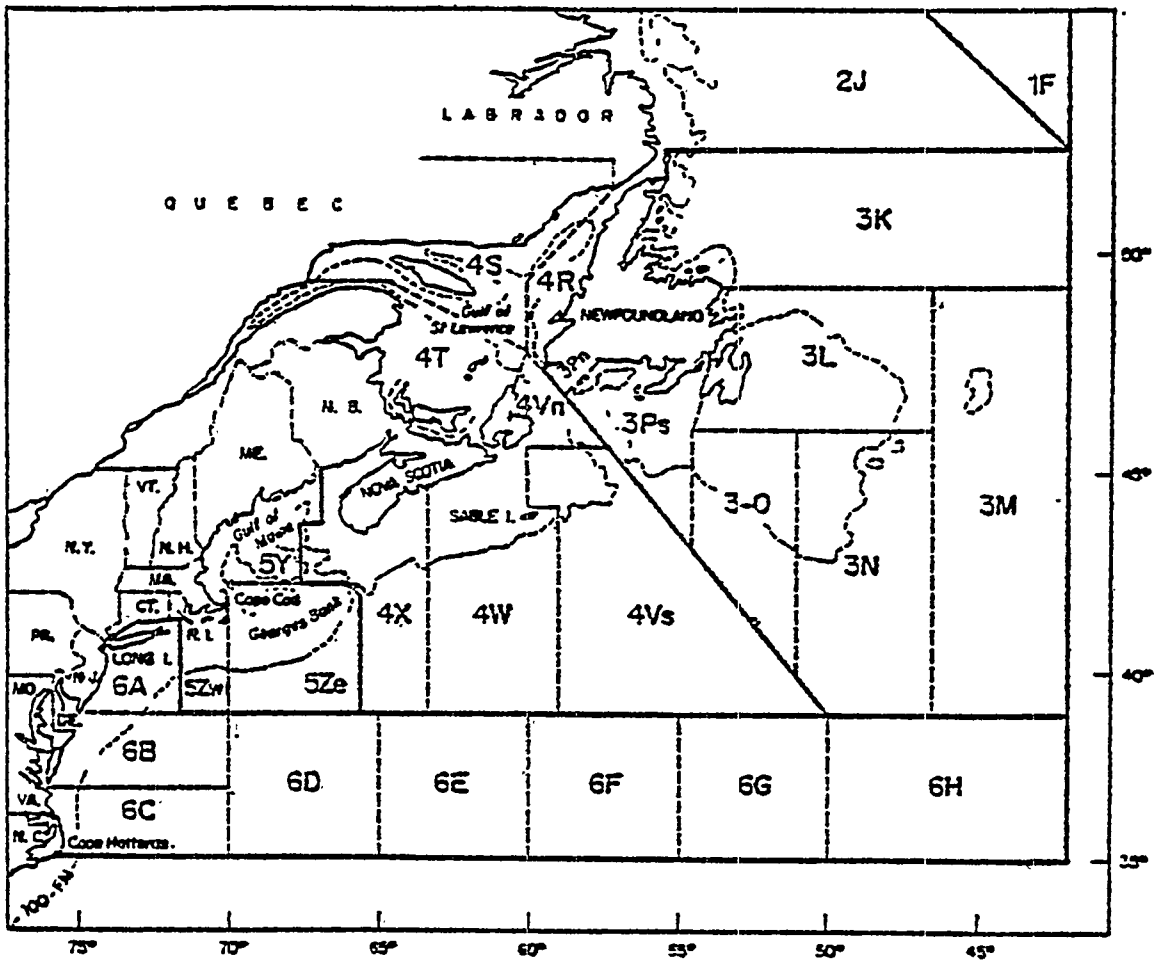

Northwest Atlantic From North Carolina To Labrador Showing ICNAF Subareas 3 - 5 And Statistical Area 6

Figure 1

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V. Description of the Stocks

V-1. Species or Group of Species and Their Distribution

Atlantic mackeral (*Scomber scombrus*) ranges from Labrador and the Gulf of St. Lawrence (Parsons, 1970) to North Carolina (Anderson, 1976). The existence of separate northern and southern contingents was first proposed by Sette (1950). The northern contingent overwinters at the edge of the Continental Shelf off Long Island and east, and the southern from Long Island southward. The overwintering distribution of mackerel ranges from Sable Island to Cape Hatteras, North Carolina (Anderson, 1976).

The southern contingent begins its spring spawning migration by arriving offshore of North Carolina and Virginia in April, and moving steadily northward, reaching New Jersey and Long Island usually by May, where spawning occurs. These fish may spend the summer as far north as the Maine coast. In autumn this contingent moves southward toward Cape Cod and returns to deep offshore water near Block Island after October (Hoy and Clark, 1967).

The northern contingent arrives off southern New England in late May, and moves north to Nova Scotia and the Gulf of St. Lawrence where spawning occurs usually in July (Hoy and Clark, 1967; Bigelow and Schroeder, 1953). This contingent begins its southerly autumn migration in November and December and disappears into deep water off Cape Cod.

Thus, these two contingents intermingle off southern New England in spring and autumn (Sette, 1950). Tagging studies reported by Bechet *et al.* (1974), Parsons and Moores (1974) and Moores *et al.* (1975) indicate that some mackerel that summer at the northern extremity of the range overwinter south of Long Island. On the basis of observed growth rate similarities, length-at-age, and age composition data from sampling in ICNAF Subareas (SA) 3 and 4 in summer and Subarea 5 and Statistical Area (SA) 6 (Figure 1) in winter, Moores *et al.* (1975) suggested that the northern contingent has been the dominant of the two groups in recent years and has supported the bulk of the SA 5 and SA 6 catch. However, precise estimates of the relative contributions of the two contingents cannot be made at present (ICNAF, 1975). Both contingents have been fished by the foreign winter fishery and no attempt has been made to separate these populations for assessment purposes by the International Commission for the Northwest Atlantic Fisheries (ICNAF), although separate TACs (Total Allowable Catch) were in effect for SA 5 and SA 6 and for areas to the north since 1973. Thus, Atlantic mackerel may be considered to consist of one stock for fishery management purposes.

*V-2. Abundance and Present Condition**

Figure 2 gives Atlantic mackeral spawning stock size and recruitment in ICNAF Subareas (SA) 3 – 5 and Statistical Area (SA) 6 in 1962 – 1978. Total stock biomass (age 1+) increased from about 600,000 metric tons in 1962 – 1966 to about 2.4 million tons in 1969, and then declined to 525,000 tons in 1977 (approximately 2.2 billion fish). Assuming that 50% of age 2 fish and 100% of age 3+ fish are mature, the spawning stock size in 1977 has been predicted to be about 435,000 tons (about 1.5 billion fish) (Table 8).

An international TAC (Total Allowable Catch) of 105,000 tons was allocated for 1977. For purposes of this discussion, it was assumed that the total 1977 catch (commercial and recreational) would be 92,000 tons. Since this assessment was performed, better estimates of the 1977 mackerel catch have become available. The total catch in 1977 probably did not exceed 80,000 tons. This difference, however, does not affect the results or predictions of this assessment (E. D. Anderson, NMFS, personal communication, January, 1978). It was assumed that all countries with catch allocations would harvest the full amount, except Canada, the U.S., and those nations without a specified allocation (known as "others" in ICNAF documents). The Canadian Catch was assumed to be 20,000 tons (30,000 tons allocated), the U.S. commercial catch to be 3,000 tons (6,000 tons allocated), and the catch by countries without specific allocations but expected to take some mackerel as a by-catch was assumed to be only 100 tons (5,000 tons allocated in SA 3–4 and 100 tons allocated in SA 5–6). The U.S. recreational catch was assumed to be 5,000 tons, which is the estimated amount caught in 1976 (Tables 1 and 2).

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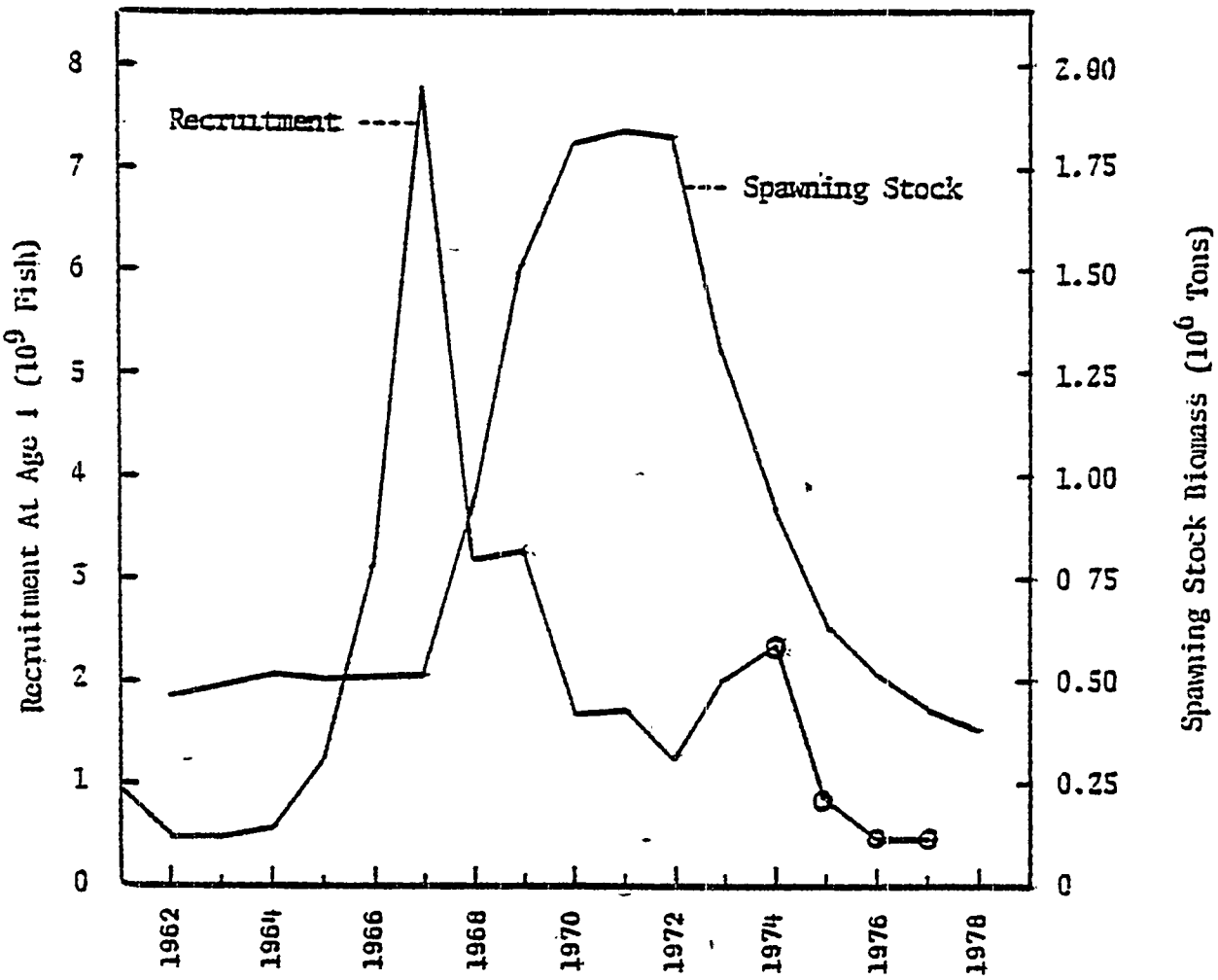
*This section was taken from Anderson (1977).

Figure 2



Mackerel spawning stock biomass in 1962-77 and abundance at age 1 of the 1961-77 year-classes.
(Open circles indicate estimated year-class sizes)

Table 1. Atlantic Mackerel Catch from ICNAF Subareas 3 - 5 and Statistical Area 6, 1961 - 1977 (metric tons)

	United States				
Year	Commercial	Recreational	Canada	Other Countries	Total
1961	1,361	6,828	5,459	11	13,659
1962	938	8,698	6,801	175	16,612
1963	1,320	8,348	6,363	1,299	17,330
1964	1,644	8,486	10,786	801	21,717
1965	1,998	8,583*	11,185	2,945	24,711
1966	2,724	10,172	11,577	7,951	32,424
1967	3,891	13,527	11,181	19,048	47,647
1968	3,929	29,130	11,134	65,747	109,940
1969	4,364	33,303	13,257	114,189	165,113
1970	4,049	32,078*	15,690	210,864	262,681
1971	2,406	30,642	14,735	355,892	403,675
1972	2,006	21,882	16,254	391,464	431,606
1973	1,336	9,944	21,247	396,723	429,250
1974	1,042	7,640*	16,701	321,837	347,220
1975	1,974	6,503	13,544	271,719	293,740
1976	2,345	4,947*	15,744	219,997	243,033
1977	3,000#	5,000#	20,000#	64,000#	92,000#

* From angler surveys. Catches in intervening years estimated by assuming that the ratio between catch and stock biomass in the years of the surveys was the same in the two years preceding and succeeding each survey.

\# Estimated. Revised since this assessment was performed. See "Condition of the Stock in 1979".

Table 2. Foreign Mackerel Allocations and Catches in 1977 (metric tons)

Country	1977 Allocation[1]	Catch Before March 1, 1977	Catch After March 1, 1977	Total 1977 Catch
Bulgaria	4,000	3,100	2	3,112
Cuba	-	683	-	683
FRG	1,100	-	-	-
GDR	12,400	7,981	-	7,981
Italy	300	50	342	392
Poland	20,200	17,167	-	17,167
Romania	1,100	900	-	900
Spain	-	-	82	82
USSR	22,800	22,800	3	22,803
Japan	-	-	82	82
Total	61,900	52,691	444	53,135

1. Total 1977 allocations included catches taken from ICNAF Subarea 5 & Statistical Area 6 before enforcement of the FCMA on March 1, 1977, i.e., catches during January and February were subtracted from each nation's allocation for 1977.

Year Class	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
1951	0 4		-			-										
1952	0 2	0 2	-	-	-										-	
1953	0 6	0 2												-	-	
1954	1 1	0 2	0 3	-												
1955	2 1	0 2	1 0										-		-	
1956	2 3	0 2	0 8	0 9	-										-	
1957	1 7	0 4	4 8	4 8	0 2	-		-					-		-	
1958	5 5	8 1	5 1	6 1	0 6	0 4	0 1		-			-	-		-	
1959	22 1	35 2	24 0	23 6	26 4	39 8	7 6	9 5	3 0						-	
1960	4 0	1 7	4 9	6 3	9 6	7 5	1 2	2 5	4 0	7 5				-	-	-
1961	23 3	5 6	5 1	4 9	5 7	6 3	0 8	3 5	10 6	8 4	5 7		-		-	
1962		1 5	8 6	3 5	3 2	4 1	8 2	2 3	10 5	4 4	3 8	1 6		-	-	-
1963	-	-	15 9	4 3	6 4	4 3	17 8	3 4	5 6	3 7	8 3	3 8	0 8	-		
1964		-	-	10 9	13 9	24 4	47 3	6 5	7 5	9 2	4 3	4 1	2 5	1 0		
1965	-			-	29 0	33 0	73 6	75 0	29 4	35 8	24 4	10 9	6 4	2 3	1 4	
1966		-	-			1 0	76 3	183 2	173 5	210 8	88 6	31 1	25 7	12 5	13 2	0 5
1967		-	-			2 2	175 5	298 8	556 0	579 0	396 2	196 7	108 3	50 7	22 4	3 8
1968			-				1 4	8 1	58 1	132 0	185 3	191 9	111 8	52 1	34 2	4 9
1969			-					4 5	206 1	304 8	260 0	232 9	114 3	68 1	40 0	8 1
1970		-	-		-				5 1	77 3	87 0	284 2	101 5	58 9	27 0	8 0
1971		-	-				-			2 5	22 4	282 3	264 4	101 3	51 8	12 2
1972		-	-	-	-		-				3 6	161 4	242 2	114 2	84 7	13 7
1973		-					-					4 0	95 9	433 3	269 4	71 0
1974			-						-				2 0	375 4	349 5	130 5
1975			-										-	3 7	12 3	33 0
1976		-		-									-			2 1
Total	63 3	53 5	70 5	64 3	95 0	123 0	409 8	597 3	1069 4	1375 4	1089 6	1404 9	1075 8	1273 5	905 9	287 8
Observed Weight[1]	16 6	17 3	21 7	24 7	32 4	47 6	109 9	165 1	262 7	403 7	431 6	429 2	347 2	293 7	243 0	92 0
Calculated Weight [1,2]	15 3	18 2	23 1	25 5	30 7	48 0	84 4	144 7	276 8	429 2	396 2	435 3	346 9	308 7	268 1	93 3
Observed / Calculated	1 085	0 951	0 939	0 969	1 055	0 992	1 302	1 141	0 949	0 941	1 089	0 986	1 001	0 951	0 906	0 986

1 Thousands of metric tons

2 Using mean weights at age from Table 4

Atlantic Mackerel Catch (Commercial and Recreational) (Millions of Fish)

from ICNAF Subareas 3 5 and Statistical Area 6 During 1962 1977

Table 3

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Catch Composition

Table 3 contains estimates of the mackerel catch in numbers at age during 1962–1977. The 1962–1975 numbers at age for the commercial fishery were taken from Anderson *et al.* (1976a). The 1976 numbers at age were revised from those used in the December, 1976, mackerel assessment for ICNAF (ICNAF, 1977). The general procedure used previously was (1) to apply length frequencies and age-length keys reported by individual countries to their catches to obtain numbers at age by country; (2) combine all such numbers at age for respective countries; and (3) prorate the summed numbers at age upwards to include catches from countries lacking sampling data. Significant differences were evident, however, among age-length keys submitted by different countries for 1976 (Anderson *et al.*, 1976b). Consequently, it was decided to combine country age-length keys by quarter for 1976 and 1977. The procedure used for the 1976 and 1977 data was to (1) determine numbers at length by country by month from available length frequencies and corresponding catches; (2) combine the numbers at length within quarters and prorate upwards to include countries lacking sampling data; (3) apply the combined quarterly age-length key to the quarterly numbers at length to obtain quarterly numbers at age, and (4) combine the quarterly numbers at age to obtain the annual numbers at age. The estimated numbers at age for 1977 were determined by applying the above procedure to the available January-March catch and sampling data and then prorating the results upwards to include the catch expected to be taken during the remainder of the year. Numbers at age for the 1962–1977 commercial catches were prorated upwards to include tha added U.S. recreational catches.

Mean weights at age used in previous assessments (Table 4) were applied to the numbers at age to obtain calculated catches for comparison with observed catches. Ratios between observed and calculated catches varied from 0.906 to 1.302 and averaged 1.015.

Table 4.—*Mean Weights at Age (Kg) for Mackerel*

Age	1	2	3	4	5
Kilogram	.095	.175	.266	.350	.432
Age	6	7	8	9	10+
Kilogram	.506	.564	.615	.659	.693

Table 5.—*Stratified Mean Catch (Kg) Per Tow (Log, and Retransformed) of Mackerel From U.S.A. Bottom Trawl Surveys in the Spring (Strata 1–25, 61–76) and Autumn (Strata 1–2, 5–6, 9–10, 13, 16, 19–21, 23, 25–26).*

	Spring [1]	
	Log.	Retransformed
Year:		
1963		
1964		
1965		
1966		
1967		
1968	.575	3.996
1969	.029	.065
1970	.471	2.039
1971	.425	1.969
1972	.354	1.332
1973	.228	.748
1974	.277	.769
1975	.121	.255
1976	.144	.317
1977	.118	.199

	Autumn [2]	
	Log.	Retransformed
Year:		
1963	.013	0.016
1964	<.001	<.001
1965	.046	.073
1966	.057	.065
1967	.195	.372
1968	.117	.217
1969	.154	.459
1970	.068	.099
1971	.052	.073
1972	.070	.107
1973	.034	.043
1974	.046	.106
1975	.010	.016
1976	.028	.039
1977		

[1] Based on catches with No. 41 trawls; 1968–72 catches were with No. 36 trawl and were adjusted to equivalent No. 41 catches using a 3.25:1 ratio (41/36)

[2] Based on catches with No. 36 trawl.

Abundance Indices

US research vessel bottom trawl survey catch-per-tow data (Table 5) indicate a continued decline in mackerel abundance. The spring survey catch-per-tow (kg) index decreased 37% from 1976 to 1977. Both the spring and autumn indices have demonstrated a continued biomass decline since 1968–1969 (Figure 3). The spring survey average catch-per-tow in numbers has also declined in numbers has also declined continuously (Table 6), and has shown a marked decrease in the number of age 1 mackerel in 1976 and 1977. The standardized US commercial catch-per-day index (Table 7) (Anderson, 1976) has usually been consistent with estimates of abundance from survey data and with stock biomass estimates obtained from cohort analysis (Table 8) but it increased in 1975 and 1976 while the other indices continued to decrease. The US commercial index is limited in that it is based on inshore catches comprising less than 1% of the international catch, and it is likely that the recent increases in that index are merely a refelction of localized changes in availability rather than overall stock abundance.

Catch-per-effort data from distant water fleets are not available for 1977, but 1976 data indicated increases for certain Bulgarian, GDR, and Polish vessel-classes and decreases for some USSR vessels. Previous analyses (Anderson, 1976) suggested, however, that changes in vessel efficiency invalidate distant water fleet catch-per-effort as a reliable measure of mackerel abundance. This was recognized at the time of the last assessment (ICNAF, 1977) as well as the possibility of continued accessibility of schooling species like mackerel to fishing gear, even at low abundance levels.

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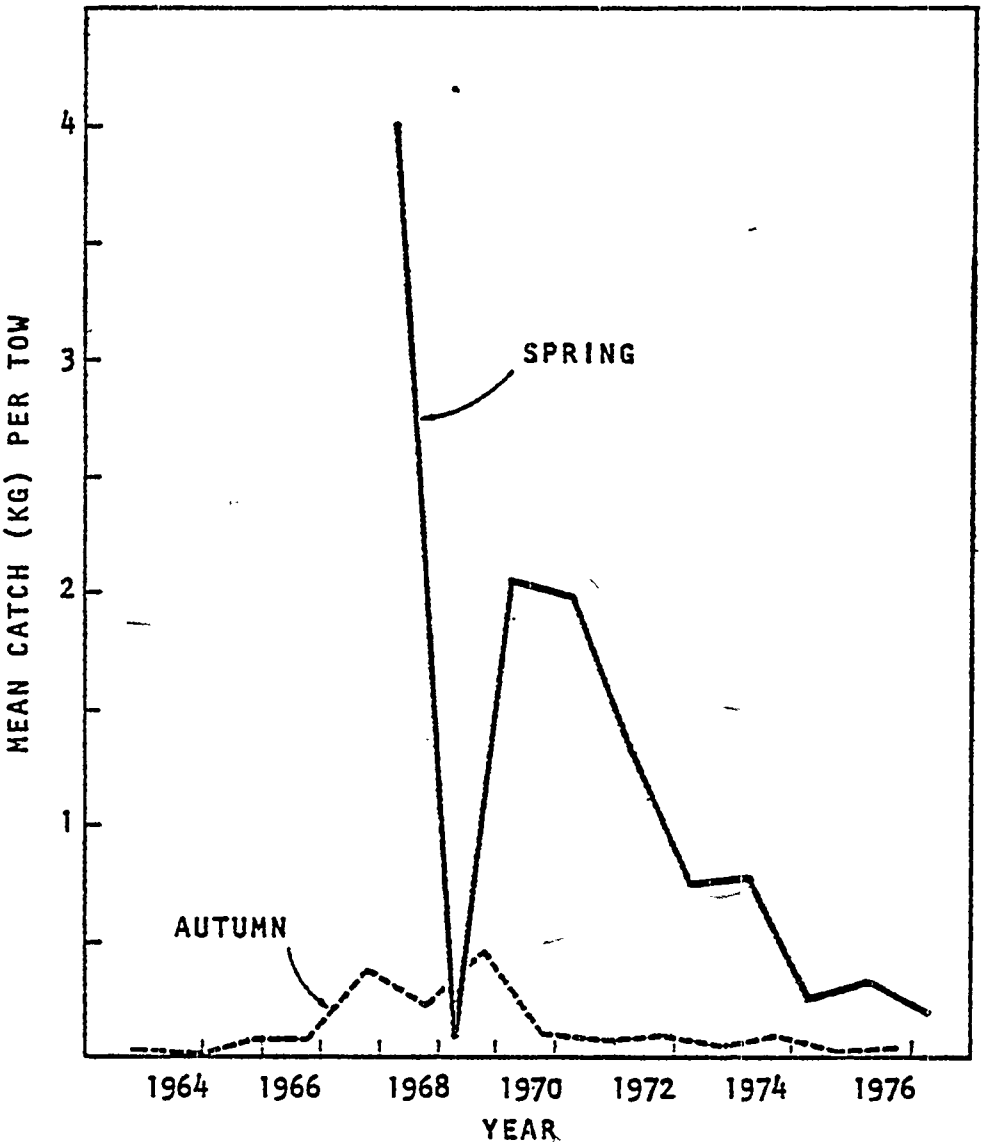

Stratified Mean Catch (kg) Per Tow Of Mackerel
From US Spring (1968-77) And Autumn
(1963-76) Bottom Trawl Surveys

Figure 3

Table 6 Stratified Mean Catch (Number) Per Tow of Mackerel by Year-Class from the 1973 - 1976 US Spring Bottom Trawl Surveys in ICNAF Subarea 5 and Statistical Area 6, Strata 1-25, 61-76

Number by Year-Class	YEAR 1973	1974	1975	1976	1977
1976					0.043
1975				0.447	0.254
1974			5.330	4.928	0.340
1973		2.067	1.101	0.365	0.153
1972	1.949	0.749	0.141	0.070	0.050
1971	6.683	1.347	0.128	0.014	0.017
1970	8.188	0.185	0.030	0.006	0.010
1969	15.957	0.492	0.028	0.009	0.024
1968	3.669	0.249	0.020		0.011
1967	21.081	1.401	0.014	0.004	0.018
1966	6.309	0.440	0.001		0.007
1965	3.319	0.237			0.019
1964	0.365	0.017			
1963	0.574				
Total	68.094	7.274	6.793	5.843	0.946

Table 7. Atlantic Mackerel Catch Per Standardized US Day Fished

Year	Catch-Per-Day (metric tons)
1964	0.43
1965	0.49
1966	0.84
1967	1.75
1968	2.80
1969	1.92
1970	2.07
1971	1.29
1972	0.84
1973	0.53
1974	0.17
1975	0.53
1976	0.59

Table 8

Year Class	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
	YEAR																
1951	12 4																
1952	7 8	5 6															-
1953	8 3	5.6															-
1954	18 1	12 5	9 1														
1955	57 8	41 0	30 2		-												
1956	55 2	38 9	28 6	20 5													
1957	39 7	27 9	20 3	10 9	4 0												
1958	53 7	35 1	19 0	9 7	2 8	1 5	0 8				-						
1959	877 3	630 9	437 1	303 2	204 3	128 6	61 0	38 7	20 5								
1960	741 0	545 5	402 6	294 1	212 4	149 1	104 0	76 0	54 2	36 7				-			
1961	920 5	661 9	485 5	355 3	259 0	187 0	133 1	97 9	69 5	42 4	24 2					-	
1962		429 5	316 9	227 3	165 4	119 8	85 2	56 1	39 6	20 3	11 2	5 0					
1963			429 5	304 5	221 9	158 9	114 0	69 1	48 3	30 9	19 7	7 5	2 3				
1964	-	-		542 2	392 3	278 7	185 4	96 7	66 0	42 4	23 5	13 7	6 6	2 8			
1965					1212 9	873 6	618 8	395 0	228 1	143 7	75 6	35 0	16 6	6 8	3 0		
1966				-		3165 3	2344 1	1670 8	1080 1	650 8	300 7	146 5	81 8	38 5	17 7	1 8	0 9
1967				-			7786 5	5617 3	3904 2	2413 8	1289 8	614 5	285 9	118 6	44 2	13 5	6 8
1968			-					3114 3	2300 1	1654 0	1111 7	664 1	326 8	145 9	63 2	17 4	8 7
1969		-					-		3244 9	2226 5	1387 1	803 8	395 0	194 2	85 3	28 8	14 4
1970		-		-						1657 5	1161 4	785 5	337 3	162 5	69 7	28 4	14 2
1971			-					-			1711 9	1248 9	682 2	277 8	118 6	43 3	21 7
1972												1212 6	759 4	354 1	164 1	48 6	24 4
1973		-							-				1981 2	1385 1	653 2	252 0	126 4
1974														(2360 0)	1428 6	760 9	452 4
1975														-	(810 0)	589 4	408 3
1976		-													-	(415 0)	305 6
1977	-		-			-											(415 0)
Stock size (age 1+)																	
Total (10^6)	2791 8	2434 4	2178 8	2067 7	2675 0	5062 5	11432 9	11231 9	11055 5	8919 0	7116 8	5537 1	4875 1	5046 3	3457 6	2199 1	1798 8
Weight (10^3 tons)[1]	626 7	584 9	582 2	577 3	674 9	886 7	2150 3	2404 2	2285 6	2161 3	2099 5	1522 1	1186 5	964 1	702 2	524 4	468 6
Spawning stock (50% age 2, 100% age 3+)																	
Total (10^6)	1500 8	1674 0	1590 9	1373 3	1266 0	1460 0	2474 4	5309 0	6660 6	6148 3	4824 2	3700 1	2514 2	1993 8	1933 3	1489 4	1231 0
Weight (10^3 tons)[1]	461 4	491 0	517 8	501 6	517 1	512 6	920 2	1505 8	1802 1	1829 9	1811 7	1300 8	931 6	635 6	519 3	434 7	402 5

1 Adjusted using ratio of observed to calculated weights in Table 3

Mackerel Stock Size by Age in ICNAF Subareas 3 5 and Statistical Area 6 (Millions of Fish)
Derived from Cohort Analysis Assuming M = 0 3 and F = 0 39 at Ages 4 and Older in 1977
Values in Parentheses Are Estimated

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Assessment Parameters

In addition to catch (numbers) at age data, parameters essential for the projection of catches in 1978 include fishing mortality in 1977, size of incoming year-classes, and estimates of partial recruitment.

Fishing Mortality In 1977.—Fishing mortality in 1977 was estimated using a technique developed by Anderson *et al.* (1976a) which assumes a linear relationship between fishing effort and fishing mortality. The absence of an adequate measure of commercial catch-per-effort prevented calculation of actual fishing effort. Instead, an annual fishing effort index was determined by dividing total catch by the spring survey catch-per-tow (Table 9). Because of the aberrant 1969 spring value and the year-to-year fluctuations in the remaining values, the 1968–1977 time-series was smoothed by calculating an exponential curve through the actual points (Figure 4), and the predicted values calculated from the curve were used in place of the actual values to determine the fishing effort index. Cohort analysis was performed using F=0.30 for ages 4 and older in 1977 with M=0.30 for all ages. This level of F was chosen as a first approximation since the fishing effort index in 1977 was about half the 1976 index, implying a similar reduction in fishing mortality from earlier estimates for 1976 of about 0.60–0.70. A linear regression between the 1968–1975 fishing effort indices and the mean fishing mortality rates (F) for ages 3 and older from the cohort analysis predicted an F of 0.374 for 1977 based on the fishing effort index for 1977. A second cohort analysis was run using 0.38 as the terminal F in 1977. A second linear regression using the revised $\bar{F}$ values from this cohort analysis predicted F=0.389 for 1977. A third and final cohort analysis was run using $\bar{F}$=0.39 for 1977 (Table 10). A final linear regression predicted F=0.391 for 1977 (Table 9, Figure 5); therefore, F=0.39 was accepted as the best estimate.

Recruitment Estimates.—Estimates of the size of the 1974–1976 year-classes at age 1 were obtained from power curve relationships of survey catch-per-tow (numbers) of (1) age 0 fish from autumn surveys, and (2) age 1 fish from spring surveys versus year-class size at age 1 from the cohort analysis (Tables 11 and 12, Figures 6 and 7). Estimates of the size of the 1974–1975 year-classes at age 2 were also obtained from power curve relationships between spring survey catch-per-tow of the age 2 fish and year-class size at age 2 from cohort analysis (Table 11, Figure 8).

The size of the 1974 year-class at age 1 was estimated to be 2516 million fish based on the autumn survey age 0 index and 2104 million fish based on the spring survey age 1 index. The year-class at age 2 was estimated to be 1488 million fish based on the spring survey age 2 index. Given the reported catch of 349.5 million fish at age 2 in 1976 (Table 3) and assuming a year-class size of 1488 million fish at age 2, implies an F of 0.314. Assuming this F in 1976 for the 1974 year-class, the size of the year-class at age 1 from cohort analysis would be 2447 million fish. The mean of these three different year-class estimates at age 1 was 2335 million fish. The reported catch of 375.4 million fish at age 1 in 1975 (Table 3) applied to the year-class estimates of 2516 and 2104 million fish at age 1 implies year-class sizes at age 2 of 1543 and 1238 million fish respectively. The mean of the three different year-class estimates at age 2 was 1423 million fish. The reported catch of 349.5 million fish at age 2 applied to a year-class size of 1423 million fish implies an F of 0.331. Cohort analysis starting with this F at age 2 in 1976 gives a year-class size of 2358 million fish at age 1 in 1975. In view of these various estimates, the 1974 year-class at age 1 was set at 2360 million fish.

Table 9.—*Estimation of Fishing Mortality in 1977 for ICNAF Subareas 3–5 and Statistical Area 6 Atlantic Mackerel Fishery*

	Spring survey catch/tow		Catch [3] (tons)	Fishing effort index [4]	Mean F [5] age 3+
	Actual [1]	Calculated [2]			
Year:					
1968	3.996	4.518	109,940	24,334	.155
1969	.065	3.199	165,113	51,614	.144
1970	2.039	2.265	262,681	115,974	.185
1971	1.969	1.604	403,675	251,668	.268
1972	1.332	1.135	431,606	380,270	.316
1973	.748	.804	429,250	533,893	.451
1974	.769	.569	347,220	610,228	.515
1975	.255	.403	293,740	728,883	.532
1976	.317	.285	243,033	852,747	[6] [7](.626)
1977	.199	.202	92,000	455,446	[6](.391)

[1] Stratified mean catch (kg) per tow (retransformed from $\log_e$ to linear scale).
[2] Values predicted from exponential curve calculated using actual values for 1968–77 (except 1969). See Figure 3.
[3] Includes commercial and recreational catch.
[4] Catch divided by calculated spring survey catch/tow.
[5] Obtained from cohort analysis assuming F=0.39 in 1977.
[6] Calculated from regression of fishing effort index on mean F for 1968–75: Y=0.121=0.00000059X, r=0.991.
[7] Actual value calculated from cohort analysis was 0.745, assuming F=0.39 in 1977.

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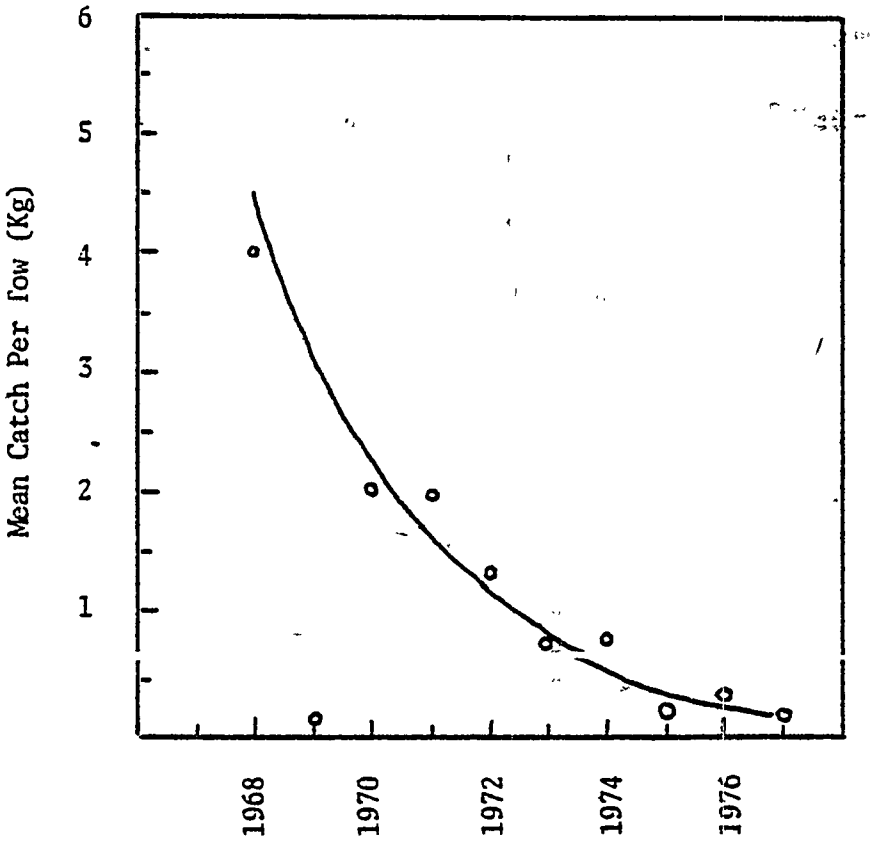
Figure 4



Exponential Curve Calculated Through 1968-77 Time-Series
(1969 Point Omitted From Calculation Of Curve)
Of Spring Survey Catch-Per-Tow (Kg) Indices For Mackerel

YEAR

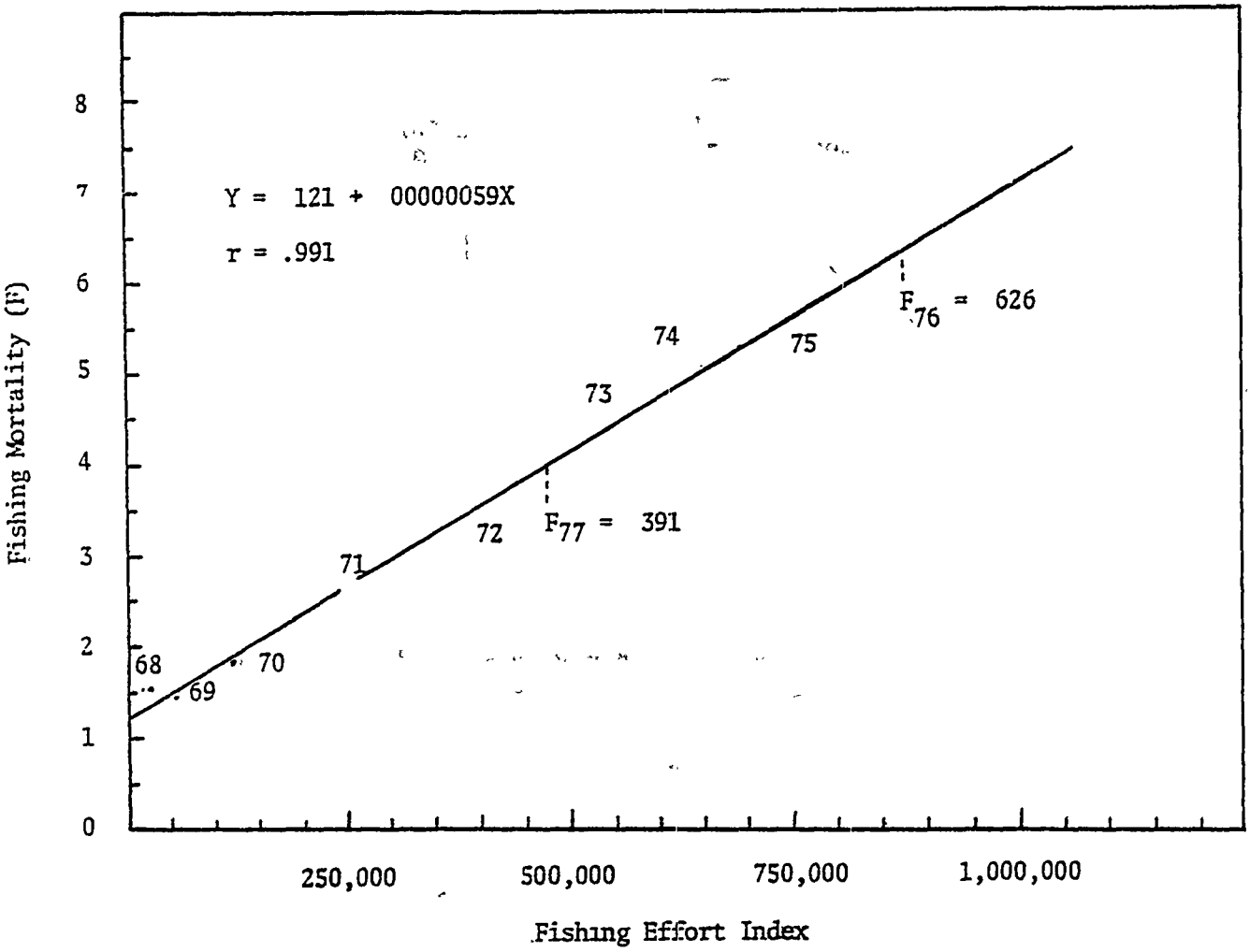
Year Class	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
1951	(038)[1]			-		-										
1952	030	(.042)[1]														
1953	088	(042)[1]											-			
1954	073	019	(039)[1]				-									
1955	043	006	(039)[1]	-					-	-			-			
1956	050	006	033	(052)[1]			-							-		
1957	051	017	321	.713	(060)[1]	-	-			-						
1958	127	313	374	946	288	357	(155)[1]	-		-						
1959	030	067	066	095	163	446	156	336	(185)[1]							
1960	006	004	014	025	054	060	013	039	090	(268)[1]			-			
1961	030	010	012	016	026	040	007	042	195	262	(316)[1]					
1962	-	004	032	018	023	041	119	049	369	291	500	(451)[1]	-			
1963		-	.044	017	034	032	200	059	145	150	670	892	(515)[1]			
1964	-	-	-	.024	042	107	351	081	142	290	239	426	575	(532)[1]	-	
1965	-	-	-	-	028	045	149	249	162	342	470	449	596	503	(746)[1]	
1966	-	-	-	-	-	< 001	039	136	207	472	419	283	454	474	2 002	390
1967	-	-	-	-	-	-	027	064	181	327	441	465	580	686	888	390
1968	-	-	-	-	-	-		003	030	097	215	409	507	536	990	390
1969	-	-	-	-	-	-	-		077	173	246	410	410	523	787	390
1970	-	-	-	-	-	-	-	-		056	091	545	430	547	598	390
1971	-	-	-	-	-	-	-	-	-		015	305	598	551	708	390
1972	-	-	-	-	-	-	-	-	-	-	-	168	463	469	916	390
1973	-	-	-	-	-	-	-		-		-		058	452	652	390
1974	-	-	-	-	-	-	-	-	-	-			-	202	330	220[2]
1975	-	-	-	-	-	-		-	-	-	-	-	-	-	018	067[2]
1976	-	-	-	-	-	-	-	-	-	-	-				-	006[2]
$\bar{F}$ (age 3+)[3]	038	042	039	.052	060	111	.155	144	185	268	316	451	515	532	745	390[4]

1 Mean F for age 3+ assumed 2 Determined from assumed stock size and known catch 3 Weighted by stock numbers at age from Table 10 4 Age 4+

Fishing Mortality Rates (F) for Mackerel in ICNAF Subareas 3 - 5 and Statistical Area 6 Derived from Cohort Analysis (M = 0 3)

Table 10

Figure 5



Relationship Between Fishing Mortality From Cohort Analysis And Fishing Effort Derived From Spring Survey Catch-Per-Tow And Total Catch

Table 11. Catch Per Tow (Number) of Ages 1 and 2 Mackerel from US Spring Bottom Trawl Surveys (Strata 1-25, 61-76) and Year-Class Size (Millions of Fish) at Ages 1 and 2 from Cohort Analysis

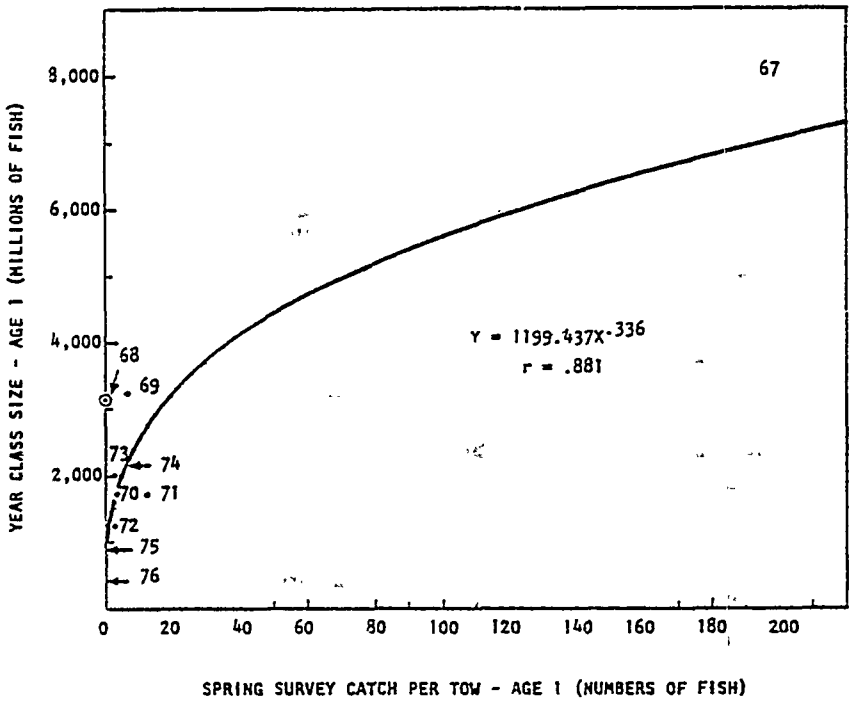
	Age 1		Age 2	
Year-Class	Spring Survey	Cohort Analysis	Spring Survey	Cohort Analysis
1966		3165.3	21.661	2344.1
1967	197.993	7786.5	1.190[1]	5617.3
1968	.299	3114.3	12.435	2300.1
1969	6.208	3244.9	13.390	2226.5
1970	2.954	1657.5	5.545	1161.4
1971	12.093	1711.9	6.683	1248.9
1972	1.949	1212.6	.749	759.4
1973	2.067	1981.2	1.101	1385.1
1974	5.330	(2103.9)[2]	4.928	(1488.3)[2]
1975	.447	(915.3)[2]	.254	(651.8)[2]
1976	.043	(416.9)[2]		

1. Not used.
2. Calculated.

Table 12. Catch Per Tow (Number) Of Age 0 Mackerel From US Autumn Bottom Trawl Surveys (Strata 1-2, 5-6, 9-10, 13, 16, 19-21, 23, 25-26) And Year-Class Size (Millions Of Fish) At Age 1 From Cohort Analysis

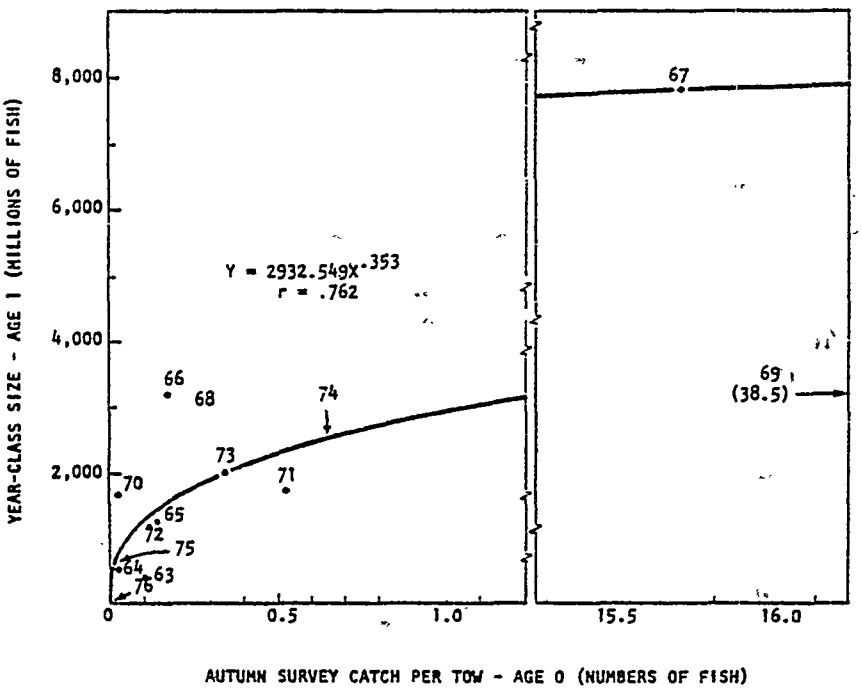
Year-Class	Autumn Survey Age 0	Cohort Analysis Age 1
1963	0.087	429.5
1964	0.022	542.2
1965	0.134	1212.9
1966	0.170	3165.3
1967	15.709	7786.5
1968	0.215	3114.3
1969*	38.504	3244.9
1970	0.027	1657.5
1971	0.517	1711.9
1972	0.119	1212.6
1973	0.339	1981.2
1974	0.648	(2515.6)#
1975	0.012	(614.3)#
1976	0.000	(0.0)#

* Not Used
\# Calculated



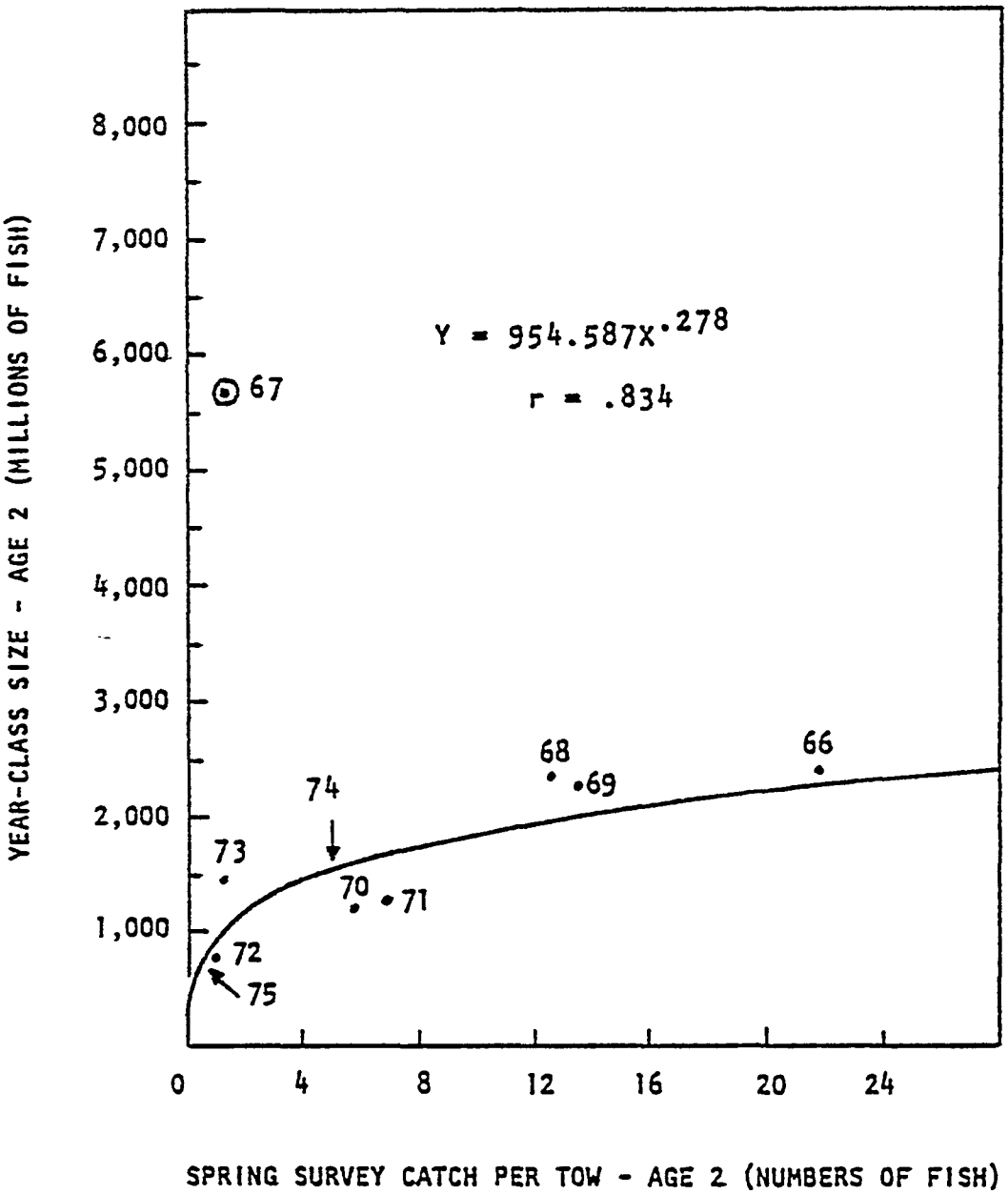
Power Curve Relationship Between Mackerel Year-Class Size At Age 1 And Spring Survey Catch-Per-Tow At Age 1 The 1968 Point Was Not Used In Calculating The Curve.

Figure 6



Power Curve Relationship Between Mackerel Year-Class Size At Age 1 And Autumn Survey Catch-Per-Tow At Age 0. The 1969 Point Was Not Used In Calculating The Curve.

Figure 7



Power Curve Relationship Between Mackerel Year-Class Size At Age 2 And Spring Survey Catch Per Tow At Age 2. The 1967 Point Was Not Used In Calculating The Curve.

Figure 8

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The 1975 year-class at age 1 was estimated to be 614 million fish based on the autumn survey age 0 index and 915 million fish based on the spring survey age 1 index. This year-class at age 2 was estimated to be 652 million fish based on the spring survey age 2 index. The assumed catch of 33.0 million fish at age 2 in 1977 (Table 3) applied to a year-class size of 652 million fish gives an F of 0.060. Cohort analysis starting with F=0.060 at age 2 in 1977 results in a year-class size of 898 million fish at age 1 in 1976. The mean of these three estimates of year-class size at age 1 was 809 million fish. Applying the reported catch of 12.3 million fish at age 1 in 1976 (Table 3) to the year-class estimates of 614 and 915 million fish at age 1 implies year-class sizes at age 2 of 444 and 667 million fish, respectively. The mean of the three year-class estimates at age 2 was 588 million fish. Given the reported catch of 12.3 million at age 2 from a year-class of 588 million fish implies an F of 0.067. Cohort analysis starting with this F at age 2 in 1977 gives a year-class size of 809 million fish at age 1 in 1976. The size of the 1975 year-class at age 1 was, therefore, set at 810 million fish.

The 1976 year-class at age 1 was estimated to be 417 million fish based on the spring survey age 1 index. Fish of this year-class were not caught at age 0 during the 1976 autumn survey. The survey catch-per-tow of this year-class at both ages 0 and 1 was the poorest of any year-classes during 1963–1977 (Tables 11 and 12). It appears, therefore, that this year-class is very poor. the poorest year-classes observed since 1961 were in 1962–1963 (429.5 million fish at age 1). The size of the 1976 year-class at age 1 was set at 415 million, based on the single estimate from the 1977 spring survey data, which is about the size of the poorest year-classes observed.

There are presently no estimates available concerning the size of the 1977 year-class. Since the contribution of age 1 fish to the 1978 catch is expected to be minimal, the estimation of the size of the 1977 year-class is not particularly critical to the results of the assessment. However, the consequences of overestimating the size of this year-class are much greater than of underestimating it. If the year-class is underestimated, then any losses in catch at age 1 will be regained in later years since yield-per-recruit is maximized at about age 4 (ICNAF, 1973). If the year-class is overestimated, then the 1979 stock size is driven below projected levels. The 1977 year-class at age 1 was, therefore, set at the level of the poor 1976 year-class.

Partial Recruitment—Mackerel are considered to be fully recruited to the fishery at age 3 and older, based on age-specific fishing mortality rates (Table 10). Partial recruitment at ages 1 and 2 (the percentage of fishing mortality at those ages compared with the mean for ages 3 and older) varied considerably from 0.9 to 112.8% and at age 2 from 15.8 to 89.9%. The values prior to 1968 are less precise than those since then because the numbers-at-age data for 1962–1967 were based on very limited data (Anderson *et al.*, 1976a). Partial recruitment at ages 1 and 2 in 1977 was calculated to be near the low end of the range in values. In view of the wide fluctuations evident in previous years, it was felt that the use of the 1977 partial recruitment coefficients in 1978 may not necessarily reflect the probable situation. For age 1, an average of the 1968–1977 values (except 1970, 1973 and 1975) was used for 1978 (9%). The high values in 1970 and 1975 were excluded because they occurred when large catches were taken from strong incoming year-classes, and this did not appear to represent the expected situation in 1978. The high 1973 value was also excluded because it resulted from a large catch of age 1 fish from a below-average year-class which occurred as a consequence of intensive fishing effort being exerted on younger age-groups to maintain previous high levels of catch at a time when older age-groups had experienced a sharp decrease in abundance. For age 2, an average of the 1968–1977 values (except 1974–1975) was used for 1978 (39%). The values in 1974–1975 were excluded because they were unusually higher than most others and did not appear to be representative of the expected situation for 1978. They resulted from (1) large catches being taken from good-strong year-classes, and (2) from apparent direction of fishing effort onto that age-group from older age-groups to maintain high levels of catch.

Table 13.—*Percentage of Fishing Mortality (F) at Ages 1 and 2 Compared to Mean F at Age 3 and Older (Partial Recruitment)*

Year	Age 1	Age 2
1962	78.9	15.8
1963	9.5	23.8
1964	112.8	82.1
1965	46.2	32.7
1966	46.7	70.0
1967	0.9	40.5
1968	17.4	25.2
1969	2.1	44.4
1970	41.6	16.2
1971	20.9	64.6
1972	4.7	28.8
1973	37.3	67.6
1974	11.3	89.9
1975	38.0	85.0
1976	2.4	44.3
1977	1.5	17.2

Table 14.—*Summary of Parameters Used in the Mackerel Assessment*

Fishing mortality in 1977(4+)	0.39
Recruitment at age 1:	
1974 year-class	2,360.0 x 10^6
1975 year-class	810.0 x 10^6
1976 year-class	415.0 x 10^6
1977 year-class	415.0 x 10^6
Partial recruitment in 1978 (%):	
Age 1	9
Age 2	39
Age 3+	100
1978 Projection:	
Spawning Stock (10^3 tons)	402.5

Assessment Results*

Calculated fishing mortalities and stock sizes by age for 1962–1977 are listed in Tables 10 and 8. The assessment parameters used are summarized in Table 14. Fishing mortality for ages 3 and older increased throughout the period from 0.038 in 1962 to 0.745 in 1976 before decreasing in 1977 to an estimated 0.39. Total stock biomass (age 1 and older) increased from about 600,000 tons in 1962–1966 to a peak of 2.4 million tons in 1969 and then declined steadily to an estimated 524,000 tons at the beginning of 1977. Spawning stock biomass (50% of age 2 and 100% of age 3 and older) increased from around 500,000 tons during 1962–1967 to 1.8 million tons in 1970–1972 and then decreased to 435,000 tons in 1977. Under the assumption that 92,000 tons will be caught in 1977, the spawning stock will be further reduced to 402,500 tons in 1978. Table 15 lists the projected catch in 1978 and the spawning stock in 1979 at levels of fishing mortality from 0.0 to 0.7. If no fishing were allowed in 1978, the spawning stock would be increased about 6% to 428,000 tons in 1979. A catch of 23,500 tons in 1978 (F=0.07) would maintain the 1979 spawning stock at the 1978 level. Fishing at $F_{0.1}$=0.35 would produce a catch of about 104,000 tons, but would reduce the spawning stock by 21% in 1979.

If the entire assessment was done assuming a total catch of 110,000 tons in 1977 (TAC of 105,000 plus 5,000 tons for US recreational catch) instead of 92,000 tons, the catch projections for 1978 would differ very little. The fishing mortality estimate for 1977 would be 0.435 instead of 0.39 and projected spawning stock size in 1978 would be about 390,000 tons, instead of 402,500 tons. A catch of about 25,000 tons in 1978, instead of 23,500 tons, would maintain the 1979 spawning stock at the 1978 level.

Figure 2 shows the historical relationship between spawning stock and recruitment. The spawning biomass present in 1962–1967 of about 500,000 tons produced year-classes ranging from the poorest (1962–1963) to the strongest (1967). The largest spawning stocks present during the late 1960s–early 1970s produced both above- and below-average year-classes. It is evident that spawning stock size exerts little influence on the size of a year-class unless perhaps the spawning stock is reduced to extremely low levels. Lett and Kohler (1976) found this to be evident in simulations of Gulf of St. Lawrence herring. Environmental factors are obviously the major controlling forces, but the present state of knowledge concerning the influence of these factors is inadequate for assessment use. Consequently, it is virtually impossible to define an optimum or minimum spawning stock size at or above which level adequate recruitment can be predicted or below which level poor recruitment is likely. However, since spawning stock size has continued to steady decline and recent year-classes (1975–1976) appear to be as poor as any observed previously, there is obvious cause for concern if the spawning stock is allowed to decrease below the projected 1978 level.

Table 15.—*Projected Mackerel Catch in SA 3-6 in 1978 With Fishing Mortality Ranging From 0.0 to 0.7, and the Resulting Spawning Stock in 1979 and the Percentage Change From 1978*

Mortality (F)	Mortality (F)	1978 (10^3 tons)	Spawning stock in 1979 (10^3 tons)	Percent change in spawning stock from 1978 (by weight)
0.00	0.30	0.0	428.0	+6.3
0.05	0.35	16.9	409.6	+1.8
0.07	0.37	23.5	402.5	0.0
0.10	0.40	33.0	392.6	−2.5
0.15	0.45	48.5	376.3	−6.5
0.20	0.50	63.2	360.8	−10.4

*This section has been updated by the following discussion, "Condition of the Stock in 1979 and 1980."

Table 15.—*Projected Mackerel Catch in SA 3-6 in 1978 With Fishing Mortality Ranging From 0.0 to 0.7, and the Resulting Spawning Stock in 1979 and the Percentage Change From 1978*—Continued

Mortality (F)	Mortality (F)	1978 (10^3 tons)	Spawning stock in 1979 (10^3 tons)	Percent change in spawning stock from 1978 (by weight)
0.25	0.55	77.3	346.0	−14.0
0.30	0.60	90.8	331.9	−17.5
0.35	0.65	103.7	318.5	−20.9
0.40	0.70	116.0	305.6	−24.1
0.45	0.75	127.8	293.4	−27.1
0.50	0.80	139.0	281.7	−30.0
0.55	0.85	149.8	270.6	−32.8
0.60	0.90	160.1	260.0	−35.4
0.65	0.95	170.0	249.8	−37.9
0.70	1.00	179.5	240.1	−40.3

*Condition of the Stock in 1979 and 1980**

Information from the 1978 NMFS spring trawl survey was added to the data used in the above assessment. The following discussion incorporates the results of this research that are presently available. The 1978 survey data have confirmed the results and conclusions of the above assessment discussion, although minor revisions in some parameters have occurred due to better information regarding the 1978 mackerel catch and other factors.

Abundance indices. The stratified mean mackerel catch per tow in numbers increased from a low in 1977 of 0.946 (Table 6) to 2.614 in 1978. The mean catch per tow in weight (kg) index also increased from 0.199 in 1977 (Table 5) to 0.447 in 1978. These increases are probably due to a change in availability and not to an increase in stock size. Before 1978 a major foreign fishery in ICNAF Statistical Area 6 (now part of the FCZ) concentrated on this species during each winter. However, 1978 was the first year since 1962 that a large foreign fishery was not exploiting mackerel and, thus, the fish were more available at the time of the NMFS spring bottom trawl survey.

These survey results suggest that the 1976 and 1977 year-classes are poor, as previously assumed. Mackerel catches by the Soviet research vessel *Argus* in 1978 also showed a low abundance of age 1 (1977 year-class) and age 2 (1976 year-class) fish in 1978. The 1974 and 1973 year-classes appear to be predominant in the stock at the present time.

Recruitment Estimates

Estimates of the 1974–1977 year-classes at age 1, and the 1974–1976 year-classes at age 2, were obtained using the procedure outlined by Anderson (1977). These results suggest that the estimates for the 1974 and 1975 year-classes at age 1 were approximately correct. The 1976 and 1977 year-classes were both assumed to be 700 million fish. Partial recruitment to the fishery was assumed to be the same as that used in the 1978 assessment: 9% at age 1, 3% at age 2, and 100% at age 3 and older.

*This discussion was taken from Overholtz and Anderson (1978).

Assessment Results

The mackerel stock size (age 1 and older) continued to decline to a low of 517,000 metric tons at the beginning of 1978. The spawning stock biomass (50% of age 2 fish and 100% of age 3 and older fish) also declined to a low of 405,000 metric tons.

In order to estimate the mackerel stock size in 1979, six catch options for 1978 were considered because of uncertainties as to the 1978 mackerel catch in Canadian waters and US waters.

The first option assumes that US fishermen will catch their predicted capacity of 14,000 tons (commercial and recreational), that the foreign catch in US waters will be 1,200 tons (as allocated by the 1978 PMP for this species), and that the catch in Canadian waters will be 25,000 tons. Options 2 and 3 assume the same US and foreign catch as in Option 1, but assume Canadian catches of 50,000 and 100,000 tons, respectively.

Option 4 assumes a US catch (commercial and recreational) of 4,000 tons, a foreign catch in US waters of 1,200 tons, and a catch in Canadian waters of 25,000 tons. Options 5 and 6 assume the same US and foreign catch as in Option 4 but assume Canadian catches of 50,000 and 100,000 tons, respectively (Table 16).

If a desired objective for this resource is to maintain the spawning stock biomass in 1980 at the 1978 level, then under Option 5 a total catch of about 55,000 tons (US and Canadian waters) could be removed in 1978 and a total catch of about 64,000 tons could be taken in 1979. A lower total catch in 1978 (Options 1 or 4) would result in some stock rebuilding. For example, if 40,000 tons are taken in 1978 (Option 1), a similar amount could be removed in 1979 and some stock rebuilding should occur. If the total mackerel catch in 1978 exceeds 105,000 tons (Option 6), then the spawning stock biomass in 1980 will be beneath that of 1978, even at a low level (i.e., a very small total catch) of fishing mortality (F) in 1979.

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Table 16

Possible Catches In 1979 And Resultant Spawning Stock Sizes In 1980 From The Atlantic Mackerel Stock, With Fishing Mortality (F) Ranging From 0.05 To 0.50, Under Six Possible Total Catches (Options) In 1978. The Resulting Changes In Spawning Stock Size (%) That Would Occur In 1979 And 1980 If The Catch Options 1-6 Were Caught In 1978 Are Listed. All Catch And Stock Sizes Are In Thousands Of Metric Tons.

OPTION 1

1978 Total Catch = 40.2

F	Catch In 79	Stock In 80	% Change In Stock From 78	% Change In Stock From 79
0.05	17.9	468.4	+15.6	+ 9.4
0.10	35.1	450.5	+11.2	+ 5.2
0.15	51.5	433.3	+ 6.9	+ 1.2
0.20	67.2	417.0	+ 2.9	- 2.6
0.25	82.2	401.4	- 1.0	- 6.2
0.30	96.6	386.5	- 4.6	- 9.7
0.35	110.3	372.2	- 8.2	-13.1
0.40	123.5	358.6	-11.5	-16.2
0.45	136.1	345.6	-14.7	-19.3
0.50	148.2	333.2	-17.8	-22.2

OPTION 2

1978 Total Catch = 65.2

F	Catch In 79	Stock In 80	% Change In Stock From 78	% Change In Stock From 79
0.05	16.3	446.1	+10.1	+11.0
0.10	32.9	429.2	+ 5.9	+ 6.8
0.15	48.3	413.1	+ 1.9	+ 2.8
0.20	63.0	397.7	- 1.9	- 1.0
0.25	77.1	383.0	- 5.5	- 4.7
0.30	90.7	369.0	- 9.0	- 8.2
0.35	103.6	355.6	-12.3	-11.5
0.40	116.0	342.8	-15.4	-14.7
0.45	127.8	330.5	-18.5	-17.7
0.50	139.2	318.8	-21.3	-20.7

OPTION 3

1978 Total Catch = 115.2

F	Catch In 79	Stock In 80	% Change In Stock From 78	% Change In Stock From 79
0.05	14.6	401.5	- 0.9	+14.9
0.10	28.6	386.8	- 4.6	+10.7
0.15	42.0	372.7	- 8.0	+ 6.6
0.20	54.8	359.2	-11.4	+ 2.8
0.25	67.1	346.4	-14.5	- 0.9
0.30	78.9	334.1	-17.6	- 4.4
0.35	90.1	322.3	-20.5	- 7.8
0.40	100.9	311.1	-23.2	-11.0
0.45	111.3	300.3	-25.9	-14.1
0.50	121.2	290.1	-28.4	-17.0

OPTION 4

1978 Total Catch = 30.2

F	Catch In 79	Stock In 80	% Change In Stock From 78	% Change In Stock From 79
0.05	18.4	477.3	+17.8	+ 8.8
0.10	35.9	459.0	+13.3	+ 4.6
0.15	52.7	441.4	+ 8.9	+ 0.6
0.20	68.8	424.7	+ 4.8	- 3.2
0.25	84.2	408.7	+ 0.8	- 6.8
0.30	99.0	393.5	- 2.9	-10.3
0.35	113.1	378.9	- 6.5	-13.6
0.40	126.6	365.0	- 9.9	-16.8
0.45	139.5	351.7	-13.2	-19.8
0.50	151.9	338.9	-16.4	-22.7

OPTION 5

1978 Total Catch = 55.2

F	Catch In 79	Stock In 80	% Change In Stock From 78	% Change In Stock From 79
0.05	17.3	455.0	+12.3	+10.4
0.10	33.8	437.7	+ 8.0	+ 6.2
0.15	49.6	421.2	+ 3.9	+ 2.2
0.20	64.7	405.4	+ 0.0	- 1.7
0.25	79.2	390.4	- 3.7	- 5.3
0.30	93.0	376.0	- 7.2	- 8.8
0.35	106.3	362.2	-10.6	-12.2
0.40	119.0	349.1	-13.9	-15.3
0.45	131.2	336.6	-17.0	-18.4
0.50	142.8	324.6	-19.9	-21.3

OPTION 6

1978 Total Catch = 105.2

F	Catch In 79	Stock In 80	% Change In Stock From 78	% Change In Stock From 79
0.05	15.1	410.4	+ 1.3	+14.0
0.10	29.5	395.2	- 2.5	+ 9.8
0.15	43.5	380.7	- 6.1	+ 5.8
0.20	56.5	366.9	- 9.5	+ 1.9
0.25	69.1	353.7	-12.7	- 1.7
0.30	81.2	341.0	-15.9	- 5.3
0.35	92.8	329.0	-18.8	- 8.6
0.40	103.9	317.4	-21.7	-11.8
0.45	114.6	306.4	-24.4	-14.9
0.50	124.8	295.8	-27.0	-17.8

Option 1: Equal to US commercial and sport catch of 14,000 tons, foreign catch of 1,200 tons, and a Canadian catch of 25,000 tons. Option 2: Same as Option 1, but Canadian catch of 50,000 tons. Option 3: Same as Option 1, but Canadian catch of 100,000 tons. Option 4: Equal to US commercial and sport catch of 4,000 tons, foreign catch of 1,200 tons, and a Canadian catch of 25,000 tons. Option 5: Same as Option 4, but Canadian catch of 50,000 tons. Option 6: Same as Option 4, but Canadian catch of 100,000 tons.

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V-3. Ecological Relationships

Although some research has been directed at the ecological relationships of Atlantic mackerel, no conclusive evidence on this subject of relevance to the formulation of a FMP is presently available. Future updates of this FMP will incorporate such information as it becomes available. The following section presents much of what is known on this subject, and is excerpted from Maurer (1976).

The Atlantic sea herring (*Clupea harengus*) and Atlantic mackerel share many common characteristics, i.e., distribution, abundance and size. Ecologically, they can be described as pelagic, schooling and fast swimming zooplankton feeders associated with similar water masses along the Continental Shelf of the northeast coast of the United States from Cape Hatteras, ranging in winter to boreal waters. Morphologically, both species are laterally compressed and possess pronounced visual acuity. Their general feeding strategies are also alike as either can select prey items or "filter feed". With so many similar niche parameters a measurable degree of overlap between food resources might be expected. Over the area of investigation, herring have been reported as feeding on small copepods (Saunders, 1952), large copepods (Pavshtics, 1965), copepods, euphausiid shrimp and amphipods (Paulmier and DeCamps, 1973) and chaetognaths, copepods and euphausiid shrimp (Maurer and Bowman, 1975). Sette (1943) first linked mackerel to *Calanus* rich waters, while others have reported the dominance of chaetognaths, small copepods and pteropods (Maurer and Bowman, 1975).

In the sping of 1974 the Northeast Fisheries Center initiated a special preliminary study designed to investigate the similarities and measure the overlap of the food habits of herring and mackerel.

Results

General characteristics of herring diet A complete list of food items eaten by herring is presented in Table 17. A total of 32 different prey items was identified. Examining the general quantitative composition by weight and number, clearly, chaetognaths dominated the diet by weight (43%) and nunber (68%). All chaetognaths were identified as *Sagitta elegans*, a common carnivorous zooplankter averaging 20 mm in length, especially abundant in the area of Georges Bank where densities of 5,840 per 100 cubic meters have been reported (Clarke *et al.*, 1943). Euphausiids as a group accounted for 34% of the stomach content weight, however, only 0.6% of the numbers. Euphausiids were one of the largest prey items ingested by herring, approximately 40 mm in length, and constitute an extremely important prey resource in the outer shelf and slope waters. These shrimp-like crustaceans are known to perform diel vertical migrations, a behavior which may account for their importance in food chains of many demersal as well as pelagic predators. Of the two species identified, *Meganyctiphanes norvegica* was the dominant form in terms of diet weight, 23.5%, while *Thysanoessa inermis* represented 6.5% of the diet weight. The shelled pteropod, *Limacina retroversa*, ranks third in importance as regards diet weight (6.2%) and numbers (10.6%). As an aggregate, copepods represented only 3% of the diet weight and 8% of the diet numbers. Twelve genera were identified, ten calanoid, one cyclopoid (*Oithona*) and one harpacticoid *Macrosetella*). The four dominant copepod general are all common coastal shelf-water species ranging in size (length) from 0.5 mm to 1.2 mm. Barnacle cypris (larval stages) made up 12.2% of diet numbers while contributing only 0.6% to diet weight. This meroplankton component is a seasonal (spring-summer) member of the plankton and is known to occur in local patches resulting from simultaneous release of nauplii by adults. The mean size of these larvae was 0.5 mm. Larval and juvenile fish comprised only 0.4% of the diet weight. The most frequently occuring were sand lance, *Ammodytes americanus*, and a singular occurrence of cannibalism, one herring larvae.

The remainder of the food groups reported contribute a rather insignificant amount to diet weight or numbers. These include larvaceans, pandalid shrimp, gammarid and hyperiid amphipods. The presence of demersal crustaceans, five pandalids, fifteen gammarid amphipods and a few sand grains indicate occasional departures from the pelagic feeding habit.

General characteristics of mackerel diet A total of 38 different food items was identified (Table 17). Copepods (32.7%) and pteropods (33.5%) contributed almost equally to the diet weight. However, their numbers were quite disproportionate, the smaller copepods constituting 81.5% of the diet numbers. All pteropods were *L. retroversa* except thirteen gynmosomate forms of the genus *Clione*. Nine copepod genera were identified, although only four genera dominated weight and numbers; their numbers ranging from 2-3 orders of magnitude above the other copepod genera. Other calanoid genera, cyclopoid and harpacticoid copepods occurred in relatively small numbers and as a group made up only about 1% of the diet weight. Larvaceans comprised 5.1% of diet weight and 2% of diet numbers; clearly dominated by the small coastal form *Oikopleura dioca*, size range 1-1.5 mm. Some 18 larval and post-larval fish represented 4.5% of the diet weight. Although fish eggs did not contribute much to diet weight (0.4%), a total of 68 were enumerated. Euphausiids *M. norvegica* (4.1%) and *T. inermis* (0.1%) occurred in the same relative proportion as in the herring diet. Decapods were of little importance, 3.4% of the diet weight. Larger adult forms were ingested in small numbers; *Crangon* (20), *Pandalus* (3), Sergestid shrimp (1), while small pelagic larvae were taken in substantially greater numbers; decapod larvae (749) and *Pagurus zoea* (6). Other minor foods include *Neomysis* (0.5% diet weight), *Ophiura (0.2%), hyperiid, amphipods (0.2%), gastropod veliger, pelecypod veliger, cumaceans, gammarid amphipods, polychaete larvae, and siphonophores.*

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Table 17. A List of Food Items Resulting from the Quantitative Analysis of Stomach Contents of All Mackerel and Herring Samples. Weight (Wet) Expressed in Grams.

	Atlantic Mackerel				Sea Herring			
	Weight		Number		Weight		Number	
Prey items	g	% of Total	No.	% of Total	g	% of Total	No.	% of Total
FORAMINIFERA	Tr	<0.1	2	<0.1				
DIATOMS					.034	<0.1	7	<0.1
SIPHONOPHORE	.011	0.1	2	<0.1				
HYDROZOA	Tr				.053	<0.1	4	<0.1
POLYCHAETE LARVAE	.002	<0.1	11	<0.1	.001	<0.1	4	<0.1
AMPHIPODA								
Gammaridea	.015	<0.1	5	<0.1	.081	0.1	13	<0.1
Gammarus	.062	<0.1	6	<0.1	.010	<0.1	2	<0.1
Hyperidea	.002	<0.1	1	<0.1	.022	<0.1	3	<0.1
Hyparia	.357	0.2	97	<0.1	.029	<0.1	9	<0 1
Lyperiid	.028	<0.1	7	<0.1				
DECAPODA								
Crangon	2.656	1.8	20	<0.1				
Pagurus zoea	.056	<0.1	6	<0.1	.023	<0.1	9	<0 1
Pandalidae					020	<0.1	5	<0.1
Pandalus	1.334	0.9	3	<0.1				
Sargestidae	.099	<0.1	1	<0.1				
Decapod larvae	.814	0.5	749	0.3	.131	<0.1	85	0.2
ISOPODA					.010	<0.1	12	<0.1
CUMACEA								
Diastylus	.014	<0.1	10	<0.1	.003	<0.1	1	<0.1
EUPHAUSIACEA								
M. norvegica	6.128	4.1	51	<0.1	18.627	23.1	133	0.3
T. inermis	.419	0.1	28	<0.1	4.886	6.1	103	0.2
Other euphausiids					3.057	3.8	32	<0.1
MYSIDACEA								
Neomysis	.738	0.5	134	<0.1	.007	<0.1	3	<0.1
Other mysids					.003	<0.1	4	<0.1
CIRRIPEDEA (Cypris)	Tr	<0.1	5	<0.1	.501	0.6	5,131	12.2
COPEPODA								
C. finmarchicus	3.828	2.6	3,399	1.2	1.568	1.9	1,459	3.5
Calanus					.003	<0.1	36	0.1
Calanidae					Tr	<0.1	2	<0.1
R. nasutus	.015	<0.1	15	<0.1	.012	<0.1	14	<0.1
C. typicus	12.969	8.8	58,491	21.0	.195	0.2	824	1 9
T. longicornis	9.135	6.2	40,144	14.4	.005	<0.1	50	0.1
P minutus	10.206	6.9	51,222	18.4	.050	<0.1	277	0.5
E. rostrata					Tr	<0.1	1	<0.1
Metridia lucens	.012	<0.1	17	<0.1	.013	<0.1	41	0.1
Pleuromamma	.015	<0.1	18	<0.1	.004	<0.1	3	<0.1
Candacia arrata	.017	<0.1	22	<0.1	.080	0.1	134	0.3
Tortanus					.001	<0.1	5	<0.1
Calanoid nauolii	Tr	<0.1	1	<0.1				
Other calanoids	12.202	8.2	73,993	26.5	.128	0.2	479	1.1
Oithona	Tr	<0.1	32	<0.1	Tr	<0.1	7	<0.1
Other cyclopoids					Tr	<0.1	1	<0.1

Table 17 (Continued)

Macrosetella					.001	<0.1	4	<0.1
Other harpacticoids	.006	<0.1	49	<0.1	Tr	<0.1	1	<0.1
CRUSTACEAN EGGS	Tr	<0.1	30	<0.1				
CRUSTACEAN LARVAE					.004	<0.1	10	<0.1
PELECYPOD VELIGER	.004	<0.1	3	<0.1				
PTEROPODA								
Clione	.059	<0.1	13	<0.1				
L. retroversa	49.507	33.5	43,348	15.6	5.020	6.2	4,478	10.6
GASTROPODA (Veliger)	.035	<0.1	1	<0.1				
CEPHALOPODA	.209	0.1	1	<0.1				
ECHINODERMATA								
Ophiura (larvae)	.299	0.2	125	<0.1				
CHAETOGNATHA								
Sagitta elagans	.704	0.5	647	0.2	34.743	43.1	28,622	67.9
PENDICULARIA								
Oikopleura	6.783	4.6	5,606	2.0	.095	0.1	82	0.2
Fritillaria	.758	0.5	244	<0.1				
TUNICATA					Tr	<0.1	1	<0.1
PISCES								
Leptocephalus	.058	<0.1	1	<0.1				
Urophycis	2.747	1.8	1	<0.1				
A. americanus	2.283	1.5	16	<0.1	.351	0.4	4	<0.1
Clupea harengus					.015	<0.1	1	<0.1
Unidentified fish	1.763	1.2	1	<0.1	.032	<0.1	14	<0.1
Scales	.004	<0.1	95	<0.1	Tr	<0.1	13	<0.1
Eggs	.625	0.4	68	<0.1	Tr	<0.1	13	<0.1
ANIMAL REMAINS	18.511	12.5			10.324	12.8		
SAND	.002	<0.1			.006	<0.1		
Total Weight & No.	145.491 g		278,741		80.148 g		42,140	
No. of Stomachs w/food	196				174			
Mean Weight and No.	.742 g		1.422		.461 g		242	

An Ecological Classification Of Food Types

The foods listed in Table 17 cover a broad phylogenetic spectra from unicellular forms (diatoms and foraminifera) to fish. However, if the different foods are classified on an ecological basis according to life form (Odum, 1971), they can be grouped as one of three ecological types; holoplanktonic, meroplanktonic, or epibenthic (Table 18).

Table 18. A Classification Of Food Groups Showing The Relative Importance Of Each Component In The Diet Of Herring And Mackerel

ECOLOGICAL TYPES

Holoplankton	Meroplankton	Epibenthos
Foraminifera	Decapod larvae	Gammarid amphipods
Diatoms	Barnacle cypris	Crangon
Siphonophores	Pelecypod veliger	Pandalid shrimp
Hyperiid amphipods	Ophiuroid larvae	Isopods
Sergestid shrimp		Cumaceans
Euphausiid shrimp		Mysid shrimp
Copepods		
Pteropods		
Cephalopods		
Chaetognaths		
Larvaceans		
Tunicates		
Fish		

Herring			
% diet weight	98.9	0.9	0.2
Number of food types	30	5	3
Mackerel			
% diet weight	95.2	1.0	3.8
Number of food types	33	6	5

Both herring and mackerel depend almost entirely on the holoplanktonic component for their food supply. True planktonic forms constituted 98.9% of the weight of food organisms consumed by herring and 95.2% of those consumed by mackerel Although the planktonic larval stages of certain benthic invertebrates (barnacle cypris and decapod larvae) were consumed by both species in substantial numbers, these items contributed only about 1% to the total stomach weight. Therefore, the meroplankton component did not constitute a significant source of energy for these pelagic feeders during this survey The epibenthic component can be considered as a third potential food source. Epibenthic crustaceans contributed 3.8% to the mackerel stomach content weight and only 0.2% of the herring stomach content weight. If we were to consider the epibenthos as a serious alternative resource for either species, mackerel would seem to be slightly more successful in foraging for epibenthic forms than herring, thus able to supplement its diet when suitable plankton is scarce.

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Prey Size and Biomass

The relative trophic requirements, as regards prey size and biomass, can be determined by comparing the mean weight and mean number ratio of prey per stomach for each species.

$$\text{Biomass ratio} = \frac{\times \text{ weight mackerel stomach contents}}{\times \text{ weight herring stomach contents}}$$

$$\text{Number ratio} = \frac{\times \text{ number mackerel food items}}{\times \text{ number herring food items}}$$

Considering only fish with stomachs containing food, the average prey biomass for mackerel was 0.742 grams and 0.461 grams for herring, which results in a biomass ratio of 1.61. The number ratio, 5.87, indicates that mackerel are ingesting 5.87 times as many prey items as herring. This ratio is the result of mackerel consuming large numbers of small calanoid copepods especially *Pseudocalanus minutus, Centropages typicus,* and *Temora longicornis.* A general conclusion would be that mackerel feed on a larger number of smaller prey items than does herring.

A Measure of Competition Potential

A further analysis of the total diet examines the potential for competition. The generic items from Table 17 are arranged in Table 19 to show the prey genera which occurred in diets of both herring and mackerel. These can be considered as items over which competition may result. Sixteen of the 29 food organisms identified to the generic level were consumed by both species. These include two amphipods, ten copepod genera, *Limacina, Sagitta, Oikopleura* and *Ammodytes.* All of the items which contribute significantly to the stomach content weight co-occur.

Table 19.—*Co-Occurring Generic Food Items*

Genera	Herring	Mackerel
Gammarus	+	+
Hyperis	+	+
Diastylus	+	–
Crangon	–	+
Pagurus	–	+
Pandalus	–	+
Meganyctiphanes	+	+
Thysanoessa	–	+
Neomsis	+	+
Calanus	+	+
Centropages	+	+
Temora	+	+
Rhincalanus	+	+
Pseudocalanus	+	+
Euchirella	+	–
Metridia	+	+
Pleuromamma	+	+
Candacia	+	+
Tortanus	+	–
Oithona	+	+
Macrosetolla	+	–
Clione	–	+
Limacina	+	+
Sagitta	+	+
Ophiura	–	+
Oikopleura	+	+
Fritillaria	–	–
Merluccius	–	+
Ammodytes	+	+
		16/29 co-occurring genera

Analysis of Diet Similarity and Food Overlap

In general, both species often feed on the same types of prey, although the proportions of specific items frequently vary significantly between species. The degree of similarity or overlap depends not only upon which stomach analysis parameter is tested (see Bogorov, 1934; Yanulov, 1963; Vinogradov, 1972; Morisita, 1959, and Horn, 1966), percent occurrence or percent weight, but can be affected by the choice of index. A measure of similarity or overlap based on the frequency of occurrence of food items does not consider the relative proportions of food items in the diet. Investigations of possible competition should only be based on quantitative measures (percent weight or percent volume).

The degree overlap appears to be influenced by relatively few species which occur in the diet. Consistently high diet overlap on Georges Bank can be explained by the fact that both species were feeding on the "krill shrimp" *Meganyctiphanes norvegica.* It has been established that zooplankton diversity is greatest in equatorial waters decreasing continually from south to north. Following that rationale, food similarity should increase, proceeding northward from the Mid-Atlantic to the Scotian Shelf, as the number of available prey types is reduced. Hence the production of fish species will become more species specific as we proceed toward boreal waters. In general, Figure 9 tends to support this hypothesis, the extent of overlap in the Mid-Atlantic being dependent upon a mixed group of numerous small calanoid copepods, in the southern New England area on being dependent on two zooplankton species and on Georges Bank being specific to only genera *Meganyctiphanes norvegica.*

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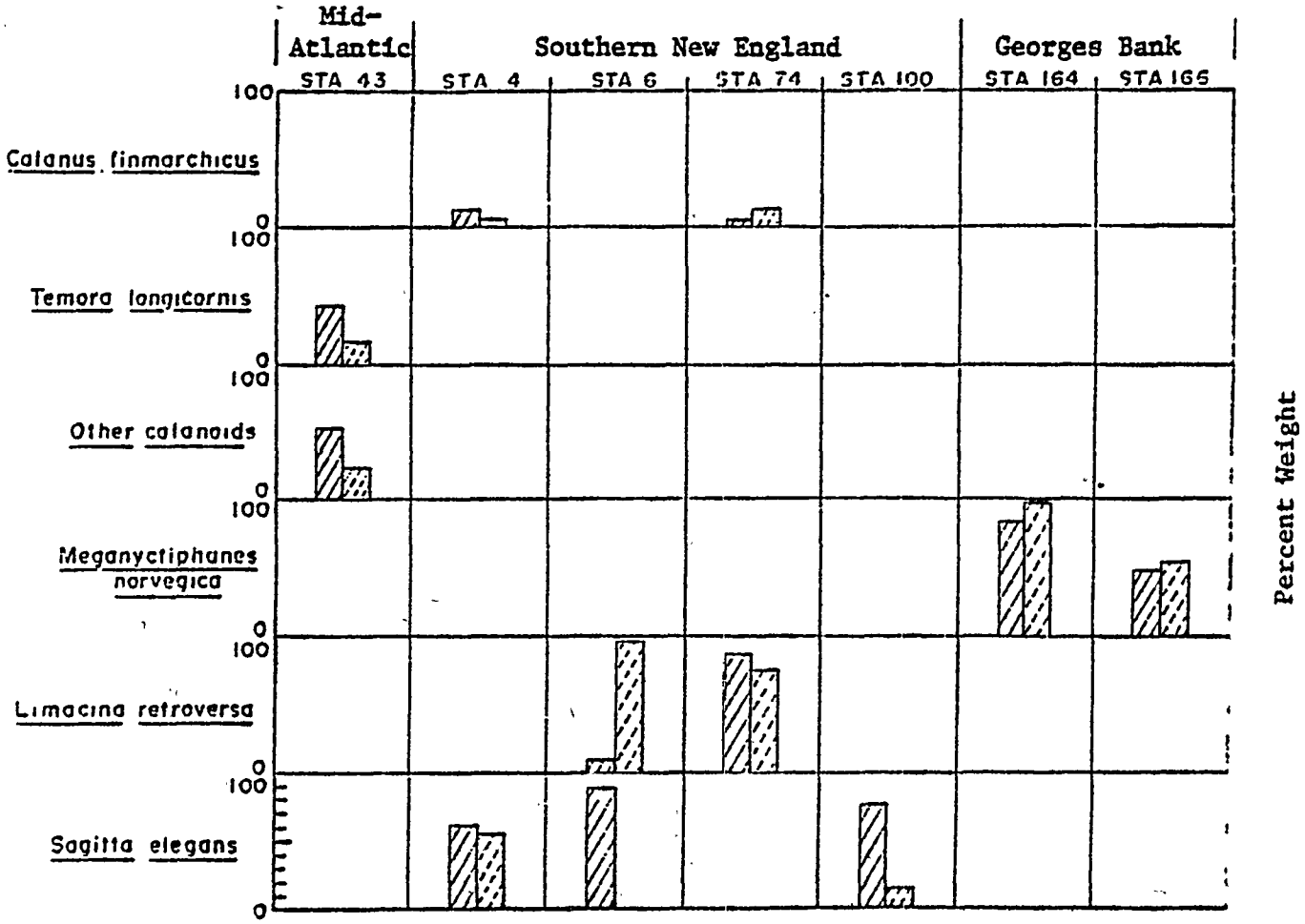

HERRING

MACKEREL

The Contribution of Key Prey Species to the Quantitative Food Habits of Herring and Mackerel Sampled Concurrently. The Overlap Index, C_λ, Appears at the Bottom of Each Station Column.

Figure 9

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V-4. Estimates of MSY

Anderson (1973) and Walter (1975) have estimated maximum sustainable yield from Schaefer models as 310,000 metric tons and 313,000 tons, respectively, for mackerel, corresponding to a stock biomass of 1,250,000 tons (Walter, 1975). These estimates were calculated using only commercial catch data. However, historical commerical catch data suggest wide fluctuations in biomass, and it is probable that the above MSY figures are overestimates because of the effect of one very strong year-class and several above-average year-classes on catch and effort data used in the estimation procedures. The most recent estimate of MSY, which includes recreational catches in the calculations (E. D. Anderson, personal communication) is 210,000–230,000 tons, which is based on the exploitation of an average year-class (1961–1973 year classes) at fishing mortality ranging from $F_{0.1}$ (0.35) to F_{max} (0.70) with average patterns of fishing and mortality at age. In view of the magnitude of past catches, the 210,000–230,000 ton level appears to be more realistic than the 310,000 ton level.

Yield per individual entering the fishery (yield per recruit) (Ricker, 1975) is maximized at instantaneous rates of fishing mortality (F) of 0.5, 1.0, and greater than 2.0 at a mean age of first capture of 1, 2, and 3 years, respectively. These F values are commonly refered to as F_{max} values. At a lower of F (i.e., $F_{0.1}$, where the instantaneous fishing mortality rate at which the additional yield per recruit gained from an additional mortality unit is 10% of the gain per unit of mortality in a lightly exploited stock), the corresponding values are 0.28, 0.35, and 0.43. These values are judged to be more appropriate from a management standpoint.

V-5. Probable Future Condition

The spawning stock size of mackerel was at a record or near-record low level in 1977, and is expected to remain so in 1978 and 1979, as discussed in Section V-2. In the absence of greatly improved recruitment, the spawning stock size probably would tend to remain at the same relatively low levels, and perhaps might even decrease further, even in the absence of foreign fishing for mackerel in the fishery conservation zone.

It is commonly believed that mackerel has undergone extreme variations in abundance historically (Hoy and Clark, 1967). No documentation of such variations exists, however, except indirect evidence of widely fluctuating catches primarily during the 19th century when U.S. demand was at its peak (Anderson, 1977). Various factors have been correlated with the supposed variations in abundance, including year-class strengths, temperature fluctuations, wind movements, and a fungal epizootic (Sette, 1943; Taylor *et al.*, 1957; Sindermann, 1958; MacKay, 1967). Lett *et al.* (1975) have shown, however, that mackerel abundance and recruitment are most variable when fishing mortality is low, e.g., prior to 1960 and the growth of the foreign fishery.

As noted in Section V-2, little information exists from which to predict stock-recruitment relationships for mackerel. Large spawning stocks have in the past produced both weak and strong year-classes. Thus, while it may be probable that wide fluctuations in abundance have occurred in the past, there is no evidence to indicate a cyclic or predictable pattern in year-class strengths or improved recruitment in the foreseeable future (Anderson, 1977).

VI. Description of Habitat

VI-1. Condition of the Habitat

Climatic, physiographic, and hydrographic differences separate the ocean region from Cape Hatteras to the Gulf of Maine into two distinct areas: the Mid-Atlantic-Southern New England Region and the New England Region, with the natural division occurring at Nantucket Shoals.

The Middle Atlantic-Southern New England Region is fairly uniform physically and is influenced by many large coastal rivers and the Chesapeake Bay, the largest estuary in the United States. Additional significant estuarine influences are Narragansett Bay, Long Island Sound, the Hudson River, Delaware Bay, and the nearly continuous band of estuaries behind the barrier beaches along southern Long Island, New Jersey, Delaware, Maryland, and Virginia. The southern edge of the region includes the estuarine complex of Currituck, Albermarle, and Pamlico Sounds behind the outer banks of Cape Hatteras.

At Cape Hatteras, the Continental Shelf (characterized by waters less than 200 meters [656 feet] deep) extends seaward approximately 32 km (20 miles), widens gradually to 113 km (70 miles) off New Jersey and Rhode Island and then broadens to 193 km (120 miles) off Cape Cod forming Georges Bank. The substrate of the shelf in this region is predominantly sand interspersed with large pockets of sand-gravel and sand-shell. Beyond 200 m, the substrate becomes a mixture of silt, silt-sand, and clay. As the Continental Slope turns into the Abyssal Plain [at depths greater than 2,000 m (6,560 feet)], clay predominates over silt and becomes the major substrate.

Mineral resources of the area include large sand and gravel deposits, now being mined in some localities near shore. There are potentially recoverable offshore deposits of phosphate rock, placed deposits of titanium, monazite and zircon, and oil. Locally important concentrations of sulfur, salt, anhydrite, potash, and magnesium are known. It is also probable that manganese oxide nodules occur offshore. However, current technology is inadequate for economic recovery of most placer and hard rock deposits.

Water temperatures range from less than 3°C in the New York Bight in February to approximately 27°C off Cape Hatteras in August. The annual range of surface temperature at any location may be 15°C in slope waters to greater than 20°C near shore. During the coldest season the vertical thermal gradient is minimized. In late April—early May, a thermocline develops although storm surges over Nantucket Shoals retard thermocline development there. The thermocline persists through the summer. Surface waters begin to cool in early autumn, weakening the thermocline so that by mid-November surface to bottom water temperature is nearly homogeneous. Overturns occur in the spring and fall, resulting in recycling of nutrients.

The salinity cycle results from stream flow and the intrusion of slope water from offshore. The salinity maximum of winter is reduced to a minimum in early summer by large volumes of spring river runoff. Inward drifts of offshore saline water in autumn eventually counterbalance fresh water outflow and return the region's salinity distribution to the winter maximum. Water salinities near shore average 32°/oo, increase to 34–35°/oo along the shelf edge, and exceed 36.5°/oo along the main lines of the Gulf Stream.

On the Continental Shelf, surface circulation is generally southwesterly during all seasons, although this may be interrupted by coastal indrafting and some reversal of flow at the northern and southern extremities of the area. Speeds of the drift are on the order of five knots per day. There may be a shoreward component to this drift during the warm half of the year and an offshore component during the cold half. This drift, fundamentally the result of temperature-salinity distribution, may be made final by the wind. A persistent bottom drift at speeds of tenths of nautical miles per day extends from beyond mid-shelf toward the coast and eventually into the estuaries. Offshore, the Gulf Stream flows northeasterly.

The New England region from Nantucket Shoals to the Gulf of Maine includes two of the worlds most productive fishing grounds: Georges Bank and Browns Bank. The Gulf of Maine, which is a deep cold water basin, is nearly sealed off from the open Atlantic by these two Banks. The outer edges of Georges and Browns Banks fall off sharply into the Continental Shelf. Other major features include Vineyard and Nantucket Sounds, Cape Cod Bay, and Cashes Ledge and Stellwagen Basin within the Gulf of Maine.

Water temperatures range from 2°C to 17°C at the surface and over the banks, and 4°C to 9°C at 200 meters in the inner Gulf of Maine. Mean salinity values vary from about 32 to 34°/oo depending on depth and location. However, lower salinity values generally occur close to shore. In addition, both water temperatures and salinities within the Region, but especially along the southern boundary of Georges Bank and the deep basins of the inner Gulf of Maine, are influenced by intrusion of slope water.

Surface circulation within the Gulf of Maine is usually counterclockwise. Cold Nova Scotian waters enter through the Eastern Channel and move across Browns Bank while slope waters enter through the Northeast (Fundian) channel. Gulf of Maine waters spill out over Georges Bank and through Great South Channel onto Nantuckett Shoals. The anticyclonic eddy over Georges Bank that develops in Spring breaks down into a westerly and southerly drift by autumn.

Gulf Stream meanders and warm core eddies, two oceanographic phenomena which normally remain in deep offshore water, can profoundly effect environmental conditions on the fishing grounds off the northeast United States when either one moves close along the Continental Slope. The warm core eddies seen off the New England coast

mostly form in the slope water region southeast of Georges Bank by detaching from meanders of the Gulf Stream. Rotation is in a clockwise direction at speeds varying from 0.6 to 1.8 knots.

Environmental effects and their possible influence on fishery resources resulting from meanders and eddies have been identified by Chamberlin (1977) and are as follows:

1. Warming of the upper Continental Slope and outer shelf by direct contact of a meander or eddy. This may influence the timing of seasonal migrations of fish as well as the timing and location of spawning.

2. Injection of warm saline water into the colder less saline waters of the shelf by turbulent mixing at the inshore boundary of a meander or eddy. This may have influences on the fishery resource similar to that of direct warming, and also cause mortality of fish eggs and larvae on the shelf when the colder water in which they live is warmed beyond their tolerance by the mixing-in of warm slope water.

3. Entrainment of shelf water off the shelf, an effect frequently seen in satellite imagery. Mortality of Georges Bank fish larvae is known to occur, presumably because of temperature elevation when shelf water in which they occur is carried into the slope water. (Colton, 1959). The most profound effects of the entrainment on the fishing grounds may be changes in circulation and in water mass properties resulting from the replacement of the waters lost from the shelf.

4. Upwelling along the Continental Slope, which may result in nutrient enrichment near the surface and increased primary biological productivity.

The ecosystem can be divided into the following fundamental groups which are necessary for the system to continue indefinitely: abiotic (nonliving) substances; autotrophic organisms (primary producers) which are able to use abiotic material to store solar energy to create organic matter; and decomposers which break down organic matter, using its stored energy to create inorganic constituents. Most ecosystems also have consumers which convert organic material to another form, using some of the stored energy of the organic material for maintenance. The rate of transfer of material and energy between parts of the ecosystem is affected by the amount, type, or condition of abiotic and biotic material (factors) in the system.

The annual cycle of the plankton community (drifting organisms) of the region is typical of the temperate zone. During the winter, phytoplankton (plant plankton) and zooplankton (animal plankton) populations are low. Nutrients are available, but production is supressed by low levels of solar radiation and low temperature. As spring approaches and the level of solar radiation increases, an enormous diatom bloom occurs. As the bloom progresses, concentrations of inorganic nutrients decrease.

As water temperatures increase during late spring and summer, phytoplankton and zooplankton become increasingly abundant because of the more rapid development of early life stages, the spawning of fish and benthos, and the abundant food supply.

During summer, zooplankton reaches maximum abundance while phytoplankton declines to a level near the winter minimum. Dinoflagellates and other forms apparently better suited than diatoms to warm, nutrient-poor waters become more abundant during summer. Bacteria in the sediment actively regenerate nutrients, but because of vertical temperature and salinity gradients, the water column is stable and nutrients are not returned to the euphotic zone (where solar radiation and nutrients are "fixed" into organic matter). On Georges Bank, nutrients regenerated by sedimentary bacteria are immediately available to phytoplankton because of mixing. Thus, diatoms dominate throughout the year on Georges Bank, (Cohen, 1975).

During autumn, as water temperatures decreases, the water column becomes unstable due to mixing and nutrients are recycled to the euphotic zone. This stimulates another phytoplankton bloom which is limited by decreasing levels of solar radiation. Phytoplankton and zooplankton levels then decline to their winter minimum while nutrient levels increase to their winter maximum.

Anomalous conditions within the generalized annual cycles are probably common. The stability of the water column which affects nutrient availability may be disrupted by severe storms. Anomalies in temperature may disturb the timing between the annual cycles of interacting species.

VI-2. Habitat Areas of Particular Concern

During the summer and early autumn of 1976, oxygen concentrations at bottom were severely depleted and widespread mortalities of benthic organisms occurred in the section of the New York Bight shown in Figure 10. This near-anoxic (and in places anoxic) region of O_2 levels less than 2 parts per million (ppm) was located approximately 4 miles (6.5 km) off New Jersey and covered an area about 100 miles (160 km) long and 40 miles (64 km) wide during the most critical phases of the depletion (Sharp, 1976). Normal O_2 levels in this region are greater than 4 ppm.

Investigations to date indicate that this state was probably induced by a combination of meteorological and circulatory conditions in conjunction with a large-scale algal bloom (predominantly of *Ceratium tripos*). Lack of normal seasonal turbulence occasioned by relatively few storms (Hurricane Belle notwithstanding), unusual wind patterns, and above-average surface water temperatures probably all contributed to depletion of the oxygen content of waters beneath the permanent thermocline in this region (Sharp, 1976). It is not known to what degree the routine dumping of wastes (sewage sludge and dredge spoils) contributed to the depletion. However, it is reasonable to assume that any effect would have been detrimental (Atkinson, 1976).

The species affected by the anoxia of most commercial importance were surf clam, red hake, lobster, and crabs. Finfish were observed to be driven to inshore areas to escape the anoxia, or were trapped in water with concomitant high levels of hydrogen sulfide (Steimle, 1976). Freeman and Turner (1977) pointed out that ". . . it is difficult to measure with any precision the extent of damage to highly mobile organisms, especially the fishes. Sublethal effects can also occur. Among the observed effects of the anoxic water on fishes were behavioral changes involving vertical distribution and migratory routes which in turn may affect feeding and spawning habits."

Reduction in oxygen levels in New York Bight below normal levels has been observed several times in recent history (Atkinson, 1976) although not to levels as low as those observed in summer, 1976. The relative contribution of any of the above mentioned factors to the anoxia cannot yet and may never fully be assessed. However, it is important to note that each of these conditions, by itself, was not a unique, previously unobserved phenomenon. It is as yet too early to predict the long-term effects of the anoxic condition on any of the affected resources or their habitats.

The Environmental Protection Agency has requested that no fishing be permitted between 38°20'00"N to 38°25'00"N and 74°20'00"W because the area is a sewage disposal area, and between 38°40'00"N to 39°00'00"N and 72°00'00"W to 72°30'00"W because is a toxic industrial waste site (W. E. Stickney, personal communication).

VI-3. Habitat Protection Programs

No special habitat protection programs exist in the habitat of the mackerel species that are the subjects of this plan. Sampling for pollution is carried out by both the NMFS and the Environmental Protection Agency.

Habitat protection programs are administered by a variety of Federal agencies including the Bureau of Land Management of the Interior Department, the Coast Guard, and the Environmental Protection Agency.

The Massachusetts and Rhode Island Coastal Zone Management Programs have been reviewed relative to this FMP and no conflicts were identified.

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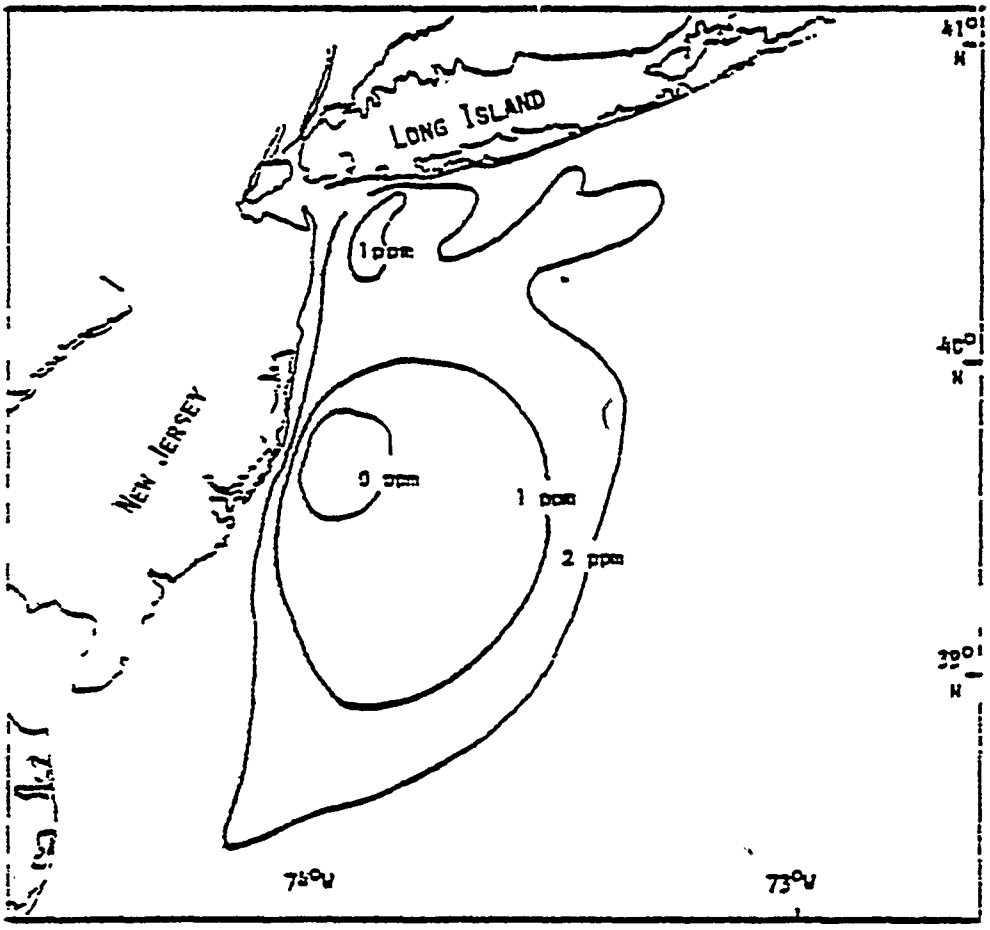

Oxygen Concentrations (Parts Per Million) In "Fish Kill" Area Of The Middle Atlantic Bight, Summer, 1976 (From Sharp, 1976)

Figure 10

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VII. Fishery Management Jurisdiction, Laws, and Policies

VII-1. Management Institutions

The US Department of Commerce, acting through the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, pursuant to the FCMA, has authority to manage the stock throughout its range.

VII-2. Treaties and International Agreements

Foreign fishing for mackerel is regulated by the FCMA pursuant to which Governing International Fishery Agreements are negotiated with foreign nations for fishing within the FCZ.

VII-3. Federal Laws, Regulations, and Policies

The only known Federal law that regulates the management of the mackerel fishery is the FCMA. Currently the fishery is managed pursuant to a Preliminary Management Plan prepared by the Department of Commerce. That PMP will be replaced by this Fishery Management Plan following its approval by the Council and the Secretary of Commerce.

Foreign allocations of mackerel under the PMP for 1978 (as of April 28, 1978) in metric tons were:

Bulgaria	11
Cuba	70
Federal Republic of Germany	6
France	11
Italy	28
Japan	56
Mexico	105
Poland	38
Spain	125
USSR	672
Reserved	78
Total	1,200

No Indian treaty rights are known to exist relative to the species that is the subject of this FMP.

VII-4. State Laws, Regulations, and Policies

Several States have minimum size limits for the sale or possession of mackerel: Massachusetts, 6 inches (15 cm); Connecticut, 7 inches (18 cm); New York, 7 inches (18 cm); and New Jersey, 7 inches (18 cm). No other State laws, regulations, or policies are known to exist relative to this fishery.

VII-5. Local and Other Applicable Laws, Regulations and Policies

No local other laws, regulations, or policies are known to exist relative to this fishery.

VIII. Decription of Fishery Activities

VIII-1. History of Exploitation

Atlantic mackerel have been harvested commercially off the US coast since the 17th century, although detailed catch statistics are not available for periods prior to 1804. In the early years (1804–1818), the fishery was restricted to coastal waters and US catches were low, averaging 3,100 metric tons annually (Table 20). From 1819–1885, American vessels ranged farther offshore to satisfy a large market for salted mackerel, and catches rose to an annual average of 41,700 tons during this period (Hoy and Clark, 1967).

Mackerel abundance has appeared to vary widely historically, although no documentation of such variations exist, except the indirect evidence of large fluctuations in catch in the 19th century. Landings ranged from 10,500 tons in 1840 to 81,300 tons in 1884, but dropped during 1886–1924 to an average of 9,300 tons annually. During the latter period, however, a shift from sail to motor power occurred and a market for fresh mackerel developed. As result, catches again rose substantially averaging 20,300 tons annually during 1930–1949, and reached a peak of 36,600 tons in 1944. In more recent years (1950–1964), the US commercial landings declined to an average of 1,500 tons, followed by a modest increase to 4,040 tons in 1969 and a subsequent decline to 1,061 tons in 1974. Total US commercial landings in 1976 were approximately 2,450 metric tons.

Canada has also fished extensively for mackerel over the years, although complete statistics are not available for years prior to 1876. Since that year, landings tended to parallel those of the US until the 1950s, with both sets of data showing a pronounced decline from the 1880s to the early 1920s and a subsequent increase. Average landings throughout the 1940s by the US exceeded those by Canada (24,200 tons for the US versus 14,900 tons for Canada), but in succeeding years Canadian landings have remained at roughly the same level while US landings have declined precipitously (Table 20).

Before 1962 only the US and Canada fished for mackerel in the northwest Atlantic. Poland entered this fishery in 1962 with a catch of 111 tons in ICNAF Subarea 5. Shortly thereafter, the USSR and other nations began fishing for mackerel, and total landings increased dramatically from about 1,136 tons in Sa 5 and 6 in 1963 to an apparent all-time high of over 431,000 tons in 1972. From 1971 through 1976 (and the end of US participation in ICNAF), mackereal was the largest commercial fishery in ICNAF SAs 5 and 6. The total mackerel catch in the decade 1966–1975 accounted for 12% of the total commercial catch of all species (17,321,000 metric tons) over the same period, according to ICNAF statistics (Table 21).

From 1973–1976, the stock was under ICNAF quota management, and catches consequently decreased. The increase in total catch observed during 1962–1972 has been attributed to increases in stock size and to subsequent diversions of effort from declining herring stocks (Anderson, 1973). Intensive fisheries were initiated by the USSR in 1967, Poland in 1968, and by the GDR (German Democratic Republic) and Bulgaria in 1971. USSR, Polish and GDR vessels averaged 90% of the total catch from 1967 to 1975, and USSR landings exceeded those of any other country since 1965 with the exception of 1972.

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Table 20

Historical Commercial Landings (Metric Tons) Of Atlantic Mackerel For The US And Canada, 1804 - 1975

Canada*

Year	Catch	Year	Catch
1876	14,226	1926	5,239
1877	22,479	1927	7,203
1878	25,134	1928	20,368
1879	25,999	1929	6,929
1880	31,902	1930	8,095
1881	14,702	1931	8,902
1882	15,555	1932	8,094
1883	17,523	1933	11,944
1884	24,737	1934	8,656
1885	20,285	1935	7,280
1886	20,789	1936	10,326
1887	16,418	1937	10,848
1888	8,597	1938	12,953
1889	8,647	1939	23,617
1890	13,354	1940	16,209
1891	18,397	1941	15,927
1892	12,774	1942	13,748
1893	10,222	1943	16,822
1894	7,860	1944	15,546
1895	5,776	1945	18,238
1896	6,240	1946	13,389
1897	3,784	1947	11,913
1898	4,604	1948	11,737
1899	4,703	1949	15,206
1900	11,435	1950	12,352
1901	10,503	1951	11,223
1902	5,931	1952	9,975
1903	11,355	1953	8,373
1904	5,006	1954	11,572
1905	6,829	1955	11,277
1906	9,311	1956	9,586
1907	7,003	1957	8,801
1908	10,318	1958	7,300
1909	7,448	1959	4,287
1910	3,166	1960	5,958
1911	4,088	1961	5,459
1912	4,898	1962	6,801
1913	9,773	1963	6,363
1914	6,519	1964	10,786
1915	8,209	1965	11,185
1916	7,079	1966	11,577
1917	7,578	1967	11,181
1918	8,926	1968	11,134
1919	10,427	1969	13,257
1920	6,457	1970	15,690
1921	6,602	1971	14,735
1922	11,395	1972	16,254
1923	6,430	1973	21,247
1924	9,779	1974	16,701
1925	8,512	1975	13,544

United States

Year	Catch	Year	Catch	Year	Catch
1804	1,632	1861	40,330	1918	9,148
1805	1,780	1862	54,151	1919	7,360
1806	1,707	1863	63,715	1920	8,738
1807	1,931	1864	57,590	1921	4,552
1808	1,584	1865	55,211	1922	5,783
1809	1,832	1866	49,031	1923	15,377
1810	2,605	1867	43,408	1924	12,294
1811	3,612	1868	37,066	1925	22,320
1812	1,221	1869	48,196	1926	30,980
1813	780	1870	66,477	1927	27,370
1814	278	1871	55,040	1928	20,368
1815	3,334	1872	36,566	1929	29,084
1816	6,429	1873	37,334	1930	23,528
1817	7,756	1874	54,605	1931	21,497
1818	9,621	1875	25,378	1932	27,603
1819	20,781	1876	45,035	1933	18,841
1820	24,005	1877	22,701	1934	23,750#
1821	23,044	1878	33,419	1935	29,523
1822	33,273	1879	37,524	1936	23,812#
1823	30,100	1880	59,480	1937	12,066
1824	39,782	1881	66,621	1938	19,636
1825	52,805	1882	64,445	1939	14,785
1826	32,951	1883	38,559	1940	18,430
1827	39,503	1884	81,321	1941	21,028#
1828	49,263	1885	56,123	1942	23,167
1829	46,909	1886	13,608	1943	26,986#
1830	64,031	1887	15,018	1944	33,650
1831	79,617	1888	8,940	1945	26,614
1832	46,176	1889	4,632	1946	23,624#
1833	46,276	1890	49,645	1947	26,673
1834	52,493	1891	8,783	1948	23,160
1835	40,437	1892	9,962	1949	19,083
1836	36,204	1893	11,446	1950	10,022
1837	28,678	1894	10,225	1951	7,143
1838	22,988	1895	5,432	1952	8,250
1839	15,416	1896	16,012	1953	3,876
1840	10,481	1897	4,809	1954	1,822
1841	11,528	1898	4,557	1955	1,756
1842	15,681	1899	4,709	1956	1,830
1843	13,379	1900	20,789	1957	1,097
1844	17,931	1901	15,771	1958	2,075
1845	41,994	1902	10,504	1959	1,836
1846	37,263	1903	11,594	1960	1,396
1847	52,289	1904	8,873	1961	1,361
1848	62,301	1905	10,123	1962	938
1849	43,373	1906	5,329	1963	1,320
1850	50,353	1907	11,111	1964	1,644
1851	68,344	1908	9,451	1965	1,998
1852	41,125	1909	7,693	1966	2,724
1853	27,677	1910	2,570	1967	3,891
1854	28,096	1911	5,471	1968	3,929
1855	43,998	1912	4,609	1969	4,364
1856	44,487	1913	6,131	1970	4,049
1857	35,020	1914	9,518	1971	2,406
1858	27,318	1915	10,552	1972	2,006
1859	20,699	1916	13,452	1973	1,336
1860	48,923	1917	16,746	1974	1,042
				1975	1,124

* Not available prior to 1876

\# Partly estimated

Table 21

Commercial Mackerel Landings From Subareas 3, 4, and 5 And Statistical Area 6 In 1961-1976 (metric tons)

Year	Bulgaria	Canada	Cuba	FRG	France	GDR	Italy	Japan	Poland	Romania	Spain	USSR	USA	Other	Total
							Subarea 3								
1961		1,010	-	-	11	-	-	-	-	-	-	-	-	-	1,021
1962	-	586	-	-	64	-	-	-	-	-	-	-	-	-	650
1963	-	274	-		99	-	-	-	-	-	-	-	-	-	373
1964	-	819	-	-	27	-	-	-	-	-	-	-	-	-	846
1965	-	184	-	-	3	-	-	-	-	-	-	-	-	-	187
1966	-	83	-	-	10	-	-	-	-	-	-	-	-	-	93
1967	-	54	-	-	-	-	-	-	-	-	-	-	-	-	54
1968		186	-	-	-	-	-	-	42	-	-	142	-	-	370
1969	-	311	-	-	-	6	-	-	-	-	-	-	-	2	319
1970	-	837	-	-	-	-	-	-	-	-	-	5	-	-	842
1971	-	1,299	-	-	-	-	-	-	-	-	-	-	-	-	1,299
1972	-	1,554	-	-	-	-	-	-	-	-	-	-	-	-	1,579
1973	-	2,339	-	-	25	-	-	-	-	-	-	-	-	-	2,503
1974	-	1,842	-	-	164	-	-	-	-	-	-	-	-	-	1,951
1975	-	3,802	-	-	109	-	-	-	-	-	-	76	-	-	4,169
1976	-	5,228	-	-	291	-	-	-	45	-	-	-	-	-	5,273
							Subarea 4								
1961	-	4,449	-	-	-	-	-	-	-	-	-	-	-	-	4,449
1962	-	6,215	-	-	-	-	-	-	-	-	-	-	-	-	6,215
1963	-	6,089	-	-	-	-	-	-	-	-	-	11	-	-	6,100
1964	-	9,967	-	-	-	-	-	-	-	-	-	147	-	-	10,114
1965	-	11,001	-	-	-	-	-	-	-	-	-	402	-	-	11,403
1966	-	11,494	-	-	-	-	-	-	-	-	-	1,234	-	-	12,728
1967	-	11,127	-	-	-	-	-	-	-	-	-	62	-	-	11,189
1968	-	10,932		-	-	-	-	19	98	-	-	9,419	-	-	20,468
1969	-	12,946	-	2	-	1,265	-	1	27	-	-	4,075	-	-	18,316
1970	-	14,853	-	209	-	1,047	-	-	49	-	-	3,987	-	-	20,144
1971	-	13,436	-	32	-	10	-	-	2	18	-	9,492	-	-	22,990
1972	-	14,699	37	-	-	31	-	-	245	-	-	5,769	-	-	20,781
1973	-	18,855	-	-	-	-	-	18	-	-	-	16,766	-	-	35,639
1974	-	14,859	-	383	-	-	-	-	1	-	-	27,461	-	-	42,704
1975	19	9,738	200	666	-	-	-	-	-	-	-	21,466	-	-	32,089
1976	11	10,527	407	279	-	-	-	5	-	1	-	16,576	-	-	27,806
							Subarea 5								
1961	-	-	-	-	-	-	-	-	-	-	-	-	1,027	-	1,027
1962	-	-	-	-	-	-	-	-	111	-	-	-	822	-	933
1963	-	-	-	-	-	-	-	-	-	-	-	896	1,202	-	2,098
1964	-	-	-	-	-	-	-	-	-	-		533	1,264	-	1,797
1965	-	-	-	-	-	-	-	-	1	11	-	2,475	1,467	-	3,954
1966	-	-	-	-	-	-	-	-	6	3	-	5,446	1,903	-	7,358
1967	-	-	1	90	-	48	-	1	507	138	-	11,307	3,216	-	15,908
1968	-	-	68	119	-	3,184	-	1	10,160	283	-	33,961	3,001	-	50,777
1969	1,966	-	253	89	-	2,021	-	197	13,421	140	-	47,547	3,873	-	69,507
1970	1,949	-	-	1,004	-	2,920	-	463	40,987	758	-	56,457	3,092	-	107,630
1971	1,632	-	145	1,175	-	7,090	-	272	43,682	1,774	3	59,074	1,593	-	116,440
1972	7,452	1	9	757	-	25,372	-	209	61,486	515	6	103,686	1,025	-	200,518
1973	24,369	53	-	1,260	-	54,874	-	150	100,729	905		132,335	621	-	315,296
1974	3,615	-	-	483	-	10,509	329	13	38,542	1,719		96,325	475	-	152,010
1975	12,060	4	401	466	-	25,587	3	62	28,499	74	22	99,144	761	-	167,083
1976	515	-	5,406	965	-	2,752	40	5	30,634	1,816	74	58,892	1,311	-	102,410
							Statistical Area 6								
1961	-	-	-	-	-	-	-	-	-	-	-	-	334	-	334
1962	-	-	-	-	-	-	-	-	-	-	-	-	116	-	116
1963	-	-	-	-	-	-	-	-	-	-	-	293	118	-	411
1964	-	-	-	-	-	-	-	-	-	-	-	94	380	-	474
1965	-	-	-	-	-	-	-	-	-	-	-	53	531	-	584
1966	-	-	-	-	-	-	-	-	-	-	-	1,252	821	-	2,073
1967	-	-	-	-	-	182	-	45	-	-	-	6,087	675	-	6,969
1968	-	16	-	2	-	158	-	310	448	-	-	7,333	928	-	9,195
1969	117	-	-	-	-	193	-	327	4,977	-	-	37,563	491	-	43,668
1970	2,058	-	-	45	-	2,711	-	1,337	27,153	-	-	68,026	957	-	101,987
1971	26,875	-	-	1,620	-	62,083	-	753	68,612	2,747	47	68,754	813	-	232,304
1972	16,104	-	-	13	-	55,165	800	895	80,513	2,004	-	30,371	981	-	186,845
1973	7,374	-	-	267	-	21,884	375	296	16,525	4,971	-	13,461	715	-	65,868
1974	17,108	-	-	-	-	49,468	91	57	57,561	5,247	-	12,816	567	-	142,915
1975	6,697	-	-	-	-	22,756	46	142	45,782	-	10	7,168	1,213	82	83,896
1976	13,414	-	1,201	-	-	35,398	520	34	20,870	3,579	60	29,833	1,400	-	106,309
							Total								
1961	-	5,459	-	-	11	-	-	-	-	-	-	-	1,361	-	6,831
1962	-	6,801	-	-	64	-	-	-	111	-	-	-	938	-	7,914
1963	-	6,363	-	-	99	-	-	-	-	-	-	1,200	1,320	-	8,982
1964	-	10,786	-	-	27	-	-	-	-	-	-	774	1,644	-	13,231
1965	-	11,185	-	-	3	-	-	-	1	11	-	2,930	1,998	-	16,128
1966	-	11,577	-	-	10	-	-	-	6	3	-	7,932	2,724	-	22,252
1967	-	11,181	1	90	-	210	-	46	507	138	-	18,056	3,891	-	34,120
1968	-	11,134	68	121	-	3,342	-	330	10,748	283	-	50,855	3,929	-	80,810
1969	2,083	13,257	253	91	-	3,485	-	525	18,425	140	-	89,185	4,364	2	131,810
1970	4,007	15,690	-	1,257	-	6,678	-	1,500	68,189	758	-	128,475	4,049	-	230,603
1971	28,507	14,735	145	2,827	-	69,183	-	1,025	112,296	4,539	50	137,320	2,405	-	373,033
1972	23,556	16,254	45	770	25	80,568	800	1,104	142,244	2,519	6	139,826	2,006	-	409,724
1973	31,743	21,247	-	1,527	164	76,758	375	464	117,254	5,876		162,562	1,336	-	419,306
1974	20,723	16,701	-	866	109	59,977	420	70	96,104	6,966	-	136,602	1,042	-	339,580
1975	18,776	13,544	601	1,132	291	48,343	49	204	74,281	74	32	127,854	1,974	82	287,237
1976	13,940	15,755	7,014	1,244	-	38,150	560	44	51,549	5,396	134	105,301	2,711	-	241,798

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A substantial US recreational fishery for mackerel exists from Maine to North Carolina. Angler surveys were conducted in 1960, 1965, 1970, 1974 and 1976, with estimated catches in those years of 5,000 8,600, 32,100, 7,600 and 4,900 tons respectively (Clark, 1962; Deuel and Clark, 1968; Deuel, 1973; Deuel, personal communication; and Christensen *et al.*, 1976) (Table 1).

VIII-2. Domestic Commercial and Recreational Fishing Activities

Types and Numbers of Vessels

Table 22 gives the number of domestic commercial vessels in 1965, 1970, and 1975 which landed some mackerel and the number whose catch for the year consisted of 50% or more mackerel (by weight). There was an increase in the number of vessels which landed some mackerel from 1965 to 1970, but this number declined from 1970 to 1975. The number of vessels whose total catch for the year was 50% or more of mackerel declined during the entire period.

Table 22.—*Number of Vessels in the Commercial Mackerel Fishery 1965, 1970, and 1975*

Year	Vessels landing some mackerel	Vessels whose total catch was 50% or more of mackerel
1965	80	9
1970	167	6
1975	104	3

Table 23 contains data on the number of trips (of all gears), days fished, and catch per day fished for those New England trips where 50% or more of the trip catch consisted of mackerel for the years 1965, 1970, and 1975. There was a general decrease in number of trips, days fished, and catch per day fished (except in 1970).

Table 23.—*Performance Data on Vessel Trips Whose Commercial Landings Consisted of 50% or More Mackerel*

Year	Trips	Days fished	Catch/day fished (1,000 lbs)
1965	89	410.6	4.62
1970	78	303.8	10.77
1975	24	158.3	1.66

It is estimated that in 1975 there were approximately 15 fishermen employed on those vessels whose catch was characterized by 50% or more of mackerel. It should not be implied that these fishermen were solely supported by the value of the mackerel catch, for other species were landed in addition to mackerel during that period. Nor, conversely, the fishermen on board those vessels which landed mackerel, but which are not included in the directed mackerel vessel category, were supported somewhat by the value of the mackerel catch. There were no published financial studies for these vessels.

It is estimated that approximately ten plants process mackerel in the northeast, although mackerel constitutes only a small percentage of the total volume processed. Similarly, a limited number of firms process mackerel in the Mid-Atlantic area. Processing for domestic consumption primarily involves filleting and canning. A substantial protion of the catch is also sold for bait. In 1963, 1965 and 1975, the value of processed mackerel from New England was $5,000, $21,000 and $75,000, respectively.

Maine Commercial Landings

Figure 12 illustrates commercial landings of mackerel in Maine from 1880—1976. Peak landings of 31.7 million pounds (14,380 metric tons) were recorded in 1880, with a secondary peak of 7.7 million pounds (3,475 metric tons) in 1932 (0.7% of the total Maine commercial catch that year). The 1976 catch of 405,000 pounds (184 tons) had an approximate ex-vessel value of $81,000 (or $0.20/pound). The Maine commercial mackerel catch for the first nine months of 1977 was 288,000 pounds (131 tons), down 18% from the same period in 1976. The average price per pound for mackerel in September, 1977, was $0.25. Both by weight and value, this species contributed less than 1% to 1976 total finfish landings in this state.

Most of the Maine catch is now taken by purse seines and floatings traps. Weirs, gill nets, and otter trawls together have accounted for less than 30% of the catch on average in recent years. As Figure 11 illustrates, mackerel is landed in Maine primarily from late spring through fall, with peak landings in summer. This corresponds to the season when mackerel are most abundant offshore of this state. Approximately 80% of the 1976 Maine mackerel catch came from the territorial sea (within three miles of shore).

Massachusetts Commercial Landings

Commercial landings of Atlantic mackerel in Massachusetts from 1879—1976 are shown in Figure 13; seasonal distribution of the landings in 1975—1977 is shown in Figure 11. From 1967—1976, annual Massuchusetts landings averaged 3.2 million pounds (1,470 metric tons), but yearly catches have been beneath that level since 1971. The 1976 catch of 1.5 million pounds (700 tons) brought $190,000 at dockside; this represented 0.6% and 0.35% of total Massachusetts finfish landings by weight and value, respectively. The 1976 average ex-vessel price for mackerel in Massachusetts was about $0.12 per pound (compared to $0.09, $0.21, and $0.16 per pound in 1975, 1974 and 1973 respectively).

Most of the Massachusetts catch is landed between November and May. Little is received at Boston or New Bedford, and about 60% of the 1976 catch was landed at Gloucester, where the average price was $0.09 per pound.

Most of the mackerel landed in Massachusetts is caught in the territorial sea; in 1976, about 70% of the catch was taken within three miles of shore. In 1974, pound nets accounted for about two-thirds of the catch, floating traps for about 18%, and otter trawls for about 3%.

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Landings, Ex Vessel Values and Prices for the US Commercial Mackerel Fishery by Region, 1966 1976

Year	New England			Middle Atlantic			Chesapeake			South Atlantic			Total			National average ex vessel prices
	Weight		Value	Weight		Value	Weight		Value	Weight		Value	Weight		Value	
	1,000 lbs	metric tons	1,000 $	1,000 lbs	metric tons	1,000 $	1,000 lbs	metric tons	1,000 $	1,000 lbs	metric tons	1 000 $	1,000 lbs	metric tons	1,000 $	¢/lb
1966	4,207	(1,908)	287	975	(442)	89	816	(370)	91				6,010	(2,726)	468	7 8
1967	7,039	(3,193)	281	792	(359)	70	688	(312)	79				8,520	(3,865)	430	5 0
1968	5,644	(2,560)	319	1,481	(672)	85	489	(222)	28				7,614	(3,454)	432	5 7
1969	7,842	(3,557)	403	788	(357)	55	276	(126)	20				8,906	(4,040)	484	5 4
1970	6,057	(2,747)	310	1,681	(763)	92	276	(126)	14				8,014	(3,635)	416	5 2
1971	3,535	(1,603)	179	1,481	(672)	79	134	(60)	7				5,150	(2,336)	265	5 1
1972	3,411	(1,547)	270	2,055	(932)	151	62	(28)	6				5,525	(2,507)	427	7 7
1973	2,961	(1,343)	391	1,478	(670)	144	34	(15)	6				4,473	(2,029)	541	12 1
1974	1,150	(522)	213	1,098	(498)	148	122	(55)	22				2,370	(1,075)	383	16 2
1975	1,238	(562)	125	1,855	(841)	206	703	(319)	115	105	(48)	12	3,901	(1,769)	458	11 7
1976	2,373	(1,076)	363	2,102	(953)	190	500	(227)	62	440	(200)	40	5,415	(2,456)	655	12 1

New England = Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut

Middle Atlantic = New York, New Jersey and Delaware

Chesapeake = Maryland and Virginia

South Atlantic = North Carolina, South Carolina, Georgia, and Florida (east coast)

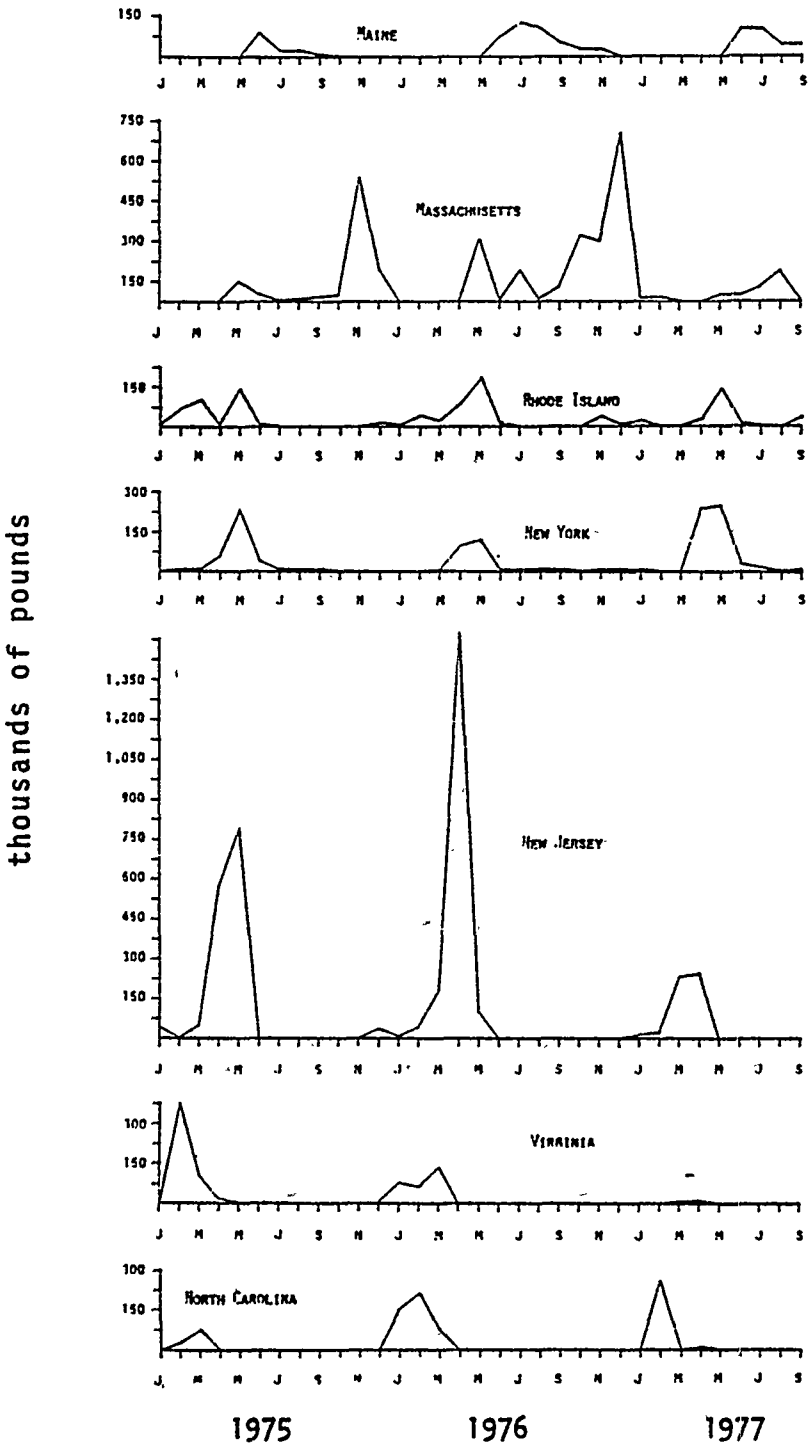
Table 24

Landings Of Atlantic Mackerel By State
1967 - 1976
in thousands of pounds and (thousands of dollars)

Year	ME	N H	R I	CONN	MASS	N Y	N J	DEL	MD	VA	N C	TOTAL (lbs)	TOTAL (tons)
1976	404 (81)	(*)	410 (87)	13 (5)	1551 (191)	249 (40)	1852 (151)	(*)	224 (21)	277 (40)	440 (40)	5414 (655)	2456
1975	145 (22)	(*)	357 (40)	-	991 (90)	357 (63)	1497 (143)	(*)	205 (33)	498 (81)	105 (12)	3900 (457)	1769
1974	284 (34)	-	236 (45)	26 (5)	604 (129)	322 (39)	774 (109)	2 (*)	68 (10)	54 (12)	-	2339 (376)	1061
1973	379 (40)	-	1297 (142)	22 (4)	1263 (205)	323 (50)	1155 (94)	-	20 (4)	14 (2)	-	4473 (541)	2029
1972	92 (14)	3 (*)	747 (47)	8 (1)	2561 (208)	544 (46)	1511 (105)	-	7 (1)	55 (5)	-	5528 (427)	2508
1971	225 (14)	3 (*)	179 (16)	11 (2)	3117 (147)	502 (30)	979 (49)	-	10 (*)	124 (7)	-	5150 (265)	2336
1970	482 (22)	-	556 (39)	16 (2)	5003 (247)	368 (31)	1313 (61)	-	3 (*)	273 (14)	-	8014 (416)	3635
1969	248 (12)	-	625 (61)	13 (1)	6956 (329)	492 (33)	296 (22)	-	30 (4)	246 (22)	-	8906 (484)	4040
1968	388 (17)	-	868 (61)	67 (4)	4321 (237)	810 (50)	669 (35)	2 (*)	49 (2)	440 (26)	-	7614 (432)	3454
1967	353 (16)	5 (1)	658 (59)	8 (1)	6015 (204)	360 (26)	401 (40)	31 (4)	43 (5)	645 (74)	1 (*)	8520 (430)	3865

* = negligible
\- = zero

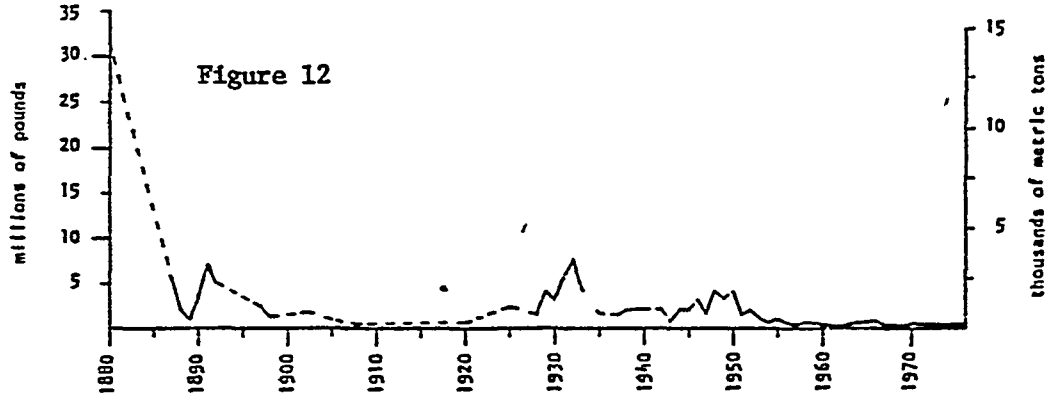
Table 25



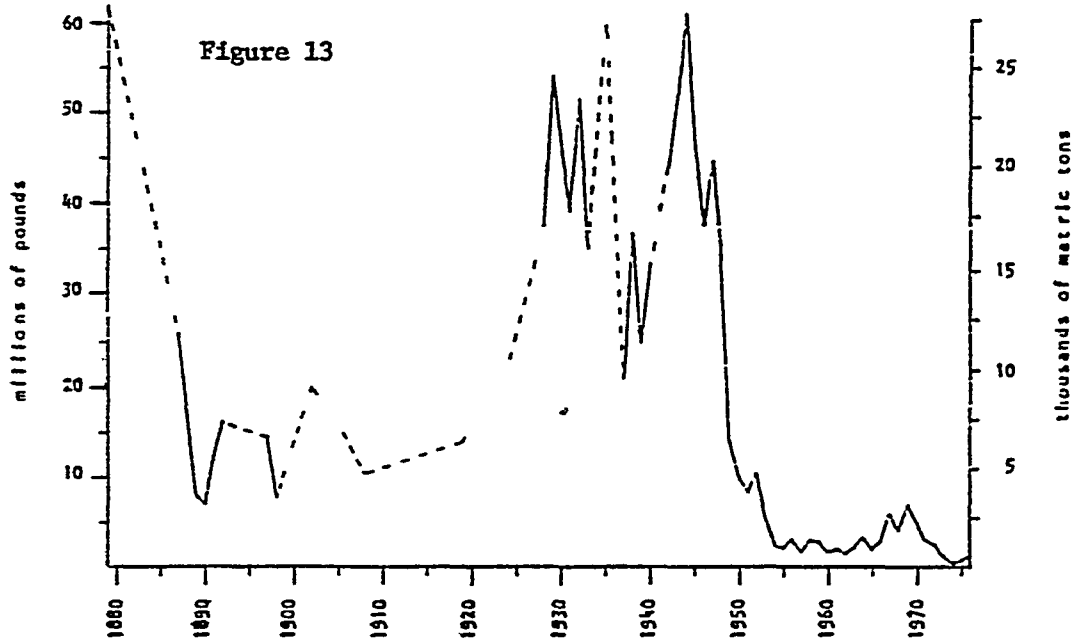
Monthly Atlantic Mackerel Landings By State

January, 1975 - September, 1977

Figure 11



Commercial Landings Of Atlantic Mackerel In Maine, 1880 - 1976



Commercial Landings Of Atlantic Mackerel In Massachusetts, 1879 - 1976

Commercial Landings Of Atlantic Mackerel In Rhode Island, 1880 - 1976

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Rhode Island Commercial Landings

Commercial landings of mackerel in Rhode Island averaged 600,000 pounds (270 metric tons) from 1967–1976. The 1976 landings of 410,000 pounds (186 tons) had an ex-vessel value of $87,000 (or about $0.21 per pound), and constituted about 0.6% by weight of total State landings that year (Figure 14).

Peak landings of mackerel in Rhode Island occurred in 1928 (2.7 million pounds), and annual landings have not surpassed one million pounds since 1949. Floating traps and otter trawls take the bulk of the catch, although purse seines occasionally take large amounts. Almost all of the catch is taken from November through May (Figure 11).

Over half of the annual mackerel catch comes from inshore waters. In 1976, approximately one-third of the total State catch came from what is now the fishery conservation zone. Most of the State catch is landed in Point Judith.

New York Commercial Landings

Landings of Atlantic mackerel in New York have also varied more or less similarly to total domestic commercial landings. The 1976 State landings of 249,000 pounds (113 metric tons), worth about $40,000 at the dock, represented only 1.5% by weight and about 1% by value of the 1976 total finfish landings in New York, and only 7% by weight of the peak 1947 New York mackerel catch (Figure 16).

The New York mackerel catch for the first nine months of 1977 was 544,213 pounds (247 tons); this figure, however, should reflect fairly accurately the total 1977 catch, since this species is landed in New York almost entirely in spring and early summer (Figure 11). Thus, the 1977 State mackerel catch will be the highest in a decade. The average ex-vessel price for this species was about $0.16 per pound in 1976 and 1977.

Pound nets usually take the largest proportion of the catch (59% in 1974), and haul seines and otter trawls account for most of the remainder. The overall decline in New York mackerel landings since World War II may thus to some extent be a result of the decline of the New York pound net industry (McHugh, 1972).

Almost the entire mackerel catch is landed in Suffolk County. Since at least 1974, all mackerel has been caught in the territorial sea. In 1976, approximately 20% of the total state mackerel catch was taken from Long Island Sound.

New Jersey Commercial Landings

Landings of Atlantic mackerel in New Jersey have roughly paralleled those in New England. State mackerel landings in 1976, 1.852 million pounds (840 metric tons) (worth about $151,000 ex-vessel), were the highest recorded in 25 years, but represented only about 10% of the peak 1949 catch (Figure 17). The 1977 mackerel catch, however, probably was not greater than 600,000 pounds (272 tons). The average yearly landings in the decade from 1967–1976 were just over one million pounds.

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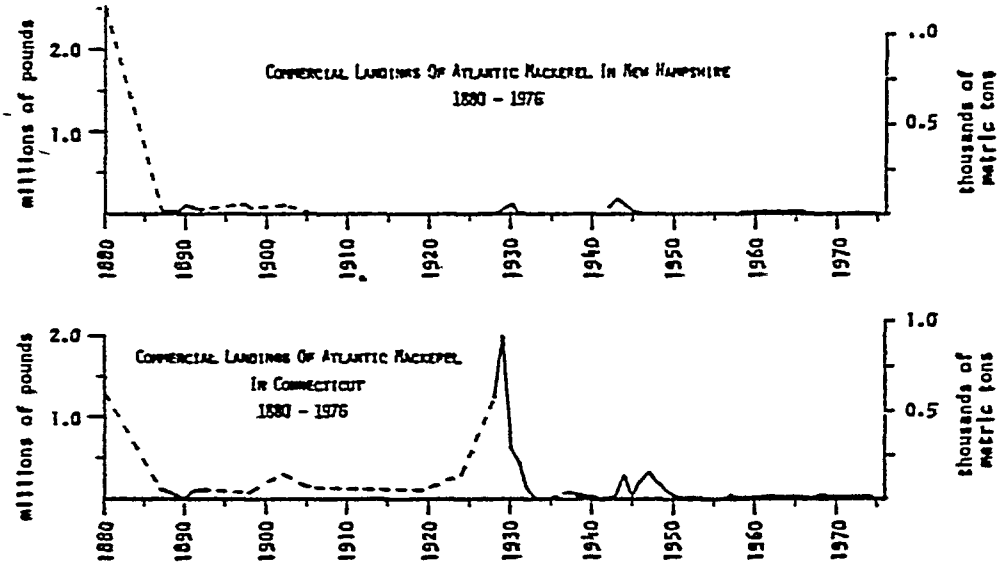

Figure 15

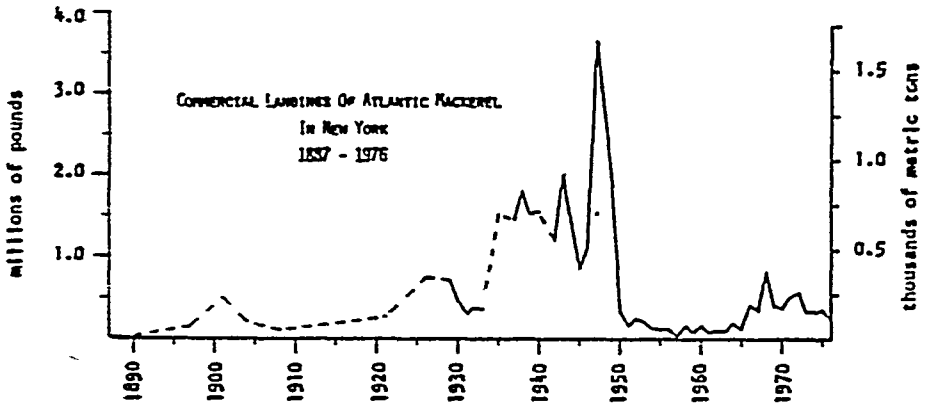

Figure 16

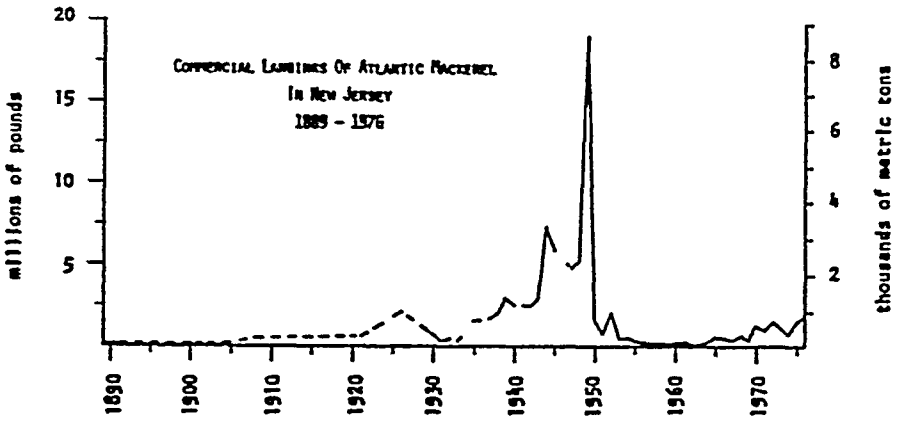

Figure 17

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Finfish landings in New Jersey are dominated by the (industrial) menhaden fishery, which in 1976 accounted for 80% by weight of the total finfish catch. The low ex-vessel value of menhaden distorts the relative value of other species. Thus, of total New Jersey finfish landings (without menhaden) in 1976, mackerel accounted for about 5% by weight and 2% by value. the yearly average 1976 and 1977 ex-vessel price for this species was about $0.08 per pound, which is also average for the fishery from 1967–1977 (unadjusted for inflation).

Almost all mackerel landed in New Jersey is taken in the spring (Figure 11), and most of the catch is received in Cape May County, which received about 12% of the total State finfish catch that year (almost all menhaden is landed in Monmouth County). Mackerel landings in Cape May constituted 8% by weight of total finfish in 1976. Even during peak makerel-landing months in 1977 in this county, however, this species never accounted for more than 10% by weight or value of landings, since the Cape may finfish fishery is supported mainly by scup from autumn through spring.

Almost all mackerel landed in New Jersey is caught with otter trawls, and almost all is taken in what is now the fishery conservation zone. In most recent years, most of the catch has been taken in waters between three and 12 miles from shore.

Maryland Commercial Landings

Commercial landings of finfish in Maryland are dominated by catches from the Chesapeake Bay and the Potomac River and their tributaries. In 1976, 29% by weight and 37% by value of the State's total finfish catch came from the Atlantic Ocean. The only Atlantic fishing port in Maryland is Ocean City, which is home to but a few otter trawlers.

No directed trawl fishery for mackerel exists in this State. Catches have been significant in recent years only since 1974 (Table 25). The 1977 landings were probably about 100,000 pounds (45 metric tons) (worth approximately $20,000, or $0.20 per pound). Mackerel is not an important component of the State's industrial fishery, which relies on menhaden taken from inland waters, although some of the catch is used for bait. Little consumer demand for makerel exists locally, and much of the catch is shipped as foodfish to northern markets, usually New York (W. Brey, NMFS, personal communication).

Mackerel is landed in Maryland only during spring. Over half of the year's catch in 1975 and 1976 was landed in March. Since overall finfish catches from the ocean are greatest usually from early spring to early autumn, mackerel catches therefore reflect a seasonal increase in trawling coupled with increased availability due to inshore and northward migration.

In 1976, mackerel was the sixth most important finfish landed in Maryland, of those taken primarily from the ocean, in terms of weight and value, and landings accounted for almost 6% of the year's total ocean finfish production. Increased mackerel landings since 1975 have had a significant if only seasonal impact on the Maryland ocean finfish fishery. In 1976, for example, the March and April mackerel catches provided 56% and 36% by weight of total ocean finfish landings, respectively, and 27% and 15% of the overall value. Almost the entire 1977 catch was landed in April, and for that month, mackerel provided 48% and 38% of the weight and value, respectively, of the ocean finfish landings. Since Ocean City landings are usually supported during spring months by summer flounder catches, a species which is heavily exploited throughout its range, the development of a mackerel fishery in Maryland could provide desirable diversification and financial stability for the Ocean City fishing community.

Virginia Commercial Landings

Virginia's 1976 commercial catch of mackerel, 277,000 pounds (126 metric tons, worth about $40,000 ex-vessel) is approximately equal to the State's average landings of mackerel in the last decade, although annual catches during that period varied from 14,000 pounds to 645,000 pounds (6 to 293 tons). The average price per pound of mackerel in 1976 was $0.14, the lowest price since 1973. The average price per pound (unadjusted for inflation) over the last 10 years was $0.11) Table 25).

Landings of mackerel in 1977 decreased drastically; the total catch was approximately 11,200 pounds (5 tons) which was worth $2,600 ($0.23 per pound). This decrease was probably due to lowered abundance.

Mackerel is caught with a variety of fishing gears in Virginia. Almost the entire catch is landed in late winter through early spring.

North Carolina Commercial Landings

Commercial landings of mackerel in North Carolina were insignificant until 1975, and no directed fishery for this species exists in this State. In 1975, and 1976, 105,000 pounds (47 metric tons) and 440,000 pounds (200 metric tons), respectively, were landed. the 1976 catch of mackerel was worth $40,000 ex-vessel, or about $0.9 per pound. Almost all of the 1976 catch was taken January–March; the 1977 catch for the same period was approximately 259,000 pounds (117 tons), worth about $26,000 ($0.10 per pound) (Table 25, Figure 11).

The increase in mackerel landings reflects increases in otter trawl caught species in this State; total finfish landings grew from 173 million pounds (79,000 tons) in 1974 to 215 million pounds (97,000 tons) in 1975 (or 52 million pounds to 61 million pounds, if the menhaden catch is subtracted from the total finfish catch). Almost all of the mackerel landed in North Carolina is shipped north to other states; little if any market exists for this species locally (K. Norris, NMFS, personal communication).

Recreational Fishery

Atlantic mackerel occur both offshore and inshore, and enter large estuaries, but most of the angling for them occurs along the ocean shore between the 13 and 60 meter contours. They are caught throughout the year, depending on the particular stretch of coast fished. Off Virginia, Maryland, and Delaware they are caught during late fall, winter and early spring; off New Jersey, New york and southern New England during summer and early fall. Mackerel are caught during daylight hours by jigging, chumming and trolling from boats, and by casting, jigging and live-lining from shore. the great majority of the angler catch consists of specimens weighing 0.24–0.70 kg (0.50–1.5 pounds) (25–40 cm fork length). The New York–Maine area accounted for about 95% of the catch in 1960 and 1965, 60% in 1970, and 30% in 1974. The New Jersey–North Carolina area accounted for an increasingly greater share of the catch in 1970 and 1974. In 1970, about 94% of the mackerel catch (by numbers) was from private, party, or charter boats.

In order to account for the recreational catches in the stock assessment (Section V-2), it was necessary to estimate the catches in the years with no surveys (Table 1). In the years of the surveys, the estimated sport catches were closely proportional to stock biomass estimates determined from commercial data. This relationship was assumed to apply in the years with no surveys. The recreational catch has been significantly higher than the US commercial catch in recent years.

The NMFS conducted a survey of sport fishing for mackerel from boats (private, party, and charter) in 1978. The estimated recreational mackerel catch that year by anglers on boats was approximately 6,200 metric tons. Assuming that this represents 94% of the total sport catch (as was estimated for 1970) the total US sport catch of Atlantic mackerel in 1978 was appoximately 6,600 metric tons (D. Christensen, NMFS, personal communication, November, 1978).

Table 26.—*Species Ranking by Total Weight of Catch of Recreational Anglers Fishing Along the Northeastern United States Coast*

	1960	1965	1970	1974
1	Striped bass	Bluefish	Bluefish	Bluefish
2	Bluefish	Striped bass	Striped bass	Striped bass
3	Atlantic cod	Atlantic cod	*Atlantic mackerel*	Summer flounder
4	Flounder*	Summer flounder	Winter flounder	Atlantic cod
5	Flounder*	Winter flounder	Atlantic cod	Weakfish
6	Sharks	Puffers	Puffers	Winter flounder
7	Pollack	*Atlantic mackerel*	Spot	*Atlantic mackerel*
8	Tautog	Perches	Summer flounder	Tautog
9	Scup	Scup	Tautog	Perches
10	Black sea bass	Tautog	Weakfish	Scup
11	Red drum	Black sea bass	Perches	Spot
12	*Atlantic mackerel*	Spot	Sea robins	Black sea bass

*Winter and summer flounders were combined as "flatfish" in the 1960 survey.

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Table 27. Estimated Weights of Marine Anglers' Finfish Catches, 1970, by Species and Region (thousands of pounds)

North Atlantic Region		Middle Atlantic Region		South Atlantic Region	
Bluefish	50,161	Bluefish	49,720	King mackerel	34,942
Striped bass	45,844	Atlantic mackerel	29,250	Jacks	33,149
Atlantic mackerel	41,482	Striped bass	27,262	Dolphins	27,806
Atlantic cod	35,688	Spot	21,573	Grunts	25,962
Winter flounder	24,684	Puffer	16,568	Spotted seatrout	25,040
Tautog	15,629	Weakfish	14,039	Grouper	24,121
Summer flounder	11,611	Winter flounder	12,881	Scup	24,059
Puffer	7,899	Perches	12,592	Yellowtail snapper	20,163
Pollock	5,584	Summer flounder	7,742	Bluefish	19,271
Sharks	4,795	Sea robins	6,741	Snook	17,957
Tunas	3,711	Black sea bass	6,710	Catfish	16,570
Kingfish	3,457	Catfish	6,151	Spanish mackerel	14,623
American eel	3,166	American shad	4,231	Kingfish	14,533
Haddock	2,528	Wahoo	3,985	Red drum	13,358
Sea robins	2,343	Croaker	3,831	Billfishes	12,489
Scup	2,296	Yellow perch	2,581	Black sea bass	12,381
Cunner	1,914	Kingfish	2,402	Black drum	12,123
Weakfish	1,645	Scup	2,127	Spot	9,840
Silver hake	659	Tautog	1,619	Summer flounder	8,938
American shad	625	Black drum	1,454	Croaker	5,947
Black sea bass	615	Silver hake	1,436	Tunas	5,943
Dogfish	468	Sharks	1,276	Red snapper	5,682
Smelts	195	Spanish mackerel	946	Puffer	4,440
Skates/rays	185	Red hake	904	Barracuda	3,746
Perches	32	Tunas	886	Bonito	2,295
Miscellaneous	235	American eel	740	Ladyfish	1,910
		Billfishes	717	Wahoo	1,571
		Dolphins	419	Cobia	775
		Dogfish	404	Snappers	735
		Bonito	282	Sharks	669
		Atlantic cod	230	Skates/rays	470
		King mackerel	225	Mullets	341
		Skates/rays	180	Perches	226
		Oyster toadfish	133	Dogfish	214
		Red drum	83	Striped bass	189
		Miscellaneous	3,947	Pompano	153
				American eel	122
				Atlantic spadefish	51
				Sand seatrout	23
				Sea robins	4
				Miscellaneous	1,082
Total	267,451		246,267		403,913

North Atlantic Region = Maine through New York
Middle Atlantic Region = New Jersey to Cape Hatteras, North Carolina
South Atlantic Region = Cape Hatteras to southern Florida, including the Florida Keys

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VIII-3. Foreign Fishing Activities

Regulation for foreign fishing along the US coast of the northwest Atlantic Ocean began in 1949 when the US convened a conference of 11 countries at Washington, D.C. This conference resulted in the formation of the International Commission for the Northwest Atlantic Fisheries (ICNAF). The Northwest Atlantic Fisheries Act of 1950 authorized US involvement in the activities of the Commission. The designated area was the waters north of 39° 00' N latitude and east of 71° 40' W longitude. Commission regulations in the early 1950s evolved around the establishment of mesh regulations for certain directed groundfish fisheries (e.g., cod and haddock), with groundfish by-catch provisions for other small-mesh directed fisheries (e.g., silver hake and herring).

The arrival of the foreign distant water fleets off the US coast in the early 1960s stimulated a great deal of discussion about the possible extension of territorial waters. Failure to resolve this question through the International Law of the Sea Conferences led to the establishment in late 1966 of a contiguous fishing zone off the entire US coastline between three and 12 nautical miles. Only Canada was authorized to fish within this zone under a reciprocal fishing agreement with that country.

As the activity of the foreign distant water fleets increased, their operations began to expand to waters south of the Convention Area. Because of the overlap in fish stocks and the known migrations of commercially important species between the Convention Area and the waters to the south, ICNAF in 1966 adopted the responsibility for collecting statistics for the catches from non-convention waters as far south as Cape Hatteras. The area was designated Statistical Area 6. Management of the fisheries within these waters, however, had to be accomplished through a series of bilateral negotiations, beginning in 1968 with the USSR.

Prior to 1973 the Atlantic mackerel fishery in ICNAF Subareas 3–5 and Statistical Area 6 was not regulated. The first TAC (Total Allowable Catch) of 450,000 metric tons was set for 1973 in SAs 5 and 6 in an attempt to limit the rapidly developing distant-water fisheries until an adequate assessment could be completed.

The 1974, 1975 and 1976 TACs (304,000, 285,000 and 254,000 metric tons, respectively) in SAs 5 and 6 were established to stabilize fishing mortality at the 1973 level, which was near the point of F_{max}. F_{max} is defined as the (instantaneous) fishing mortality rate at which yield per individual entering the fishery (recruit) is maximized. The first TAC in SAs 3 and 4 was set (1974) only for ICNAF Divisions 4V, 4W, and 4X (55,000 tons) to permit a reasonable but limited expansion of that fishery. The 1975 TAC for SAs 3 and 4 (70,000 tons) was established to stabilize the fishery at the 1974 expected level of catch. The 1976 TAC was set at 56,000 tons.

Although some progress has been made in tracing migratory pathways, seasonal distributions of the northern and southern contingents are still uncertain. It is known, for example, that both contingents contribute to the winter fishery off New England, although their relative contributions have never been determined. Consequently, the ICNAF Assessments Subcommittee agreed in 1975 to assess all mackerel in SA 3–6 as a unit stock. The 1976 TAC of 310,000 tons for SA 3–6 was, therefore, apportioned on the basis of historical catches to determine the SAs 5 and 6 and SAs 3 and 4 allocations.

Distant-water fleets conduct their mackerel fisheries primarily with pelagic midwater trawls, although bottom trawls are also used to some extent.

It is difficult to make an accurate evaluation as to the numbers and types of vessels involved in the mackerel fishery by nation. However, it is apparent that a substantial amount of effort was directed toward mackerel in recent years, primarily during the early months of the year off southern New England and the Mid-Atlantic states. Here large numbers (over 100) of factory stern trawlers (primarily USSR) fished for mackerel and other species during winter. The directed USSR fishery for mackerel ended in spring following the taking of most of the mackerel quota. This pattern of movement and activity was duplicated to some extent by the two other nations most heavily engaged in the mackerel fishery (Poland and the GDR), although in 1974 and 1975 these countries were unable to reach their quotas in spring and therefore fished for mackerel in the autumn.

VIII-4. Interaction Between Domestic and Foreign Participants in the Fishery

Fisheries off the northeast coast of the US have been studied and managed under the auspices of the International Commission for the Northwest Atlantic Fisheries (ICNAF), established in 1949. In 1976, ICNAF was composed of 18 member nations, including the US and Canada. The US withdrew from ICNAF as of January 1, 1977, in order to implement the Fishery Conservation and Management Act of 1976 (FCMA). For management under ICNAF, the northwest Atlantic was divided into 5 Subareas (SA) (the Convention Area). An additional Statistical Area (SA) 6 was established in 1966. These Areas were further divided into Divisions and Subdivisions (Figure 1). Fisheries for numerous species of the region were regulated through ICNAF by establishing Total Allowable Catches (TACs) and gear and area restrictions. Some species were also managed through bilateral agreements between the US and other nations.

Subarea 5 and Statistical Area 6 together include the region extending from Maine to Cape Hatteras, which is within the fishery conservation zone established by the FCMA. Until implementation of the FCMA, the 12 mile limit was the western boundary of ICNAF SA 5 and 6. The western limit of ICNAF Subarea 5, bounded by the line 71° 40' W longitude, runs south through Block Island to 39° 00' N latitude, due east of Cape May, New Jersey. The southern boundary of the ICNAF Convention Area runs east to 42° 00' W longitude. The eastern boundary is not shown in the figure because virtually all fishing in the region takes place over the Continental Shelf, bounded by the 200 meter isobath. Subdivision 5Ze corresponds roughly to Georges Bank, and 5Zw to Nantucket Shoals (Figure 1).

Almost all catches from SA 6 have come from Divisions 6A (New York Bight), 6B, and 6C. Foreign fleets first began fishing in these waters in the early 1960s. Statistical Area 6 was not subdivided until 1968, and submission by member nations of detailed catch reports by each Division was not consistent until recent years. Thus, the precise distribution of foreign fishing since its inception in the Middle Atlantic Bight is not completely known. It is probable that much of the foreign catch in Divisions 6A–6C has directly influenced abundance and availability of many migratory species to the north and south of the waters under the purview of the Mid-Atlantic Fishery Management Council.

Since the United States and Canada extended their jurisdictions to 200 miles in 1977, sovereignty over portions of Georges Bank is in dispute. The problem is further complicated by uncertainty as to fish stock relationships. Currently, two contingents in the Atlantic mackerel stock are recognized, both of which may migrate into and through the disputed area.

United States and foreign landings data for all Atlantic mackerel stocks are given in Table 28. The US percentage in terms of total catch has declined steadily since 1961 coincidentally with the introduction of the foreign fishing fleets. The US portion of the total landings since 1971 has been less than 10%. It has been noted in earlier sections that the major portion of the catch is taken by the USSR, Poland, the GDR, and Bulgaria. The reduction of stock size as a result of the foreign catch may have had an effect on the availability of mackerel to US fishermen, particularly to those in the sport fishery.

Table 28.—*U.S. (Commercial and Recreational), Foreign, and Total Landings Expressed as Relative Percentages of the Total for the ICNAF Subareas 3–5 and Statistical Area 6 Mackerel Stock 1961–1976*

[Metric tons]

	United States	Percent	Foreign nations	Percent	Total
Year:					
1961....	8,189	60	5,470	40	13,659
1962....	9,636	58	6,976	42	16,612
1963....	9,668	56	7,662	44	17,330
1964....	10,130	49	10,587	51	20,717
1965....	10,581	43	14,130	57	24,711
1966....	12,896	40	19,528	60	32,424
1967....	17,418	37	30,229	63	47,647
1968....	33,059	30	76,882	70	109,941
1969....	37,667	23	127,466	77	165,133
1970....	36,127	14	226,559	86	262,686
1971....	33,048	8	370,627	92	403,675
1972....	23,888	6	407,718	94	431,606
1973....	11,280	3	417,970	97	429,250
1974....	8,682	3	338,538	97	347,220
1975....	7,627	3	227,180	97	284,807
1976....	7,397	3	232,550	97	239,947

Non-Target Species Mortalities

Fisheries (main species sought category) in which mackerel were caught in SAs 5 and 6 in 1974 are shown by country in Table 30. A total mackerel catch of 294,925 metric tons was harvested of which 36,554 tons (12%) occurred as by-catch in fisheries directed toward other species. In the absence of information to the contrary, it was assumed that if a given catch record consisted predominantly of a given species, then the fishery was directed toward that species.

This procedure is necessary since much of the catch data reported to ICNAF are not submitted in terms of species sought. Ninety-five percent of the by-catch occurred in directed fisheries for three species categories: silver hake (71%), herring (18%), and invertebrates (6%); and 94% was taken by two countries, the USSR (76%) and Poland (18%), with only minor quantities reported by other countries. Mackerel caught as by-catch accounted for approximately 12% of the total TAC allocation of 304,000 tons in SAs 5 and 6 for 1974.

The mackerel fishery was difficult to identify under the previous catch reporting scheme because it occurred in a mixed fishery situation. A procedure was adopted of assigning a catch record* to the mackerel fishery if the largest catch was of mackerel (Table 30). The international mackerel fishery thus defined had a by-catch of other species equal to 18% of its directed mackerel catch of 258,283 tons. The species constituting most of this by-catch were herring (28%), silver hake (23%), and other fish (35%). These by-catches accounted for 8% (10,828 tons) of the silver hake catch in 1974, 7% (13,287 tons) of the herring catch in 1974, and 12% (16,437 tons) of the other fish catch in 1974. Table 30 lists the 1974 by-catches and by-catch ratios in the mackerel fishery for all countries combined and for individual countries.

By-catch ratios should be regarded as very tentative, since statistics reported to ICNAF lump several directed fisheries together under a mixed fishery classification. This procedure gives higher ratios than actually occur, since some "directed" catch would be considered as by-catch when the target species was recorded as mixed. Analyses of US inspections under ICNAF indicate by-catch ratios in the recent directed mackerel fishery are usually below 3%.

Economic Interactions

A number of economic interactions are possible which could influence the US industry. Declines in stock abundance resulting from increased exploitation would result in declining catch per unit of effort, thus increasing commercial operational costs and adversely affecting profitability (a pronounced decline in catch per unit of effort has in fact occurred for the US since 1970). Decline in stock abundance could similarly produce a declining catch per unit of effort in the sport fishery and adversely affect profitability of party and charter boat operators due to a reduced demand for recreational fishing. Foreign imports could have an impact on ex-vessel prices, further affecting profitability.

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By-Catch Ratios And Catches In The Mackerel Fishery For 1974 By Countries

(metric tons)

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	American plaice	Witch flounder	Yellowtail flounder	Other flounder	Herring	Mackerel	Squid	Other fish	Total
All countries combined															
Ratio	0 001	0	0	0 042	0 005	0	0	0	0	0	0 051	1 000	0 020	0 063	1 182
Catch	286	0	0	10,028	1,310	8	3	51	14	10	13 207	258,283	5 200	16,437	305 805
Bulgaria															
Ratio	0	0	0	0 050	0 016	0	0	0	0	0	0 065	1 000	0 026	0 159	1 316
Catch	0	0	0	1,034	336	0	0	0	0	0	1 353	20,664	536	3 292	27 215
GDR															
Ratio	0	0	0	0 001	0	0	0	0	0	0	0 040	1 000	0	0 013	1 054
Catch	20	0	0	38	0	0	0	0	0	0	2 367	59 832	0	754	63 011
Poland															
Ratio	0 003	0	0	0 002	0	0	0	0	0	0	0 072	1 000	0 044	0 081	1 202
Catch	248	0	0	136	0	0	0	0	0	0	6 401	69 620	3 904	7 267	107 656
Romania															
Ratio	0	0	0	0 027	0 012	0	0	0	0	0	0 146	1 000	0 001	0 054	1 240
Catch	2	0	0	174	78	0	0	0	0	0	956	6 555	7	355	8 127
USSR															
Ratio	0	0	0	0 116	0 011	0	0	0 001	0	0	0 026	1 000	0 010	0.057	1 221
Catch	13	0	0	9,438	896	4	3	51	14	10	2,106	81 279	824	4,693	99 331
USA															
Ratio	0 009	0	0	0 024	0	0 012	0	00	0	0	0 072	1 000	0 051	0 228	1 396
Catch	3	0	0	8	0	4	0	00	0	0	24	333	17	76	465

Table 29

Table 30. By-Catches and By-Catch Ratios of Mackerel Taken in 1974 in ICNAF SA 5 and SA 6 in a Designated Fishery (Main Species Sought Category) by Country (metric tons)

	Main Species Sought							
Country	Silver hake	Red hake	Other ground-fish	Herring	Other pelagics	Other fish	Inver-tebrates	Miscel-laneous
Bulgaria								
Catch	59							
Ratio	0.039							
FRG								
Catch				483				
Ratio				0.016				
GDR								
Catch				48		93		4
Ratio				0.400		0.051		0.500
Italy								
Catch							420	
Ratio							0.099	
Japan								
Catch			0		8		62	
Ratio			0.000		0.002		0.004	
Poland								
Catch				4,730		0	1,746	7
Ratio				0.145		0.000	0.816	0.072
Romania								
Catch				411				
Ratio				0.387				
USSR								
Catch	25,886	484	0	766	0	711	15	
Ratio	0.262	0.032	0.000	0.022	0.000	0.035	0.010	
USA								
Catch	85	1	282	1	113	18	102	19
Ratio	0.009	0.001	0.019	0.000	0.002	0.001	0.160	0.001
Total								
Catch	26,030	485	282	6,439	121	822	2,345	30

IX. DESCRIPTION OF ECONOMIC CHARACTERISTICS OF THE FISHERY

IX-1. Domestic Harvesting Sector

Historical records indicate that Atlantic mackerel has been an important source of revenue to New England and Mid-Atlantic fishermen since the early 19th century. Trends in the total dollar values (ex-vessel) reflect trends in landings; for Boston (the leading port) landings values averaged $341,928 during 1893 - 1930, and ranged from a low of $46,133 in 1895 to a high of $973,105 in 1926. During the next two decades, Boston landings values steadily increased to an all time high of $1,550,000 in 1945. This was followed by a precipitous decline to $81,071 in 1949. Landings values have since declined to insignificant levels in Boston (1,100 pounds in 1976, worth $257).

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The total ex-vessel value of mackerel landed in all the New England States was $2,302,596 in 1929, but since 1950 this figure has been less than $1,000,000, and in 1976 the total reported figure was $363,000 (Table 24). The total value in the Middle Atlantic region reached $852,814 in 1947 declined to $24,000 in 1959, and increased to $151,000 in 1972. In 1976, the total reported figure was about $190,000 (Table 24). The total dollar value of the U.S. commercial mackerel catch was approximately $655,000 in 1976. In the last decade, conditions for the fishery as a whole have been rather stable; price increases in the 1973–1975 period appear to have been offset by declining catches, and total catch values have, if anything, declined somewhat.

Tables 31–35 show landings by gear by county for the Mid-Atlantic States. Mackerel have been relatively unimportant except in several New Jersey and Maryland counties.

Table 36 contains data on the value of the mackerel catch as a percentage of the total regional fish catch for the 1966–1972 period. The value of the regional mackerel catch during the 1966–1972 period constituted, in general, less than one percent of the total regional fish catch. Clearly, the mackerel fishery has not been of great economic importance during this period.

IX–2. Domestic Processing Sector

The number of firms in the domestic processing sector is so small that the data are not published. Therefore, this analysis cannot be made. Estimates of processing capacity, as required by the amended FCMA, cannot be made because of the lack of relevant data. The proposed reporting requirements in this FMP should resolve this problem so that the analysis can be made in future updates of this FMP.

IX–3. International Trade

In 1973, 1,697,000 pounds of mackerel (pickled or salted) worth $433,000 were imported into the US. During 1974, imports of this commodity totalled 1,046,000 pounds and $289,000. In addition, in 1973, 5,000 pounds of smoked or kippered mackerel worth $4,000 were imported. Imports of this item grew to 44,000 pounds and $32,000 in 1974.

In 1973, 248,000 pounds of canned mackerel worth $46,000 were exported from the US. Exports in 1974 were 353,000 pounds worth $76,000.

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Table 31

Contribution Of 1976 Mackerel Landings To New York Counties And Fishing Gears

Kings County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	9,300	1,783	0.19
Hand Lines	8,100	1,373	0.17
Total	17,400	3,156	0.18

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	2,449,100	532,114	0.7	0.6
Finfish & Squid	2,293,400	464,554	0.8	0.7
Fish Otter Trawls	2,027,100	332,283	0.5	0.5
Hand Lines	266,300	132,267	3.0	1.0

Nassau County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	2,500	475	0.19
Hand Lines	300	97	0.32
Total	2,800	572	0.20

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	4,871,100	2,539,856	<0.1	<0.1
Finfish & Squid	1,029,700	265,686	0.3	0.2
Fish Otter Trawls	947,300	238,390	0.3	0.2
Hand Lines	50,000	15,603	0.6	0.6

Suffolk County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Haul Seines	40,200	7,642	0.19
Fish Otter Trawls	29,400	4,204	0.14
Pound Nets	144,900	21,630	0.15
*A/S/S Gill Nets	3,300	765	0.23
Hand Lines	11,100	1,548	0.14
Total	228,900	35,789	0.16

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	26,310,100	28,239,286	0.9	0.1
Finfish & Squid	14,311,200	3,875,452	1.6	0.9
Haul Seines	760,600	208,353	5.3	3.7
Fish Otter Trawls	9,176,400	2,776,050	0.3	0.2
Pound Nets	2,418,700	469,048	6.0	4.6
*A/S/S/ Gill Nets	803,800	97,932	0.4	0.8
Hand Lines	830,900	271,216	1.3	0.6

< = less than.

* Anchor, Set or Stake Gill Nets

Table 32

Contribution Of 1976 Mackerel Landings To New Jersey Counties And Fishing Gears

Atlantic County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	26,000	3,941	0.15
Drift Gill Nets	200	22	0.11
Total	26,200	3,963	0.15

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	13,048,200	5,670,261	0.2	<0.1
Finfish & Squid	1,147,700	511,385	2.3	0.8
Fish Otter Trawls	734,000	234,772	3.5	1.7
Drift Gill Nets	14,400	4,038	1.4	0.5

Cape May County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	417,700	32,929	0.08
Mid-Water Trawls	1,351,800	105,406	0.08
Drift Gill Nets	2,200	957	0.44
Hand Lines	400	32	0.08
Total	1,7 2,100	139,324	0.08

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	39,896,700	14,961,938	4.4	0.9
Finfish & Squid	22,508,300	4,373,150	7.8	3.2
Fish Otter Trawls	15,150,100	3,234,789	2.8	1.0
Mid-Water Trawls	4,525,300	331,463	29.9	31.8
Drift Gill Nets	15,800	2,974	13.9	32.2
Hand Lines	11,800	1,609	3.4	2.0

Monmouth County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	200	20	0.10
Drift Gill Nets	2,400	268	0.11
Runaround Gill Nets	300	63	0.21
Total	2,900	351	0.12

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	154,644,900	5,411,065	<0.1	<0.1
Finfish & Squid	153,917,700	4,840,937	<0.1	<0.1
*Food Finfish & Squid	3,834,100	553,610	<0.1	<0.1
Fish Otter Trawls	3,000,800	350,394	<0.1	<0.1
Drift Gill Nets	2,400	268	100.0	100.0
Runaround Gill Nets	101,600	22,811	0.3	0.3

Ocean County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	50,900	6,952	0.14
Drift Gill Nets	100	9	0.09
Total	51,000	6,961	0.14

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	15,459,500	6,479,155	0.3	0.1
Finfish & Squid	10,897,400	2,577,674	0.5	0.3
Fish Otter Trawls	8,510,800	1,703,668	0.6	0.4
Drift Gill Nets	34,500	10,068	0.3	<0.1

* Monmouth County is the center of the New Jersey menhaden industry

Table 33

Contribution Of 1976 Mackerel Landings To Maryland Counties And Fishing Gears

Worcester County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	223,600	20,741	0 09

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	11,378,500	5,446,980	2.0	0 4
Finfish & Squid	2,998,300	576,537	7.5	3.6
Fish Otter Trawls	2,706,500	495,170	8.3	4 2

Table 34

Contribution Of 1976 Mackerel Landings To Delaware Counties And Fishing Gears

Sussex County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Drift Gill Nets	300	24	0.08

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Dollars
County Landings				
All Species	1,727,600	483,244	<0.1	<0.1
Finfish & Squid	384,500	129,377	<0.1	<0.1
Drift Gill Nets	109,700	42,704	0.3	<0.1

< = less than

Table 35

Contribution Of 1976 Mackerel Landings To Virginia Counties And Fishing Gears

Accomack County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	127,900	17,114	0 13
*A/S/S/ Gill Nets	25,000	3,759	0.15
Drift Gill Nets	3,300	480	0.15
Total	156,200	21,353	0.14

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Mackerel Contribution (%) Dollars
County Landings				
All Species	9,437,000	3,574,945	1.7	0 6
Finfish & Squid	2,893,700	645,860	5.4	3.3
Fish Otter Trawls	796,800	281,391	16.1	6.1
*A/S/S Gill Nets	317,400	76,474	7.9	4 9
Drift Gill Nets	1,723,800	265,139	0.2	0 2

City Of Hampton

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	60,200	8,791	0 15
Hand Lines	300	65	0 22
Total	60,500	8,856	0.15

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Mackerel Contribution (%) Dollars
County Landings				
All Species	9,382,800	5,618,549	0 6	0 2
Finfish & Squid	4,343,300	1,025,604	1.4	0 9
Fish Otter Trawls	3,471,900	926,508	1.7	0 9
Hand Lines	27,200	3,914	1.1	1 7

Northampton County

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
Fish Otter Trawls	2,000	360	0.18

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Mackerel Contribution (%) Dollars
County Landings				
All Species	20,339,700	8,513,620	<0.1	<0.1
Finfish & Squid	2,951,000	265,633	<0.1	0.1
Fish Otter Trawls	41,500	10,941	4.8	3.3

City Of Virginia Beach

	Pounds	Dollars	Average $/Pound
Mackerel Landings			
*A/S/S Gill Nets	33,800	5,211	0.15
Drift Gill Nets	24 000	4,320	0.18
Total	57,800	9,531	0.16

	Pounds	Dollars	Mackerel Contribution (%) Pounds	Mackerel Contribution (%) Dollars
County Landings				
All Species	1,792,100	367,719	3.2	2.6
Finfish & Squid	1,374,300	198,299	4 2	4 8
*A/S/S Gill Nets	260 000	42,586	13.0	12.2
Drift Gill Nets	73,700	12,175	32.6	35 5

* Anchor, Set, or Stake Gill Nets

< = less than

Table 36

Ex-Vessel Value Of Reported Commercial Atlantic Mackerel Catches, And Percentage Of Total Ex-Vessel Revenue, By Region, 1966-1972

(thousands of dollars)

	New England			Mid-Atlantic		
Year	Total	Mackerel	%	Total	Mackerel	%
1966	78,247	287	0 3	56,814	180	0 3
1967	70,256	281	0 4	59,007	149	0.3
1968	75,657	319	0 4	61,722	113	0.2
1969	80,578	403	0.5	61,648	75	0.1
1970	91,033	310	0 3	70,458	106	0.2
1971	94,645	179	0 2	73,907	86	0.1
1972	106,637	270	0 3	85,002	151	0.2

Table 37

Atlantic Mackerel Used For Industrial Products By Region, 1966-1974

(thousands of pounds)

Year	New England	Mid-Atlantic	South Atlantic	Total	Percent Of Total Commercial Catch
1966	764	26	-	790	13
1967	2,582	72	-	2,654	31
1968	1,855	576	-	2,431	32
1961	3,455	381	-	3,836	43
1970	3,096	285	-	3,381	42
1971	500	205	-	705	14
1972	1,100	190	-	1,290	23
1973	350	195	-	545	12
1974	-	193	-	193	<1

New England = Maine through Connecticut
Mid-Atlantic = New York through Virginia
South Atlantic = North Carolina through Florida (east coast)

< = less than

Table 38

Atlantic Mackerel Used For Industrial Products, By Commodity, 1966-1974

(thousands of pounds)

Year	(Fresh & Frozen)	(Fresh & Frozen)	Animal Food (Canned)	For Reduction	Total
1966	186	604	-	-	790
1967	257	639	460	1,298	2,654
1968	491	1,790	150	-	2,431
1969	-	2,481	1,355	-	3,836
1970	-	2,011	-	1,370	3,381
1971	-	505	-	200	705
1972	-	1,290	-	-	1,290
1973	-	245	-	300	545
1974	-	193	-	-	193

X. DESCRIPTIONS OF THE BUSINESSES, MARKETS, AND ORGANIZATIONS ASSOCIATED WITH THE MACKEREL FISHERY

X-1. Relationship Among Harvesting, and Processing Sectors

The information for this analysis is not available.

X-2 Fishery Cooperatives Or Associations

The information for this analysis is not available for ports in the Mid-Atlantic region. Data for selected ports in New England are presented in Table 39.

Table 39. 1976 Labor Force Characteristics For Offshore Fishermen In New England Ports

Ports	Number of Full-Time Fishermen	Unions & Cooperatives	Approximate Average Age	Major Ethnic Groups
MA				
Boston	100	Union & Nonunion	55	Yankee, Port.
Chatham	60-80	Cooperative	45	Yankee
Gloucester	500	Union & Nonunion	45	Italian, Yankee
Menemsha	30	None	40	Yankee
New Bedford	400	Union	43	Yank./Norw./ Can./Port.
Provincetown	150-200	Coop & Nonunion	40	Yankee
RI				
Newport	80	Union & Nonunion	45	Yank./Port./ Ital.
Pt. Judith	120	Cooperative	40	Yank./Norw.
ME				
Portland	150	None	40	Yankee
Rockland	80	None	40	Yankee
CT				
Stonington	45	None	50	Yankee
NH				
Rye	20	None	40	Yankee

Source: Smith and Peterson (1977).

X-3 Labor Organizations Concerned With Mackerel

The information for this analysis is not available for ports in the Mid-Atlantic region. Data for selected ports in New England are presented in Table 39.

X-4. Foreign Investment In The Domestic Mackerel Fishery

The information for this analysis is not available.

XI. DESCRIPTION OF SOCIAL AND CULTURAL FRAMEWORK OF DOMESTIC MACKEREL FISHERMEN AND THEIR COMMUNITIES

Uniform socio-economic data on fishing communities are not available. Certain information is available from the federal censuses on a county basis. Therefore, mackerel landings were tabulated by county and analyzed to identify those counties with a significant involvement in this fishery (Table 40). Barnstable and Essex, Massachusetts, Worcester, Maryland, and Cape May, New Jersey were selected as being relatively important in this fishery.

Table 40. Mackerel and Total Finfish and Squid Landings, 1976
(landings in thousands of pounds)

State	County	Mackerel	Total Finfish & Squid	Mackerel Share of County Total	Dist. of Mackerel
ME	Cumberland	138.6	32,442.4	0.4%	2.8%
	Lincoln	68.2	3,564.4	1.9	1.4
	Sagadahoc	1.5	7,316.1	<0.1	<0.1
	Washington	50.6	15,081.6	0.3	1.0
	York	125.5	6,376.4	2.0	2.5
NH	Rockingham	0.4	2,833.8	<0.1	<0.1
MA	Barnstable	612.2	32,402.2	1.9	12.3
	Bristol	0.1	55,888.2	<0.1	<0.1
	Dukes	3.5	2,717.6	0.1	0.1
	Essex	933.2	143,909.1	0.6	18.8
	Plymouth	0.6	2,503.2	<0.1	<0.1
	Suffolk	1.2	23,546.8	<0.1	<0.1
RI	Newport	265.0	23,021.8	1.2	5.3
	Washington	151.8	41,731.7	0.4	3.1
CO	Fairfield	9.1	263.2	<0.1	0.2
	Middlesex	0.5	470.1	0.1	<0.1
	New Haven	2.6	78.3	3.3	<0.1
	New London	1.2	2,931.3	<0.1	<0.1
NY	Kings	17.4	2,293.4	0.8	0.4
	Nassau	2.8	1,029.7	0.3	0.1
	Suffolk	228.9	14,311.2	1.6	4.6
NJ	Atlantic	23.2	1,147.7	2.3	0.5
	Cape May	1,772.1	22,508.3	7.8	35.7
	Monmouth	2.9	153,916.8	<0.1	0.1
	Ocean	51.0	10,897.7	0.5	1.0
DE	Sussex	0.3	384.5	<0.1	<0.1
MD	Worcester	223.6	2,998.3	7.8	4.5
VA	Accomack	156.2	2,893.7	5.4	3.1
	Hampton (city)	60.5	4,343.3	1.4	1.2
	Northampton	2.0	2,951.0	<0.1	<0.1
	Virginia Beach	57.8	1,374.3	4.2	1.2
Total		4,964.5			100.0%

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Data from the census are presented in Table 41. The resort nature of the economies of Barnstable, Worcester and Cape May Counties is obvious from the data The only one of the five counties that may have been in some economic difficulty was Cape May, with many indicators significantly differing from the national averages. For example, median age was 38.9 relative to the U.S. average of 28.3. Educational achievement of residents aged 25 years and more was 11.3 years from Cape May County and 12.1 for the U.S. Unemployment was 6.5% relative to 4.4% for the nation. Manufacturing industries were relatively small and were growing at only about half the national rate (change in value added between 1963 and 1967 was 16.8% for the County and 36.4% for the U.S.). Data on fisheries employment are not available on the county level.

Recreational fishing for mackerel is economically very important. However, data are not available to quantify this on a community or county basis.

The 1974 NMFS Marine Recreational Anglers Survey identified approximately 10.9 million marine recreational anglers resident in the coastal States of Maine through Virginia plus Vermont, Pennsylvania, West Virginia, and the District of Columbia. Total expenditures were estimated to the $378,115,000. Table 42 shows the estimated expenditures for residents of the Mid-Atlantic States.

Table 43 shows the number of finfish caught by marine anglers as reported in the 1965, 1970, and 1974 Salt-Water Angling Surveys (Deuel, personal communication). Atlantic mackerel ranked third (by total numbers caught) in 1965, first in 1970, and fifth in 1974. For the same areas and years, mackerel ranked seventh, third, and seventh, respectively, by total weight caught (Table 26.)

An Atlantic mackerel angler survey was conducted along the New Jersey coast between July 12, 1975 and September 19, 1976 (Christensen *et al.*, 1976). Based on previous research (Deuel, 1973), the survey covered only party and charter boats. An estimated 1,028 metric tons of mackerel were caught by anglers fishing from New Jersey based party and charter boats during the survey period.

Party and charter boats based in Delaware, Maryland, and Virginia total about one-fourth of similar New Jersey boats. If their performance during the survey period was similar to that of New Jersey boats, the Mid-Atlantic catch (not counting New York) would have been approximately 1,285 metric tons.

If the 1970 percentage of the mackerel catch by party and charter boats (62.8%) (Deuel, 1973) was valid during the survey period, the total catch for the Mid-Atlantic (without New York) was 2,046 tons, and the entire U.S. recreational catch of this species was about 4,947 tons.

Table 41.—*Selected 1970 Population and Economic Characteristics for Counties With Significant Mackerel Landings*

	United States	Barnstable	Essex	Worcester	Cape May
POPULATION					
Total (000)	203,212	97	639	24	60
U.S. rank		364	50	1,276	567
Per square mile	57	246	1,291	51	223
Percentage change, 60–70	13.3	37.5	12.1	3.0	22.7
Percentage net mig. 60–70	1.7	32.4	4.4	−5.5	21.9
Percentage female	51.3	52.1	52.5	52.0	51.3
Percentage urban	73.5	41.3	89.5	14.6	61.8
Percentage under 5 yrs.	8.4	7.4	8.2	8.1	6.0
Percentage 18 years and over	65.6	68.5	66.4	65.2	71.7
Percentage 65 years and over	9.9	16.9	11.9	12.9	20.0
Median age	28.3	34.4	31.0	31.9	38.9
Over 25, median school years completed	12.1	12.6	12.3	10.2	11.3
LABOR FORCE					
Total (000)	82,049	37	272	10	21
Civilian (000)	80,051	34	271	10	20
Percentage female with husband	57.0	58.5	54.2	60.1	54.8
Percentage unemployed	4.4	3.9	3.9	3.2	6.5
Percentage employed in manufacturing	25.9	7.6	34.5	22.3	11.4
Percentage employed outside county	17.8	6.1	20.9	18.1	15.8
Percentage families with female head	10.8	10.5	11.3	11.9	10.1
Median family income	$9,586	$9,242	$10,935	$7,386	$8,295
Percentage families low income	10.7	8.3	5.9	17.3	8.9
MANUFACTURING ESTABLISHMENTS					
Total	311,140	96	1,294	50	52
Percentage 20–99 employees	24.3	10.4	26.5	34.0	26.9
Percentage 100 or more employees	11.2	2.1	11.7	14.0	5.8
Percentage change, value added, 63–67	36.4	12.5	24.3	39.5	16.8
RETAIL SALES					
Percentage of total in eating and drinking places	7.7	12.4	9.1	12.2	19.0
SELECTED SERVICES					
Percentage receipts, hotels, etc	11.6	55.7	11.3	51.2	50.3
Percentage receipts, amusements	13.7	8.8	13.1	27.3	18.1

D=Data not reported.

Source: County and City Data Book, 1972.

Table 42.—*Marine Recreational Anglers' Estimated Expenditures by State of Residence, 1974*

[In thousands of dollars]

	N.Y.	N.J.	Pa.	Del.	Md.	Va.	Total
Tackle	24,503	18,304	6,765	1,415	9,301	4,137	64,425
License fees	1,915	1,159	1,017	96	874	356	5,417
Access fees	1,871	2,174	383	35	1,124	254	5,840
Boat launch	2,346	3,356	647	7	1,479	235	8,070
Charter rentals	5,344	13,729	7,572	493	5,683	1,281	34,102
Boat fuels	15,713	11,485	3,475	701	4,873	1,988	38,235
Boat	9,154	4,996	1,523	330	1,823	896	18,722
Food	12,608	13,187	5,273	1,766	6,500	2,639	41,973
Lodging	4,900	6,917	5,406	851	7,292	1,832	27,198
Travel	10,891	14,941	7,642	990	6,316	3,158	43,938
Other	1,966	8,774	103	5	1,778	604	13,230
Total	91,211	93,022	39,811	6,689	47,043	17,380	301,156

Source: NMFS, 1974 Marine Recreational Anglers Survey.

Table 43.—*Number of Finfish Caught by Marine Recreational Anglers, Maine Through Virginia, by Major Species, 1965, 1970, and 1974*

Species	Salt-water angling surveys*		1974 regional survey
	1965	1970	
Bass, black sea	6,447	4,130	2,156
Bluefish	21,700	23,044	28,254
Cod, Atlantic	5,032	3,844	2,901
Croaker	5,050	4,617	2,736
Flounder, summer	23,635	12,680	15,876
Flounder, winter	15,902	29,077	16,823
Mackerel, Atlantic	22,745	52,014	9,963
Perches	16,801	15,014	10,845
Porgy	13,866	4,038	6,272
Puffer	38,221	32,952	1,507
Searobins	4,015	8,651	3,279
Spot	8,174	32,952	6,058
Striped bass	15,937	14,166	6,695
Tautog	3,955	4,617	3,342
Weakfish	1,799	10,142	5,977
All other species	60,627	27,577	16,832
Total	264,786	285,223	139,516

* The Salt-Water Angling Surveys included the northern part of North Carolina (to Cape Hatteras).

Source: NMFS 1974 Marine Recreational Anglers Survey (Deuel, personal communication.)

XII. Determination of Optimum Yield

XII-1. Specific Management Objectives

The Mid-Atlantic Council adopted the following objectives to guide management and development of the mackerel fishery in the northwestern Atlantic. They are:

1. Provide opportunity for increase domestic recreational and commercial catch;
2. Maximize the contribution of recreational fishing for Atlantic mackerel to the national economy;
3. Maintain the spawning stock size of Atlantic mackerel at or above its size in 1978;
4. Achieve efficient allocation of capital and labor in the mackerel fishery; and
5. Minimize costs to taxpayers of development, research, management, and enforcement in achieving these objectives.

XII-2. Description of Alternatives and XII-3. Analysis of Beneficial and Adverse Impacts of Potential Management Options

(1) Take No Action At This Time—This would mean that the PMP prepared by the NMFS would remain in effect. The PMP regulates foreign but not domestic fishing. No action to limit the harvest of Atlantic mackerel would probably result in a rapid expansion of the commercial mackerel fishery for export, in response to the great foreign demand for this species. No action to control this growth might easily result in the reduction of the spawning stock size to a level beneath that estimated for 1978. Although stock-recruitment relationships for mackerel are not known, and it is clear that environmental factors are significant in controlling recruitment, it is very probable that at low levels of abundance (as at present) there exists a positive correlation between spawning stock size and recruitment (i.e., future abundance). The Mid-Atlantic Council has determined that the spawning stock size should not be reduced beneath the 1978 level if the economic future of this fishery is to be safeguarded and in order to provide for the attainment of the Council's management objectives. In addition, data on the US mackerel fishery that will be reported as a result of this FMP would not be available. Therefore, the "No Action" alternative is unacceptable at this time.

(2) Selection Of Various Management Units—There are three possible options for the management unit to be addressed by this FMP for regulation and for specification of an optimum yield. They are:

(a) Atlantic Mackerel Within The Fishery Conservation Zone—Selection of this option would limit the jurisdiction of this FMP to the fishery for mackerel within the FCZ only. Application of an optimum yield to only this component might render attainment of the objectives of the FMP impossible and might result in the abrupt and total closure of the US fishery in the FCZ, because (i) mackerel catches in the territorial sea would not be controllable, and might grow to a level which would undermine the Council's objective for maintenance of mackerel spawning stock size, and (ii) the provisions of a bilateral agreement could possibly render the FMP void.

(b) Atlantic Mackerel Within All US Waters—Selection of this option would result in an OY for Atlantic mackerel in the territorial sea and the FCZ combined. This approach would remedy the problems of uncontrollable growth of the territorial sea fishery, because of the Secretary's ability to monitor the total US fishery (in the territorial sea and the FCZ) and limit mackerel catches in the FCZ so that the total mackerel catch in all US waters would not exceed the OY, and, if necessary, limit the catch in the territorial sea. This option, however, does not address the potential problems of a US/Canadian bilateral agreement.

(c) All Mackerel Under US Jurisdiction—If the US and Canada successfully reach a bilateral agreement, then the management unit as defined by this option would be the US share of the negotiated TAC. This might conceivably include a US mackerel fishery in Canadian waters, if, as part of a bilateral agreement, the US received fishing privileges in Canadian waters. Under these circumstances, the management unit (and, therefore, the OY selected for it) would be theoretically free of areas restrictions, i.e., the OY selected would pertain to the fraction of the negotiated TAC which would be assigned to the United States. The Canadian share of the TAC would not have to be considered in (i.e., subtracted from) the US optimum yield. If the US and Canada fail to reach a bilateral agreement, the management unit, as defined by this option, would revert to be mackerel within all US waters ("US jurisdiction" defined here in the broad sense to include all waters under Federal and state jurisdiction). In other words, the management unit would be the same as the management unit described in (b).

For the above reasons, the Mid-Atlantic Fishery Management Council has determined that the management unit addressed by this FMP, for which an OY has been selected, is all Atlantic mackerel under US jurisdiction.

(3) Preemption of the States' Jurisdiction in the Territorial Sea and/or Regulation of the Mackerel Fishery in the Fishery Conservation Zone—Unless preempted by the Secretary of Commerce, management of fisheries within the territorial sea is within the jurisdiction of the individual coastal States. Management of fisheries in the FCZ is the responsibility of the Federal government in conjunction with the Regional Fishery Management Councils.

Restriction of the mackerel fishery in either or both of these areas may be necessary if the US becomes bound to an extremely restrictive quota via a negotiated TAC with Canada for this species. This is unlikely, however, due to Canada's preference for a TAC in excess of that recommended by the US and this FMP.

It is the feeling of the Mid-Atlantic Council that preemption of state jurisdiction over fishery management is a drastic and cumbersome measure that should be avoided if possible and practicable. The Council has determined that the achievement of the objectives and the optimum yield can be best, most efficiently, and most equitably accomplished through monitoring the entire US fishery, both in the territorial sea and the FCZ, and by regulation of the fishery primarily in the FCZ, unless the growth of the domestic commercial or sport mackerel fishery in the territorial sea is so great as to jeopardize attainment of the objectives of this plan. Only under such circumstances, therefore, would preemption be warranted. The individual states and the Atlantic States Marine Fisheries Commission, however, are urged to adopt this FMP, so that management of this resource may be as uniform and comprehensive as possible. Further discussion of territorial sea vs. FCZ fishery considerations is given in Section XII-5.

XII-4. Tradeoffs Between the Beneficial and Adverse Impacts of the Preferred Management Option

Optimum Yield and TALFF

The optimum yield and TALFF specified in Section XII-5 are greatly below the average annual foreign harvest of this species. Thus, the optimum yield and TALFF are adverse actions with respect to foreign fishing. The Mid-Atlantic Council has determined, however, that a great reduction in fishing mortality is necessary if mackerel stocks are to rebuild to a higher level of abundance. In the long-run, therefore, such rebuilding will be advantageous to all fisheries, foreign and domestic, commercial and recreational, for mackerel.

Management Unit Selection

The advantages of the selection of the management unit to be all Atlantic mackerel under U.S. jurisdiction are discussed in Sections XII-2/XII-3. Selection of this management unit provides the greatest possible flexibility for implementation of this FMP. Without such inherent flexibility, it is possible that an FMP for this species could not be instituted until a bilateral agreement with Canada is reached—which may never occur.

Management of the Fishery Via Regulation in the FCZ

Primary management of the fishery through regulation of its FCZ component is the most efficient and equitable means of achieving the objectives of this FMP. The Secretary of Commerce has authority, outside of this FMP to preempt the states' jurisdiction in the event that the states' management (or lack thereof) in the territorial sea significantly undermines the attainment of the objectives of this FMP. The Mid-Atlantic Council believes this authority should be invoked for this FMP only if absolutely necessary, for the reasons and under the conditions specified in Sections XII-2/XII-3.

Environmental Considerations

Since the provisions of this FMP will decrease the probability of further declines in mackerel abundance, the optimum yield, management unit and all other stipulations of this FMP should not have an adverse impact on the environment.

XII-5. Specification of Optimum Yield

This Fishery Management Plan proposes an optimum yield based on: (1) the best scientific evidence currently available; (2) the probable impacts of any TAC and bilateral agreement reached with Canada for this species; (3) the probability of a total 1978 mackerel catch in excess of that determined by the U.S. to be most desirable for this stock; (4) estimated economic and social impacts of various catch levels to the U.S. fisheries and affected communities; (5) analysis of historical incidental catches of mackerel by foreign fisheries for other species; and (6) environmental considerations. These factors are analyzed below.

The maximum sustainable yield of mackerel has been estimated at 210,000–230,000 metric tons (Section V-4). Harvest at this level on an annual basis, however, presupposes annual levels of recruitment well in excess of those observed in the last few years. Although the relationship between mackerel spawning stock size and recruitment to the fishery is unknown and may be affected by environmental fluctuations), it is probable that at low levels of abundance, as is currently the case, there is a positive correlation between spawning stock size and recruitment. Thus, analyses within this FMP include the assumption that the larger the spawning stock size (up to an as yet undetermined level), the higher the probability of larger recruitment to the fishery; conversely, that poor recruitment is more likely to result from small spawning stocks than from very abundant ones. As the spawning stock size of Atlantic mackerel is currently as low as any previously estimated, it was the determination of the Mid-Atlantic Council that management of this fishery should be designed, at least in part, to prevent significant further reductions from fishing of the mackerel spawning stock size.

In order to make a meaningful prediction of the biological consequences of various optimum yield levels, it was necessary to make certain assumptions regarding the size of the 1978 mackerel catch in U.S. and Canadian waters. They are:

1. The U.S. will harvest its predicted capacity of 14,000 metric tons.
2. The foreign mackerel catch in U.S. waters will be 1,200 metric tons (as allocated by the PMP currently in effect).
3. The catch of mackerel in Canadian waters (by Canadian and foreign vessels) will approximate 50,000 metric tons (Canada has announced its intention of allowing a harvest of between 30,000 and 50,000 metric tons in 1978. For planning purposes, it is advisable to adopt the upper limit of this estimate).

A major objective of the Mid-Atlantic Council for this fishery is to maintain the spawning stock size at or above its estimated 1978 level. Attainment of this objective is deemed a necessary condition for attainment (or partial attainment) of most of the other objectives.

Table 16 in Section V-2 illustrates possible combinations of total mackerel catches in 1978 and 1979 and their consequential effects upon mackerel spawning stock size in 1980. Possible total catches in 1978 from 30,200 to 115,200 tons, and possible total catches in 1979 from 14,600 to 151,900 tons have been considered. Table 16 suggests that if the total (U.S. and Canadian) mackerel catch in 1978 is approximately 65,200 tons, then a total catch of between 48,300 and 63,000 tons could be taken in 1979, with the result that the spawning stock size in 1980 would approximate that of 1978. Lower total catches in both years, therefore, would result in some stock rebuilding. The most recent, and tentatively agreed upon, provision in the U.S./Canadian bilateral negotiations is that the U.S. will receive 60% and Canada 40% of whatever TAC is agreed upon yearly for this species. If, for example, a TAC of 100,000 tons for 1978 is negotiated, the U.S. would, under this provision, receive 60,000 tons as its quota. The provisions of the 1978 PMP for mackerel, however, should result in a total mackerel catch in all U.S. waters of about 15,200 tons. Assuming that Canada harvested all of this (hypothetical) quota, the resultant 1978 total mackerel catch in all waters would thus be about 55,200 metric tons.

Table 44 lists possible TACs for 1979 and the resultant total 1979 catches under the assumptions of (1) a 60%/40% ratio of U.S./Canadian quotas, (2) maintenance of U.S. FMP Provisions that would result in a catch in U.S. waters of 15,200 tons in 1979, as is the case for 1978, (3) that the Canadian quota would be fully harvested in 1979.

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Table 44. Possible TACs For 1979 And Their Resultant 1979 Catches, Under The Assumptions (1) A 60%/40% Ratio Of US/Canadian Quotas; (2) The Continuation Of 1978 PMP Provisions That Would Result In A 1979 Catch In US Waters Of 15,200 Tons, (3) Full Harvest Of The Canadian Quota (In Thousands of Metric Tons, Where Appropriate)

1979 TAC	1979 US Quota	1979 US Catch	1979 Canadian Quota	1979 Total Catch (All Waters)	Stock Size In 1980	% Change In Stock Size From 1978
30	18	15.2	12	27.2	>429.2	+5.9% to +10.1%
40	24	15.2	16	31.2	>429.2	+5.9% to +10.1%
60	36	15.2	24	39.2	429.2 to 413.1	+1.9% to +5.9%
80	48	15.2	32.	47.2	429.2 to 413.1	+1.9% to +5.9%
100	60	15.2	40	55.2	413.1 to 397.7	-1.9% to +1.9%
120	72	15.2	48	63.2	~397.7	~-1.9%
140	84	15.2	56	71.2	397.7 to 383.0	-1.9% to -5.5%
160	96	15.2	64	79.2	383.0 to 369.0	-5.5% to -9.0%
180	108	15.2	72	87.2	383.0 to 369.0	-5.5% to -9.0%
200	120	15.2	80	95.2	369.0 to 355.6	-9.0% to -12.3%

> = greater than
~ = about equal to

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The predicted US harvesting capacity for mackerel in fishing year 1979–1980 is 14,000 metric tons (9,000 tons by sport fishermen and 5,000 tons by commercial fishermen). The capacity is above that caught by these fisheries in recent years due to (1) a decline in abundance and availability of the species, (2) direction of the commercial fishing fleet to other resources.

The Council expects this growth in 1979–1980 due to (1) greater availability of the species due to the reduction of the directed foreign mackeral fishery in US waters, (2) a reduction in abundance of other species, including groundfish, which should act to transfer some commercial fishing effort to mackerel, and (3) the expected development of a US mackerel fishery for export.

The Council has determined that mackerel should be managed primarily as a recreational fishery, at least until such time as the stocks rebuild to more desirable levels of abundance. Recreational demand for mackerel is great, and the annual capacity (catch) would exceed 30,000 metric tons (estimated to be the 1970 US sport catch) if the species were more abundant and available to US anglers. The 1978 sport catch of mackerel has been estimated to be approximately 6,600 metric tons (Section VIII–2). The contribution of mackerel sport fishing, even at the currently reduced level, to the American economy is great. The Council has determined that it is in the best interests of the nation to allow for a US recreational catch of 9,000 tons in fishing year 1979–1980 (the best available estimate of the US sport catch for that fishing year). To restrict the sport catch to a lower level would be (1) inequitable, since the recreational catch in fishing year 1979–1980 will be greatly beneath historical demand; (2) extremely costly and inequitable to enforce, because of the large number of anglers throughout the US east coast and the large fraction of the sport catch that is taken in the territorial sea, and (3) an imposition of a severe economic and social hardship on the recreational fishing industry (especially party and charter boats) since mackeral fishing provides a significant fraction of this industry's total revenues.

The Council believes that the unrestricted US commercial catch (capacity) for mackerel in fishing year 1979–1980 would be about 5,000 metric tons, for reasons given previously. The US commercial mackerel fishery has traditionally been small relative to the sport catch. The Council has determined that some allowance for growth (i.e., to 5,000 tons) of the commercial mackerel fishery in fishing year 1979–1980 would be in the best interests of the nation, because of sevee dislocations in other commercial fisheries, notably for groundfish. Moreover, reduction in the US commercial catch, even to a zero allocation, would result in near-negligible benefits to the mackerel spawning stock size, and would be exceptionally difficult and costly to enforce, since much of the catch is taken as by-catch, and much of the catch is taken in the territorial sea.

No estimate can be made at this time of US processor capacity because of the lack of relevant data. The reporting requirements proposed in this FMP should result in the necessary data being available for the updating of this FMP.

The Council recognizes that despite US objections, the catch of mackerel in Canadian waters in 1978 and 1979 may be so great by itself as to result in reduced spawning stock sizes in 1979 and 1980. Under these circumstances, and given the Council's objective regarding spawning stock size, it is not in the best interests of the nation to provide for a significant foreign fishery for mackerel in US waters in fishing year 1979–1980.

The Council also recognizes that, even if no directed foreign fishing for mackerel whatsoever were to be allowed in 1979–1980 (i.e., a TALFF of zero), some fishing mortality from foreign fleets would still occur, because foreign vessels frequently catch mackerel incidentally to other species for which they have been given allocations. This would mean that foreign fleets would continue to capture mackerel incidentally, but would not be allowed to retain such mackerel catches; no limit on these incidental catches, however, could be imposed or enforced. This would result in an uncontrollable foreign mortality to this species, thereby conflicting with the FMP's objective to rebuild mackerel stocks. If, however, the Council allows for some foreign catch in its determination of optimum yield, then this TALFF would be assigned to foreign nations as direct allocations. Under these circumstances, each nation would be required to retain all mackerel catches, but would also be required to cease all fishing operations (for all species) in the FCZ once its mackerel allocation (or any other species allocation) had been reached.

The Council has determined, therefore, that its management objectives can be best served by allowing for a foreign catch of mackerel just large enough so as to allow foreign fleets to harvest their allocations of other species without undue hardship. The best estimate of this amount, given the probable 1979–1980 TALFFs for other species, is 1,200 metric tons. By allowing for this level of foreign catch, the Council will be better able to control mackerel mortality from foreign fishing than by setting an OY which would result in a TALFF of zero.

Due to present reduced abundance of mackerel, environmental considerations dictate that all efforts be made to prevent further declines in spawning stock size.

Summary

After analysis of the above considerations, the Mid-Atlantic Fishery Management Council has determined that the fishing year 1979–1980 optimum yield from the mackerel management unit should be 15,200 metric tons, for the following reasons:

(1) This OY allows for the harvesting of the full 1979–1980 US capacity, thus promoting achievement of FMP objectives 1, 2, 4 and 5.

(2) This OY promotes attainment of objective (3) (maintain spawning stock size at or above its 1978 size) by restricting the total catch of mackerel in all US waters to less than that amount which would result in a reduced spawning stock size.

(3) This FMP (management unit and OY) recognizes the possibility of a negotiated bilateral agreement and is valid with or without such agreement.

(4) This OY minimizes any negative economic and social impacts on the US commercial and recreational fishing industries.

In summary, this FMP is based on a management unit that is defined as all Atlantic mackerel under US jurisdiction. It has an OY specified at 15,200 metric tons. Given probable abundance, US capacity has been estimated at 14,000 metric tons. This is made up of an estimated 9,000 metric ton capacity for the recreational fishery and a 5,000 metric ton capacity for the commercial fishery. The recreational capacity is based on recent experience as reported through the mackerel angler survey coupled with an allowance for growth. The commercial capacity is based on recent experience plus an allowance for growth. This commercial growth takes into account the likely entry into the mackerel fishery of fishermen who have traditionally fished for other species which are not currently readily available such as groundfish. Comments at the public hearings on this FMP indicate that this is a real possibility. This results in a TALFF of 1,200 metric tons. Since the OY and US capacity cover the management unit and the management unit includes as a minimum (on a geographic basis) the territorial sea and the FCZ, the Secretary must establish a program to monitor the total US catch of mackerel so that appropriate adjustments may be made in the FCZ catch of mackerel by the Secretary to insure that OY is not exceeded. It is recognized that the Secretary may preempt State jurisdiction but the Council discourages such action unless all other methods of keeping the catch level below the OY level fail.

Since a significant fraction of the US sport and commercial mackerel catch (approximately 50% and 30% respectively) comes from the territorial sea, it was estimated that US fishermen will catch 4,500 metric tons in the sport fishery and 3,500 metric tons in the commercial fishery in the FCZ. These values should be used as guidelines for monitoring the territorial sea vs. FCZ catch of mackerel, but should not be considered quotas. The allocation for the 14,000 metric ton US capacity is 5,000 mt for the commercial fishery and 9,000 mt to the recreational fishery, the recreational fishery being defined to include party and charter boats.

Table 45.—*MSY, OY, U.S. Capacity, and Total Allowable Level of Foreign Fishing*

[In metric tons]

Maximum Sustainable Yield	[1]210,000–230,000
Optimum Yield	[2]15,000
US Capacity	[2]14,000
US Commercial Capacity	[2]5,000
US Recreational Capacity	[2]9,000
Total Allowable Level of Foreign Fishing	[2]1,200

[1]Throughout species range.
[2]For the management unit in fishing year 1979–1980.

Section 301(a) of the Fishery Conservation and Management Act states that: "Any fishery management plan prepared, and any regulation promulgated to implement such plan . . . shall be consistent with the following national standards for fishery

conservation and management." The following is a discussion of the standards and how this FMP meets them:

"*(1) Conservation and management measures shall prevent overfishing while achieving, on a continuous basis, the optimum yield from each fishery.*" The optimum yields specified in this FMP for the entire stock and for the FCZ are designed to prevent further reductions in mackerel spawning stock size. The provisions of this FMP for 1979–1980 constitute an initial step in a program to rebuild the stocks to higher levels of abundance.

"*(2) Conservation and management measures shall be based upon the best scientific information available.*" This FMP is based on the best scientific evidence currently available, as outlined in Section V–4.

"*(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.*" This FMP has been designed in anticipation of, and to complement, a possible US/Canadian bilateral agreement for the species. US-Canadian negotiations on transboundary species have not yet been concluded; thus, the approach to this problem utilized in this FMP results in a management unit that is viable without regard for the outcome of these negotiations.

"*(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.*" Estimates of US capacity for mackerel used in this plan include expected catches by all fishermen (sport and commercial) in all affected coastal States. Thus, although mackerel is a migratory species which each year becomes available first to fishermen in more southern States (Section V–1), no closure of this fishery to fishermen in northern Mid-Atlantic or New England States should result from the provisions of this plan. In addition, most of the expected increase in domestic commercial catches probably will occur in New England States, which renders remote the likelihood of closure of this fishery prior to arrival of this species in northern waters. Provisions for Council review of this plan (Section XVI) also allow for readjustment and reallocation of the domestic allocation depending upon catch rates during the year.

"*(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of the fishery resources; except that no such measure shall have economic allocation as its sole purpose.*" Since domestic fisheries presently harvest mackerel beneath the OY level, no economic inefficiencies due to surplus investment or fishing effort, or similar considerations, should result from the provisions of this FMP. As US capacity estimates anticipate an increase in commercial fishing for mackerel, this FMP will not create economic inefficiency in domestic commercial fisheries.

"*(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.*" This FMP and the OY and allocations described herein take into account possible fluctuations in species abundance (see Section V–2), expected trends in US demand for mackerel (see Section VIII), and the possible effects of the 1978 and 1979 Canadian mackerel catches and US/Canadian bilaterial negotiations as they relate to this species (Sections XII–2 through XII–5; Table 44).

"*(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.*" The management measures outlined in this FMP are consistent with and complement, but do not unnecessarily duplicate, management measures contained in other FMPs or PMPs. Costs of domestic management will be limited to collection and processing of basic fishery data which is necessary for future revisions of this FMP. Thus, the costs which will be incurred as a result of the implementation of this FMP can be considered as the minimum that would be required for implementation of any fishery management plan. With respect to foreign effort, this plan adopts by reference the foreign fishing regulations presently in effect, thereby reducing the impact of implementation of the FMP on foreign fleets.

XIII. Measures, Requirements, Conditions, or Restrictions Proposed To Attain Management Objectives

Note.—All references to the Foreign Fishing Regulations are intended to adopt by reference the Foreign Fishing Regulations as they may exist at the time of the adoption of this FMP by the Secretary of Commerce and as they may be amended from time to time following FMP adoption.

XIII–1. Permits and Fees

(a) Registration

(1) Any owner or operator of a vessel desiring to take any mackerel within the FCZ, or transport or deliver for sale, any mackerel taken within the FCZ must obtain a registration for that purpose.

(2) Each foreign vessel engaged in or wishing to engage in harvesting the available surplus must obtain a permit from the Secretary of Commerce as specified in the FCMA.

(3) This section does not apply to recreational fishermen taking mackerel for their personal use but it does apply to the owners of party and charter boats (vessels for hire).

(b) The owner or operator of a domestic vessel may obtain the appropriate registration by furnishing on the registration form provided by the NMFS information specifying the names and addresses of the vessel owner and master, the name of the vessel, official number, directed fishery or fisheries, gear type or types, gross tonnage of vessel, crew size including captain, fish hold capacity (to the nearest 100 pounds), and the home port of the vessel. The registration form shall be submitted, in duplicate, to the Regional Director, NMFS, Gloucester, Massachusetts, 01930, who shall issue the required registration, for an indefinite term; such term to include the calender year in which the registration is issued. New registrations will be issued to replace lost or mutilated registrations. A registration shall expire whenever vessel ownership changes, or when the master of the vessel changes in the directed fishery or fisheries of such vessel. Application for a new registration, because of a change in vessel ownership shall include the names and addresses of both the purchaser and the seller and be submitted by the purchaser.

(c) The registration issued by the NMFS must be carried, at all times, on board the vessel for which it is issued, mounted clearly in the pilothouse of such vessel, and such registration, the vessel, its gear and equipment and catch shall be subject to inspection by an authorized offical.

(d) Registrations issued under this part may be revoked by the Regional Director for violations of this part.

Vessel Identification

(a) Each domestic fishing vessel shall display its official number on the deckhouse or hull and on an appropriate weather deck.

(b) The identifying markings shall be affixed and shall be of the size and style established by the NMFS.

(c) Fishing vessel means any boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for, fishing, except a scientific research vessel. For the purpose of this regulation, fishing vessel includes vessels carrying fishing parties on a per capita basis or by charter which catch mackerel for any use.

Sanctions

Vessels conducting fishing operations pursuant to this FMP are subject to all sanctions provided for in the FCMA.

If any foreign fishing vessel for which a permit has been issued fails to pay any civil or criminal monetary penalty imposed pursuant to the Act, the Secretary may: (a) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year; (b) suspend such permit for the period of time deemed appropriate; or (c) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application, provided, however, that any permit which is suspended pursuant to this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon payment of such civil penalty together with interest thereon at the prevailing US rate.

XIII–2. Time and Area Restrictions

The Secretary may open these areas when the EPA notifies her that the pollution problems are corrected and the area is safe for fishing.

Foreign nations fishing for mackerel shall be subject to the time and area restrictions

set forth in part 611.50 of Title 50 Code of Federal Regulations (CFR).

Fixed Gear Avoidance

Foreign nations fishing for mackerel shall be subject to the fixed gear avoidance regulations set forth in part 611.50(e) of 50 CFR.

XIII-3. Catch Limitations

The total allowable level of foreign fishing for mackerel in fishing year 1979-1980 is 1,200 metric tons.

The catch limit for domestic fishermen in fishing year 1979-1980 is 14,000 metric tons of mackerel, allocating 9,000 metric tons to the sport fishery and 5,000 metric tons to the commerical fishery. The Council will reevaluate these allocations in October, 1979, or at the capture of 5,000 metric tons of mackerel in either the sport or commercial fishery, or when 70% of either allocation has been taken in the FCZ, whichever comes first. The Regional Director, with the concurrence of the Council, may then redistribute these allocations between the US sport and commercial fisheries for the balance of the fishing year.

The Council anticipates that the Secretary, after consultation with the Council, will implement the intent of this FMP to restrict US harvest by imposing such measures including, but not necessarily limited to, trip limitations, quarterly or half year quotes, and closed areas, as she deems appropriate in the final regulations. Such measures should insure the achievement of OY in a manner that does not result in a sudden dislocation of those involved in the fishery.

XIII-4. Types of Gear

Foreign nations fishing for mackerel shall be subject to the gear restrictions set forth in part 611.50(c) of 50 CFR.

XIII-5. Incidental Catch

Foreign nations fishing for mackerel shall be subject to the incidental catch regulations set forth in parts 611.13, 611.14, and 611.50 of 50 CFR.

XIII-6. Restrictions

No operator of any foreign fishing vessel, including those catching mackerel for use as bait in other directed fisheries, shall conduct a fishery for mackerel outside the areas designated for such fishing operations in this FMP.

XIII-7. Habitat Preservation, Protection and Restoration

The Council is deeply concerned about the effects of marine pollution on fishery resources in the Mid-Atlantic Region. It is mindful of its responsibility under the FCMA to take into account the impact of pollution on fish. The extremely substantial quantity of pollutants which are being introduced into the Atlantic Ocean poses a threat to the continued existence of a viable fishery. In the opinion of the Council, elimination of this threat at the earliest possible time is determined to be necessary and appropriate for the conservation and management of the fishery, and for the achievement of the other objectives of the FCMA as well. The Council, therefore, urges and directs the Secretary to forthwith proceed to take all necessary measures, including but not limited to, the obtaining of judicial decrees in appropriate courts, to abate, without delay, marine pollution emanating from the following sources: (1) the ocean dumping of raw sewage sludge, dredge spoils, and chemical wastes; (2) the discharge of raw sewage into the Hudson River, the New York Harbor, and other areas of the Mid-Atlantic Region; (3) the discharge of primary treated sewage from ocean outfall lines; (4) overflows from combined sanitary and storm sewer systems; and (5) discharges of harmful wastes of any kind, industrial or domestic, into the Hudson River or surrounding marine and estuarine waters.

XIII-8. Development of Fishery Resources

Development of the domestic harvesting sector is encouraged. It is felt that such development can occur, not only through development of domestic markets for mackerel, but also through joint ventures that would employ domestic harvesting resources, at least until such time as the domestic market for mackerel more nearly matches the capacity of the harvesting sector.

XIII-9. Management Costs and Revenues

Is is expected that the initial increased governmental costs of implementing the magagement measures described in this plan will be limited to those costs incurred in issuing the required permits. Of this, an as yet undermined amount may be recovered by the Secretary of Commerce, who is authorized to recover costs of licensing and regulation.

On-going and permanent (for the life of the plan) additional expenses to the NMFS will be limited to costs of processing and manipulating the data from vessel logbooks and processor records, as outlined in the plan, and enforcement costs.

The Coast Guard will incur enforcement costs that should be similar to those incurred enforcing the mackerel PMP. It is not possible to specify these costs because of the multi-mission responsibilities of the Coast Guard

XIV. Specifications and Sources of Pertinent Fishery Data

Note.—All references to the Foreign Fishing Regulations are intended to adopt by reference the Foreign Fishing Regulations as they may exist at the time of the adoption of this FMP by the Secretary of Commerce and as they may be amended from time to time following FMP adoption.

XIV-1. General

Teh following requirements are recommended in order for the Fishery Management Councils and the NMFS to acquire accurate data on the overall catch, mackerel catch, disposition of such catch, and effort in the fishery. These data reporting requirements are necessary to manage the fishery for the maximum benefit of the United States. It is necessary that reporting be as comprehensive as possible and should include the territoral sea and FCZ. The following suggestions are designed to meet this need. It is understood that the NMFS is developing model reporting requirements. To the extent that they are consistent with the following proposals and are approved by the Mid-Atlantic Council, they may replace the following proposals without an amendment to this FMP. If it is determined that the Secretary does not have the authority to mandate reporting of catches from the territorial sea, alternative methods of securing the data must be developed. In addition, methods must be developed and implemented by the Secretary on a continuing basis to obtain data on the catches of marine anglers who, based on the recommendations below, are not required to maintain logs.

XIV-2. Domestic and Foreign Fishermen

XIV-2(a). Domestic Fishermen

(1) For a registered vessel taking mackerel either directly or incidentally, the owner or master of such vessel must maintain on a daily basis an accurate log of fishing operations showing at least date, type and size of gear used, locality fished, duration of fishing time, length of tow (where appropriate), time of gear set, and the estimated weight in pounds of each species taken for those tows in which mackerel were taken. Such logbooks shall be available for inspection by any authorized official, including (1) any commissioned, warrant or petty officer of the Coast Guard, (2) any certified enforcement or special agent of the NMFS, (3) any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or the Secretary of Transportation to enforce the Act, or (4) any Coast Guard personnel accompanying and acting under the direction of any person described in category (1), and shall be presented for examination and subsequent return to the owner or master of the vessel upon proper demand by such authorized official at any time during or at the completion of a fishing trip. Such required documentation will be maintained by the owner or master of the vessel at least one year subsequent to the date of the last entry in the log book. Copies of all logbook forms will be submitted weekly to an authorized official or designated agent of the NMFS.

(2) All data received under this section shall be kept strictly confidential and shall be released in aggregate statistical form only without individual indentification as to its source except to the extent that the use of logbook information is required to enforce this FMP.

XIV-2(b). Foreign Fishermen

Foreign fishermen will be subject to the reporting and recordkeeping requirements set forth in part 611.50(d) of 50 CFR.

XIV-3. Processors

(1) All persons, individuals, firms, corporations, or business associations, at any port or place in the United States, that buy and/or receive mackerel from US flag vessels shall keep accurate records of all transactions involving mackerel on forms supplied by the Regional Director, NMFS. These records will be submitted weekly to the Regional Director, NMFS. Records will show at least the name of vessel or common carrier mackerel was received from, date of

transaction, amount of mackerel received, price paid, capacity to process mackerel, and the amount of that capacity actually used.

(2) The possession by any person, firm, or corporation of mackerel taken from the FCZ which such person, firm, or corporation knows, or should have known, to have been taken by a vessel of the United States without a valid registration is prohibited. In addition, all persons, individuals, firms, corporations, or business associations which process mackerel in any manner whatsoever other than temporarily preserving mackerel in its fresh state for immediate use, shall keep accurate records of all transactions involving mackerel. Such records will show at least the name of the entity from whom the mackerel was received, date of transaction, amount of mackerel received, price paid, capacity to process mackerel, and amount of that capacity actually used.

XV. Relationship of the Recommended Measures to Existing Applicable Laws and Policies

XV-1. Fishery Management Plans

Preliminary Fishery Management Plans (PMPs) for five fisheries of the northwest Atlantic were implemented on March 1, 1977, by the US Department of Commerce. These PMPs presently regulate foreign fishing within the FCZ for Atlantic herring, Atlantic mackerel, silver and red hake, butterfish and finfish caught incidentally to trawling. The New England Fishery Management Council has prepared a Fishery Management Plan (FMP) for the Atlantic Groundfish fishery. Regulations promulgated by the Secretary of Commerce imposing quotas, minimum size limits, mesh restrictions, etc., went into effect on June 13, 1977, and have been subsequently amended to apply to the fisheries during 1978. Plans for several other species are also in various stages of preparation by the New England and Mid-Atlantic Fishery Management Councils.

This Mackerel Fishery Management Plan prepared by the Mid-Atlantic Fishery Managment Council is related to these other plans as follows:

1. This Mackerel FMP will replace the PMP regulating foreign fishing for mackerel within the FCZ as prescribed by the FCMA.
2. All fisheries of the northwest Atlantic are part of the same general geophysical, biological, social, and economic setting. Domestic and foreign fishing fleets, fishermen, and gear often are active in more than a single fishery. Thus, regulations implemented to govern harvesting of one species or a group of related species may impact upon other fisheries by causing transfers of fishing effort.
3. Many fisheries of the northwest Atlantic result in significantly non-target species fishing mortality. Therefore, each management plan must consider the impact of non-target species fishing mortality on other stocks and as a result of other fisheries.
4. Mackerel are a food item for many commerically and recreationally important fish species. Also, mackerel utilize many finfish species as food items.
5. Present ongoing research programs often provide data on stock size, levels of recruitment, distribution, age, and growth for many species regulated by the PMPs, FMPs, and proposed FMPs.

XV-2. Treaties or International Agreements

No treaties or international agreements, other than GIFAs entered into pursuant to the FCMA, relate to this fishery.

XV-3. Federal Laws and Policies

The only Federal law that controls the fishery covered by this management plan is the FCMA.

Marine Sanctuary and Other Special Management Systems

The USS Monitor Marine Sanctuary was officially established on January 30, 1975, under the Marine Protection, Research, and Sanctuaries Act of 1972. Rules and regulations have been issued for the Sanctuary (15 CFR Part 924). They prohibit deploying any equipment in the Sanctuary, fishing activities which involve "anchoring in any manner, stopping, remaining, or drifting without power at any time" (924.3(a)), and "trawling" (924.3(h)). Although the Sanctuary's position off the coast of North Carolina at 35°00'23" N latitude—75°24'32" W longitude is located in the plan's designated management area, it does not occur within, or in the vicinity of, any foreign fishing area. Therefore, there is no threat to the Sanctuary by allowing foreign mackerel fishing operations under this plan if implemented by the Secretary of Commerce. Also, the Monitor Marine Sanctuary is clearly designated on all National Ocean Survey (NOS) charts by the caption "protected area". This minimizes the potential for damage to the Sanctuary by domestic fishing operations.

Current and/or Proposed Oil, Gas, Mineral, and Deep Water Port Development

While Outer Continental Shelf (OCS) development plans may involve areas overlapping those contemplated for offshore fishery management, we are unable to specify the relationship of both programs without site specific development information. Certainly, the potential for conflict exists if communication between interests is not maintained or appreciation of each other's efforts is lacking. Potential conflicts include, from a fishery management position: (1) exclusion areas, (2) adverse impacts to sensitive, biologically important areas, (3) oil contamination, (4) substrate hazards to conventional fishing gear, and (5) competition for crews and harbor space. We are not aware of pending deep water port plans which would directly impact offshore fishery management goals in the areas under consideration, nor are we aware of potential effects of offshore fishery management plans upon future development of deep water port facilities.

XV-4. State, Local, and Other Applicable Laws and Policies

No State or local laws control the fisheries that are the subject of this management plan other than those listed in Section VII-4.

State Coastal Zone Management (CZM) Programs

The proposed action entails management of mackerel stocks in an effort to ensure sustained productivity at some optimum level. In order to achieve this goal, all management plans must incorporate means to achieve integrity of fish stocks, related food chains, and habitat necessary for this integrated biological system to function effectively. Inasmuch as CZM Plans are presently in the developmental stages, we are not aware of specific measures on the part of the individual states which would ultimately impact this fishery plan. However, the CZM Act of 1972, as amended, is primarily protective in nature, and provides measures for ensuring stability of productive fishery habitat within the coastal zone. Therefore, each State's CZM plan will probably assimilate the ecological principles upon which this particular fishery management plan is based. It is recognized that responsible long-range management of both coastal zones and fish stocks must involve mutually supportive goals. The Massachusetts and Rhode Island CZM Programs have been reviewed relative to this FMP and no conflicts have been identified. Future CZM Programs will be reviewed for consistency with this FMP.

XVI. Council Review and Monitoring of the Plan

The Council will review the plan each year following the close of the mackerel fishery and the publication of the results of the spring NMFS survey cruise. This schedule will permit a review of MSY, OY, U.S. Capacity, and TALFF prior to the development of foreign fishing allocations. This schedule may be modified in the future as the domestic fishery evolves. An additional factor in this evaluation will be the findings of the NMFS angler survey.

XVII. References

All requests for background information, biological assessments, etc., should be directed to the offices of the Mid-Atlantic Fishery Management Council.

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[FR Doc. 79-28220 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-22-M

[50 CFR Part 651]

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder); Hearing

AGENCY: National Oceanic and Atmospheric Administration NOAA/Commerce.

ACTION: Notice of Secretarial Hearing.

SUMMARY: Fishermen in the Mid-Atlantic area and the Mid-Atlantic Fishery Management Council have expressed concern with the distribution of the quota for yellowtail flounder. They have petitioned the Secretary of Commerce to adjust future quotas to ensure that fishermen in the Mid-Atlantic area receive their historical share of this resource. This public hearing will be held to receive information on their issue.

DATE: The meeting will be held on September 20, 1979 from 7 p.m. to 10 p.m.

ADDRESS: The meeting will take place at the Holiday Inn, Route 25, Riverhead, LI, NY.

FOR FURTHER INFORMATION CONTACT: Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone: 617–281–3600.

SUPPLEMENTARY INFORMATION: For information on seating arrangements and/or written comments, contact the Regional Director at the above address.

Signed this the 7th day of September, 1979.

Jack W. Gehringer,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 79–28538 Filed 9–12–79; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 44, No. 179
Thursday, September 13, 1979

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

Applegate Creek Water Improvement Project, (Umpqua National Forest, Douglas County, Oregon); Cancellation Notice

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has been preparing an Environmental Impact Statement on the proposed Applegate Creek Water Improvement Project to be located in Douglas County, Oregon. The Forest Service has discontinued work on the project.

This decision was reached after the proponents of the dam and reservoir project, the Douglas County Commissioners, decided that other reservoir projects in the County have higher priority and requested that the Forest Service discontinue work on the Environmental Impact Statement.

Comments on the cancellation notice for the Applegate Creek Project should be sent to R. D. Swartzlender, Forest Supervisor, P.O. Box 1008, Roseburg, Oregon 97470.

Dated: September 4, 1979.

D. H. Morton,
Acting Regional Forester.

[FR Doc. 79-28397 Filed 9-12-79; 8:45 am]
BILLING CODE 3410-11-M

Deschutes National Forest Grazing Advisory Board; Meeting

September 6, 1979.

The Deschutes National Forest Grazing Advisory Board will meet at 10 a.m. on October 10, 1979, at the Forest Supervisor's office, 211 N.E. Revere, Bend, Oregon 97701. The purpose of this meeting is:

1. Organize the Advisory Board.
2. Recommendations and review of by-laws.
3. Policies regarding administration of Advisory Board.
4. Review range allotment management planning and the Forest Plan.
5. Review use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should contact Will Griffin, 211 N.E. Revere, Bend, Oregon 97701, phone 382-6922.

Earl E. Nichols,
Forest Supervisor.

[FR Doc. 79-28395 Filed 9-12-79; 8:45 am]
BILLING CODE 3410-11-M

Green River Watershed Land Management Plan (Mt. Baker-Snoqualmie National Forest, King County, Washington); Intent to Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act (NEPA) of 1969, the Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement considering a Land Management Plan in the Green River Watershed on the Mt. Baker-Snoqualmie National Forest.

The Green River Watershed Land Management Plan will be prepared according to regulations being promulgated by the Secretary of Agriculture. The regulations will implement Section 6 of the National Forest Management Act of 1976.

The Land Management Plan will give resource management direction as well as allocate land in the Green River Watershed for National Forest land.

The Green River Plan is being coordinated with local, county, state and other federal agencies. Public involvement is encouraged and sought throughout the planning process. The next public involvement will be the review of the Draft Environmental Impact Statement. These meetings are planned to be held sometime in June 1980.

Alternatives will be displayed in an Environmental Impact Statement and will include, at the minimum: (1) a no action alternative; (2) one or more alternatives formulated to resolve the major public issues or concerns.

The primary issues, concerns and opportunities to be addressed in the plan were determined after meeting with the public. In May 1977, a newsletter asked the public to identify any special features in the Green River Watershed. In August 1978, the Forest Service also met with the landowners and concerned agencies to help determine the issues, concerns and opportunities.

The issues, concerns and opportunities are: (1) A complete coordinated transportation system has never been developed within the Watershed. The Forest Service needs to develop a transportation system plan in coordination with all of the other landowners. (2) Public entry and the resultant policies encourage use of National Forest land including recreational use by the public. The city of Tacoma is concerned that additional use by the public will require them to install full water treatment facilities. (3) Flooding has caused considerable damage in the drainage and is of concern in planning future activities and facilities. (4) The present checkerboard pattern of land ownership is a management problem. The Plan will attempt to show some alternatives in the land ownership pattern that are more manageable than the present checkerboard pattern. (5) Water quality is a primary concern. The Green River Watershed is the main source of water for the city of Tacoma and must be protected from activities that endanger raw water quality. (6) The Green River above Howard Hanson Dam is a potential rearing area for anadromous fish. This should be discussed along with the resident fish habitat. (7) At present there is no management prescription for elk or deer in the Watershed. This Plan should provide the land manager some guidelines for managing elk and deer habitat in the drainage. (8) Amount of land to be allocated to timber management is an issue as it relates to water quality, wildlife, fire and other management goals. (9) Fire protection objectives are being revised. The acceptable acres and dollar losses due to wildfire as compared to the cost of suppression of those fires needs to be determined.

R. E. Worthington, Regional Forester, Pacific Northwest Region is the Responsible Official. Questions about the proposed action and Environmental Impact Statement should be directed to Dwayne Siex, Land Management Planner, Mt. Baker-Snoqualmie National Forest (206 442-4888).

It is anticipated that the analysis will take about 2½ years. The Draft Environmental Impact Statement is expected to be available for public review by May 1980, and the Final Environmental Impact Statement is scheduled to be completed in February 1981.

Comments on the Notice of Intent or on the project should be sent to Don R. Campbell, Forest Supervisor, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Building, Seattle, WA 98101.

Dated: September 6, 1979.

D. H. Morton,

Acting Regional Forester.

[FR Doc. 79-28398 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-11-M

1980 Spruce Budworm Suppression Project (Northeastern Area, State and Private Forestry, Broomall, PA.); Intent to Prepare an Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, U.S. Department of Agriculture, in cooperation with the Bureau of Forestry, Maine Department of Conservation, will prepare an Environmental Statement for the proposed 1980 Spruce Budworm Supression Project.

Environmental Statements for annual projects to suppress the current budworm outbreak have been prepared since 1972. The information collected for these Statements, comments received on them, the experience gained in carrying out the projects, and public meetings in the form of a scoping session on September 11, 1979, will form the base of the Statement. The public will have further opportunity to provide input at a legislative hearing in January.

The scoping session will be held by the USDA Forest Service in cooperation with the Maine Forest Service from 9:00 a.m. to 10:00 p.m. in the Cushnoc Room of the Civic Center, Augusta, Maine. The public is invited to present oral or written comments.

The primary means of suppressing budworm populations in the past has been chemical insecticides, and chemical insecticides will probably play a role in the 1980 project. Other alternatives may include silviculture, salvage, accelerated harvest and presalvage, and integrated pest management. The 1980 project will be located in some of the spruce-fir forest in the northern half of Maine.

Robert Raisch, Director of the Northeastern Area, is the responsible federal official, and Kenneth Knauer is the team leader for the Environmental Assessment and Statement. Lloyd Irland of the Department of Conservation (Augusta) will represent the State of Maine.

The environmental assessment will require about one month. The Draft Environmental Statement is scheduled for completion by December 1,1979. This will be followed by a two-month review period. The Final Environmental Statement is scheduled for filing February 1, 1979.

Questions about the Notice of Intent or on the project should sent to Robert Raisch, Director, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, Pa. 19008.

Robert D. Raisch,

Area Director.

September 6, 1979.

[FR Doc. 79-28396 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-11-M

Federal Grain Inspection Service

Official Agency Designation; Central Iowa Grain Inspection Service, Inc., Des Moines, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Central Iowa Grain Inspection Service, Inc., Des Moines, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United Stated Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Central Iowa Grain Inspection Service, Inc. (the "Agency"), 125 S.E. 18th Street, P.O. Box 1562, Des Moines, Iowa 50306, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on November 5, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded on the North by U.S. Route 30 east to N44; N44 south to E53; E53 east to U.S. Route 30; U.S. Route 30 east to the Boone County line; the western Boone County line north to E18; E18 east to U.S. Route 169; U.S. Route 169 north to the Boone County line; the northern Boone County line; the western Hamilton County line north to U.S. Route 20; U.S. Route 20 east to R38; R38 north to the Hamilton County line; the northern Hamilton County line east to Interstate 35; Interstate 35 northeast to C55; C55 east to S41; S41 north to State Route 3; State Route 3 east to U.S. Route 65; U.S. Route 65 north to C25; C25 east to S56; S56 north to C23; C23 east to T47; T47 south to C33; C33 east to T64; T64 north to B60; B60 east to U.S. Route 218; U.S. Route 218 south to State Route 3; State Route 3 west to the Butler County line; the eastern Butler County line; the northern Blackhawk County line east to V49;

Bounded on the East by V49 south to State Route 297; State Route 297 south to D38; D38 west to State Route 21; State Route 21 south to State Route 8; State Route 8 west to U.S. Route 63; U.S. Route 63 south to Interstate 80; Interstate 80 east to the Poweshiek County line; the eastern Poweshiek, Mahaska, Monroe and Appanoose County Lines;

Bounded on the South by the southern Appanoose, Wayne, Decatur, Ringgold, and Taylor County lines; and

Bounded on the West by the western Taylor County line; the southern Montgomery County line west to State Route 48; State Route 48 north to M47; M47 north to the Montgomery County line; the northern Montgomery County line; the western Cass and Audubon County lines; the northern Audubon County line east to U.S. Route 71; U.S. Route 71 north to U.S. Route 30. In addition, the following locations which are outside of the foregoing contiguous

geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Coop Elevator Company, Chapin, Iowa, in Franklin County; Hampton Farmers Coop Company, Hampton, Iowa, in Franklin County; Nashua Equity Coop, Nashua, Iowa, in Clinton County; Plainfield Coop, Plainfield, Iowa, in Bremer County; and Farmers Community Coop. Inc., Rockwell, Iowa, in Cerro Gordo County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

A. V. Tischer and Son, Inc., Fort Dodge, Iowa: Farmers Coop Elevator, Boxholm, Iowa, in Boone County;

Fremont Grain Inspection Department, Inc., Fremont, Nebraska: Juergens Produce and Seed and Farmers Grain and Lumber Company, Carroll, Iowa, in Carroll County; and

Omaha Grain Inspection Service, Inc., Omaha, Nebraska: Murren Grain, Elliot, Iowa, in Montgomery County; and Hemphill Feed & Grain and Hansen Feed & Grain, Griswold, Iowa, in Cass County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will privide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than October 29, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on September 10, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-28455 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; D. R. Schaal, Belmond, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of D. R. Schaal, Belmond, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: D. R. Schaal (the "Agency"), Highway 69 South, P.O. Box 213, Belmond, Iowa 50421, an existing official agency made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on November 13, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded on the North by the northern Kossuth County line from U.S. Route 169; the northern Winnebago, Worth, and Mitchell County lines;

Bounded on the East by the eastern Mitchell County line; the eastern Floyd County line south to B60; B60 west to T64; T64 south to State Route 188; State Route 188 south to C33;

Bounded on the South by C33 west to T47; T47 north to C23; C23 west to S56; S56 south to C25; C25 west to U.S. Route 65; U.S. route 65 south to State Route 3; State Route 3 west to S41; S41 south to C55; C55 west to Interstate 35; Interstate 35 southwest to the southern Wright County line; the Wright County line west to U.S. Route 69; U.S. Route 69 north to C54; C54 west to State Route 17; and

Bounded on the West by State Route 17 north to the southern Kossuth County line; the Kossuth County line west to U.S. Route 169; U.S. Route 169 north to the northern Kossuth County line.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Co-op Company, Eagle Grove, Iowa, in Wright County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Central Iowa Grain Inspection Service, Inc., Des Moines, Iowa: Farmers Co-op Elevator Company, Chapin, Iowa, in Franklin County; Hampton Farmers Co-op Company, Hampton, Iowa, in Franklin County; and Farmers Community Co-op, Inc., Rockwell, Iowa, in Cerro Gordo County; and

A. V. Tischer and Son, Inc., Fort Dodge, Iowa: Cargill, Inc., Algona, Iowa in Kossuth County; Big Six Elevator, Burt, Iowa, in Kossuth County; Farmers Elevator, Goldfield, Iowa, in Wright

County; and Farmers Co-op Elevator, Holmes, Iowa, in Wright County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250.

All materials must be postmarked not later than October 29, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washingon, D.C. on: September 10, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 28456 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; Eastern Iowa Grain Inspection & Weighing Service, Inc., Blue Grass, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Eastern Iowa Grain Inspection and Weighing Service, Inc., Blue Grass, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Eastern Iowa Grain Inspection and Weighing Service, Inc. (the "Agency"), R.R. #1, Box 588, Blue Grass, Iowa 52726, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on September 30, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded on the North by Interstate 80 from the western Iowa County line east to State Route 38; State Route 38 north to State Route 130; State Route 130 east to Scott County; the Scott County line east to the Mississippi River (all in Iowa);

Bounded on the East from the Mississippi River, the eastern Rock Island County line; the northern Henry and Bureau County lines west to State Route 88; State Route 88 south; the southern Bureau and Henry County lines; the Knox County line (all in Illinois);

Bounded on the South by the Knox County line west to Warren County; the Warren County line west to U.S. Route 67; U.S. Route north to State Route 17; State Route 17 west to the Mississippi River (all in Illinois); a line due west from the Mississippi River to the northeast corner of Henry County; the southern Washington County line; the southern Keokuk County line (all in Iowa); and

Bounded on the West by the western and northern Keokuk County lines to Iowa County; the western Iowa County line north to Interstate 80 (all in Iowa).

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Delaware County, Iowa; Dubuque County, Iowa; and Jo Daviess County, Illinois.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by McGregor Grain Inspection and Weighing, McGregor, Iowa: Paris and sons Grain Elevator, Masonville, Iowa, in Delaware County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this

designation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since September 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarket not later than October 29, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: September 10, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-28453 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; Keokuk Grain Inspection Service, Inc., Keokuk, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Keokuk Grain Inspection Service, Inc., Keokuk, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Keokuk Grain Inspection Service, Inc. (the "Agency"), 5th and G Streets, 1003 South Fifth Street, Keokuk, Iowa 52632, and existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on September 25, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administration.

The geographic area assigned on an interim basis pending final determination in this matter is: Davis, Lee, and Van Buren Counties in Iowa; and Hancock and McDonough Counties in Illinois.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Central Soya, Inc., Dallas City, Illinois, and Lomax Grain Elevator, Illinois, in Henderson County; and Ursa Farmers Coop, Meyer, Illinois, and Ursa Farmers Coop, Ursa, Illinois, in Adams County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this delegation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since September 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligation, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons ae hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than October 29, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: September 10, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-28452 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; John R. McCrea, Clinton, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the John R. McCrea, Clinton, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier., Director, Compliance

Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: John R. McCrea (the "Agency"), 96 18th Place, P.O. Box 166, Clinton, Iowa 52732, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection service (FGIS), has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on October 15, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

The counties of Clinton and Jackson in Iowa; and the counties of Carroll and Whiteside in Illinois.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since October 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than October 29, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on September 10, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-28454 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; McGregor Grain Inspection and Weighing, McGregor, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the McGregor Grain Inspection and Weighing, McGregor, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8262.

SUPPLEMENTARY INFORMATION: McGregor Grain Inspection and Weighing (the "Agency"), Farmers Grain Dealers Building West, 125 B Street, P.O. Box 201, McGregor, Iowa 52157, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on September 25, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the Iowa-Minnesota State line from the western Howard County line east to the Mississippi River;

Bounded: on the East by the Mississippi River south-southeast to the southern Clayton County line;

Bounded: on the South by the southern Clayton County, Fayette County, and Bremer County lines; and

Bounded: on the West by the western Bremer County line north to State Route 3; State Route 3 east to U.S. Route 218; U.S. Route 218 north to the western Chickasaw County line; the western Chickasaw County line north to Howard County; the western Howard County line north to the Iowa-Minnesota State line.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Paris and Sons Grain Elevator, Masonville, Iowa, in Delaware County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by Central Iowa Grain Inspection Service, Inc., Des Moines, Iowa: Nashua Equity Coop, Nashua, Iowa, in Chickasaw County; and Plainfield Coop, Plainfield, Iowa, in Bremer County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since September 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than October 29, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: September 10, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-28451 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

First Capitol Watershed, Wisconsin; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the First Capitol Watershed

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the First Capitol Watershed project, Lafayette and Iowa Counties, Wisconsin.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jerome C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project being modified concerns a plan for watershed protection, flood prevention, recreation, and enhancement of fish and wildlife resources. The planned works of improvement include four single-purpose floodwater retarding structures and 1.5 miles of smallmouth bass stream improvement.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Jerome C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone number 608-252-5351. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A listed number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: September 4, 1979.

Joseph W. Hass,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-28399 Filed 9-12-79; 8:45 am]

BILLING CODE 3410-16

DEPARTMENT OF COMMERCE

Industry and Trade Administration

NOAA/ERL/Space Environment Lab.; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, NW, (Room 735) Washington, D.C.

Docket No. 79-00251. Applicant: NOAA/ERL/Space Environment Laboratory, MS1-2109, 325 Broadway, Boulder, CO 80303. Article: Computer-controlled scope-display character generator. Manufacturer: SEN Electronique, Switzerland. Intended use of article: The article is intended to be used for investigations of ionosphere structure and its motions. Specifically, it will be used to display computer information on an x-ray telescope and its content will be various computational results and diagraphic display labeling; the display is required for experimenter control.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides three intensity levels for highlighting significant information. The National Bureau of Standards advises in its memorandum dated August 14, 1979 that (1) the specification of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc.79-28400 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

Presbyterian Hospital of Dallas, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before October 3, 1979.

Regulations (15 CFR 301.1) issed under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket No.: 79-00376. Applicant: Presbyterian Hospital of Dallas, 8200 Walnut Hill Lane, Dallas, Texas 75231. Article: Therac 20/Saturne Linear Accelerator and Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used for cancer treatment with photon and electrons on large fields with ability to automatically record and verify each. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00377. Applicant: Presbyterian Hospital of Dallas, 8200 Walnut Hill Lane, Dallas, Texas 75231. Article: TP-11 Radio-therapy Planning System and Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used to generate computerized treatment plans in radiation therapy. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00378. Applicant: Mayo Foundation, 200 First Street S.W., Rochester, Minnesota 55901. Article: Gas Chromatograph/Mass Spectrometer/Computer System, Model MS-5076 and Accessories. Manufacturer: Kratos (AEI Scientific Instruments), United Kingdom. Intended use of article: The article is intended to be used in conducting the following research projects:

1. Profiling of human body fluids in healthy and diseased states using gas chromatography and mass spectrometry.
2. Development of clinical drug assays.
3. Analysis of the metabolism of drugs.
4. Chemical carcinogens and their metabolites
5. Protein sequencing.
6. Lipid/sugar analysis in cell membranes.
7. Rapid identification of bacterial infection.
8. Environmental monitoring of possible carcinogens.
9. Indentification and structure proof of organic compounds.
10. Structural identification of new biochemical compounds.
11. Development of new ultra-sensitive and ultra-specific methods of quantitative analysis.

The article will also be used in the graduate Pharmacology course for graduate students titled Gas Chromatography-Mass Spectrometry in Biomedical Research. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00379. Applicant: National Aeronautics and Space Administration/Ames Research Center, Moffett Field, CA 94035. Article: 5 (each) Optical Bandpass Filter. Manufacturer: Edinburgh Instruments Ltd., Scotland. Intended use of article: The article is intended to be used in the study of the IR Fluxes in a broad infrared (IR) band, a visible band, and four relatively narrow IR bands to determine the existence and abundance of water vapor, aerosols, and other gases on Jupiter. The existence of cloud layers is also expected to be verified. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00381. Applicant: Washington University, Earth and Planetary Sciences, St. Louis, MO 63130. Article: Capacitive etalon and Accessories. Manufacturer: I.C. Optical Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used in a specially constructed astronomical observatory instrument. Observations are made of solar system and galactic objects including the major planets, stellar objects, interstellar gas clouds, comets, planetary nebulae, and late type stars. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00382. Applicant: University of Kansas Medical Center-College of Health Sciences and Hospital, 39th and Rainbow Blvd., Kansas City, Kansas 66103. Article: LKB 2128-010/ Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning animal and viral specimens and tissue cultures which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic animal tissues and on cells, developmental studies on viral systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-virus interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments, and by viral infection. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00383. Applicant: Washington University, Earth and Planetary Science, St. Louis, MO 63130. Article: Optically-contacted Reference Capacitor. Manufacturer: I.C. Optical Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used as a precise capacitive reference for an optically contacted piezo-capacitor etalon. Together these devices are used in a specially constructed astronomical observatory instrument. Observations are made of solar system and galactic objects including the major planets, stellar objects, interstellar gas clouds, comets, planetary nebulae, and late type stars. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00384. Applicant: Washington University, Earth and Planetary Science, St. Louis, MO 63130. Article: Optically contacted piezo-capacitor etalon and Accessories. Manufacturer: I.C. Optical Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used in a specially constructed astronomical observatory instrument. Observations are made of solar system and galactic objects including the major planets, stellar objects, interstellar gas clouds, comets, planetary nebulae, and late type stars. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00385. Applicant: Washington University, Earth and Planetary Sciences, St. Louis, MO 63130. Article: Optically Contacted Piezo-

Capacitor Etalon. Manufacturer: I.C. Optical Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used in a specially constructed astronomical observatory instrument. Observations are made of solar system and galactic objects including the major planets, stellar objects, interstellar gas clouds, comets, planetary nebulae, and late type stars. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00386. Applicant: University of Wisconsin System, A. W. Peterson Office Bldg., 750 University Avenue, Madison, WI 53706. Article: Isotope-Ratio-Mass Spectrometer, Model MAT 250 and Accessories. Manufacturer: Varian MAT GmbH, West Germany. Intended use of article: The article is intended to be used for analysis of ^{15}N, ^{2}H, ^{13}C, ^{18}O and ^{34}S; in investigations of natural isotopic abundance in geologic and natural material, for use of ^{15}N-depleted nitrogen compounds, and for greater accuracy in low enrichment ^{15}N studies. It will also be used in investigations of N_2 fixation, nitrogen transformations in soils and waters, biochemistry of inorganic nitrogen assimilation by plants, mechanisms of oxidative phosphorylation, evaluation of the fate of nitrite in meat products, and characterization of the origin of quartz by $^{16}O/^{18}O$ ratios. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00387. Applicant: California Institute of Technology, 1201 E. California Street, Pasadena, CA 91125. Article: Microanalyzer System, Model IMS-3F Ion and Accessories. Manufacturer: CAMECA, France. Intended use of article: The article is intended to be used to analyze mineralogically and chemically complex rock samples from the moon and other extraterrestrial sources and the earth. The rock samples are comprised mainly of electrically nonconducting silicate minerals. It will be used to measure precise isotopic ratios and chemical abundances of trace elements in selected microscopic volumes (10-1000 μ^3) of individual mineral crystals in the rock sample. The objective of the measurements is to study the history and conditions of formation and metamorphism of lunar and other extraterrestrial samples and terrestrial rock samples. In addition, the article will be used to acquaint students with available analytical instruments which are used to solve problems in the earth sciences and to provide training in methods of research as well as to also provide a sound understanding of the newly developed ion microprobe instrumentation as a basis for future research careers. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00388. Applicant: National Aeronautics and Space Administration—Goddard Institute for Space Studies, 2880 Broadway, New York, New York 10025. Article: Carcinotron (312-362 GHz) Oscillator. Manufacturer: Thomson CSF, France. Intended use of article: The article is intended to be used for testing submilliter-wave frequency converters, and for testing components of the measurement system. Application received by Commissioner of Customs: August 10, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-28403 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

National Radio Astronomy Observatory Associated Universities, Inc., et al.; for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before October 3, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket No.: 79-00389. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron Model VRT 2124B11. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00390. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron Model VRT 2124B6. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00391. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron Model VRT 2124B4. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00392. Applicant: University of Texas Health Science Center, San Antonio, Department of Pathology, 7703 Floyd Curl Drive, San Antonio, TX 78284. Article: Electron Microscope, Model JEM-100CX (Standard Side Entry Type) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigation on the ultrastructural (characteristics) of various pathologic conditions through studies of tissue culture cells (smooth muscle), endothelial and aortic tissue, tumors and renal biopsies. The article will also be used in the teaching of residents, graduate students in pathology and for the training of post-doctoral fellows in specialized techniques related to studies in ultrastructure. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00393. Applicant: University of California at Los Angeles, Purchasing Department, Los Angeles, California 90024. Article: Scanning

Tandem Fabry-Perot. Manufacturer: Dr. J. R. Sandercock, Switzerland. Intended use of article: The article is intended to be used for high contrast Brillouin scattering experiments on semiconductors. These experiments will yield information about the surface phonon spectra of solids. In addition, the articles will be used for education purposes to train students in Physics 596—Solid State Research. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00394. Applicant: University of California at Los Angeles, Physics Department, Los Angeles, California 90024. Article: Infrared Detector. Manufacturer: Unicam Goley, United Kingdom. Intended use of article: The article is intended to be used to measure the infrared absorption in semiconductors and insulators in the spectral region from 20 to 1000 microns for the purpose of studying the electronic properties of these materials. In addition, training for graduate students in Physics 596—Solid State Research will be augumented by these studies. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00395. Applicant: Texas Tech University, P.O. Box 4050, Lubbock, Texas 79409. Article: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used for studies of clay minerals used in geothermal drilling fluids. Some examples are sepiolite, attapulgite, saponite, and bentonite. Clays will be autoclaved under conditions which will simulate the temperature, pressure, and chemistry of the bore-hole conditions of geothermal drilling operations. The rheological properties of the fluids will be measured and correlated with the changes in the structure, morphology, and chemistry of the clay particles. The article will also be used in the training of graduate students in the course GEOCHEM 539, Clay Mineralogy. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00396. Applicant: National Institutes of Health—Dept. of Health, Education, and Welfare, National Institute of Allergy and Infectious Diseases, Building 10, Room 11-R-311, Bethesda, Md. 20205. Article: Gammacell -40, Cesium 137—Irradiation Unit GC-40 and Accessories. Manufacturer: Atomic Energy of Canada, Canada. Intended use of article: The article is intended to be used as a general purpose irradiator for mice, rats, hampsters, guinea pigs and rabbits as well as for tissue cultures and cellular products such as DNA molecules, etc. The greatest use will involve investigation of immunologic functions of various types from the administration of relatively low doses (200-300 rads) which permits the transplantation of foreign neoplasms to lethal dose in the 800-900 rad range followed by the transplantation of hematopoietic cells. Application received by Commissioner of Customs: August 10, 1979.

Docket No.: 79-00397. Applicant: University of Pennsylvania, Regional Laser Laboratories. Dept. of Chem., 33rd and Spruce Streets, Philadelphia, PA 19104. Article: EMG 500 Excimer Laser. Manufacturer: Lambda-Physik, West Germany. Intended use of Article: The article is intended to be used for studies of the properties of the excited state of organic molecules, particularly simple compounds absorbing in the far ultra-violet. Kinetics and excited state cross sections, as well as decay pathways will be examined. The article will also be used in furthering the independent research of graduate students at the university. Application received by Commissioner of Customs: August 17, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-28404 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

IIT Research Institute, et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before October 3, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket Number: 79-00344. Applicant: IIT Research Institute, 10 West 35th Street, Chicago, Illinois 60616. Article: 12KW High Brillance Rotating Anode X-Ray Generator with Accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used for studies of aerosol samples (powders on filter paper), pressed powder samples, or solid samples of crystalline material requiring qualitative or quantitative crystals structure analysis. The experiments involve rapid and automatic qualitative and quantitative measurement of the crystal structure of the sample constituents by measurement of the x-ray diffraction patterns. Application received by Commissioner of Customs: July 3, 1979.

Docket Number: 79-00364. Applicant: Cornell University—Boyce Thompson Institute, Tower Road, Ithaca, New York 14853. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the examination of changes in cellular membranes following exposure to stress. In addition, a group of insect pathogenic viruses, which have excellent potential as viral pesticides will be investigated. Of particular importance, is the characterization of these viruses by ultrastructural studies on virion morphology, nucleic acid structure, antibody-antigen complexes, and morphogenetic changes in virus-infected insect cells. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00365. Applicant: University of California, San Diego, Marine Life Research Group, Scripps Institution of Oceanography, T-6, SIO, A028, La Jolla, CA 92093. Article: 8 (each) Deep Ocean Command Releases, 30 (each) Pyro Technical Release and Accessories. Manufacturer: Institute of Oceanographic Sciences, United Kingdom. Intended use of article: The article is intended to be used for the study of particulate sediment as an index to the chemical and biological conditions of the ocean. Experiments are conducted to achieve the objectives of seasonal collection of particles, the analysis of these particles in terms of their chemical and biologic constituents to more standard oceanographic measurement parameters such as temperature, nutrients, current flow, productivity and net filter samples. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00366. Applicant: University of California—Lawrence

Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Nanolab 7 Scanning Electron Microscope with Lanthanum Hexaboride (LaB_6) Emitter and Accessories. Manufacturer: Semco Instrument Company Ltd., Canada. Intended use of article: The article is intended to be used for performing research into the mechanisms of aging and cancer. Cancer experiments conducted involve the detection of changes that occur in cells and animals that have been exposed to cancer-promoting agents and certain enzyme inhibitors used to study the mechanisms whereby cancers arise. Ultrastructural changes or other markers of early cancer will be sought. Aging experiments will involve the characterization of morphological changes that occur as animals age in order to test the hypothesis that aging results from failure of cells to proliferate. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00367. Applicant: U.S. Department of the Interior—U.S. Geological Survey, Topographic Division, 12201 Sunrise Valley Drive, Mail Stop 526, Reston, Virginia 22092. Article: Accessories to the Kern PG-2 Stereoplotter consisting of (7) each; Earth Curvature Correction Devices and L-type Pantographs. Manufacturer: Kern and Company Ltd., Switzerland. Intended use of article: The article is intended to be used for studies of aerial photographs of the earth's surface used in stereopairs which permit accurate measurement of the earth's features. The objectives pursued in the course of the investigation are obtaining information permitting compilation of data which may be combined to produce accurate topographic maps. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00368. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Ave., Cambridge, MA 02139. Article: Multi-Nuclear Magnetic Resonance Spectrometer, Model 250 MHz and Accessories. Manufacturer: Bruker Physik AG, West Germany. Intended use of article: The article is intended to be used for the study of structures and the dynamics of molecules and the interactions of molecules within molecular aggregates in the following research projects:

a. Synthesis of the Antileukemic Triptolide
b. Studies of Arene Oxides
c. Syntheses of the Antibiotic Coriolin and the Estrogen Mirestrol
d. Structure Elucidation of DNA Adducts
e. Synthetic Methods for the Assembly of Carbo- and Heterocyclic Rings
f. Coordination Chemistry of Ruthenium, Technetium and Molybdenum
g. Problems in Structure and Reaction Dynamics of Azo Dioxides
h. Synthesis and Reactions of Peptides
i. Structure and Function of Biological Membranes
j. Chemistry of Macrolides and Related Compounds
k. Synthesis of Enterobactin and Analogues
l. Biomechanistic Studies—Flavins and Oxygen Transfer
m. Phospholipid/Phospholipase Interactions
n. Synthetic Applications of the Intramolecular Diels-Alder Reaction
o. Mechanistic Organometallic Chemistry
p. Homogeneous Catalysis
q. Organocobalt Chemistry
r. Phosphorus-Ylid Chemistry
s. Enzymatic Reaction Mechanisms-Flavin Coenzymes and Suicide Substrates
t. Chemistry of Transition Metal Phosphine Complexes
u. Enzymatic Synthesis of Sugar Phosphates
v. Organometallic Photocatalysis

In addition, the article will be used in the courses 5.195, Interpetive Spectroscopy IAP, Theory and Applications of NMR Spectroscopy and IAP, ^{13}C NMR Spectroscopy to familiarize the research staff with techniques used to determine structures and dynamics of molecular systems. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00369. Applicant: University of Oregon, Department of Biology, Eugene, Oregon 97403. Article: Camera and Microscope Objectives, Condenser. Manufacturer: Leitz and Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of cell division with stress on the mitotic spindle in order to control e.g., uncontrolled growth (cancer). Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00370. Applicant: University of Texas Medical Branch, Galveston, TX 77550. Article: Electron Microscope, Model EM 201 with Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for ultrastructural studies on pathologic human tissues and normal and pathologic animal tissues, cyto- and histochemical studies on enzymes and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in cellular biochemical and physiological environments. The article will also be used in a training program to expose students to the use and application of electron microscopy as a research and diagnostic aid. This exposure will include ultramicrotomy and the use of the electron microscope in evaluating pathological changes in tissues. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00371. Applicant: The University of Texas at Dallas P.O. Box 688, Richardson, Texas 75080. Article: Model CPS-2 Coherent NMR Pulse Spectrometer and Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use of Article: The article will be used to study the binding of paramagnetic metal ions to biological macromolecules. These studies will in part be M.S. Level Research in Chemistry. The objectives of this work include in an examination of the metal ion hydration sphere free in aqueous solution and upon binding to a large macromolecule such as a nucleic acid or protein. This information may be derived from relaxation studies of the water solvent using the various pulse sequence established by the article. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00372. Applicant: U.S. Environmental Protection Agency, Environmental Sciences Research Laboratory, Environmental Research Center, Research Triangle Park, N.C. 27711. Article: Aerosol Filter Photometer. Manufacturer: Fraunhofer-Gesellschaft Insti. for Aerobiology, West Germany. Intended use of article: The article is intended to be used for studies of airborne pollution particles. Short term (minutes) and long term (hours and days) integrated airborne particle mass concentrations are to be measured. The objectives of the experiments conducted are to evaluate the filter photometer as an aerosol mass monitor and to determine variations in airborne particle mass concentrations and their dependence on source operating and atmospheric conditions. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00373. Applicant: National Institutes of Health—National Cancer Institute, 9000 Rockville Pike, Bethesda, Maryland 20205. Articles: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning animal and human

tissues and tissues cultures which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic tissue culture and animal tissues, differentiation studies, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-virus interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments, and by viral infection. Application received by Commissioner of Customs: August 9, 1979.

Docket Number: 79-00374. Applicant: Presbyterian Hospital of Dallas, 8200 Walnut Hill Lane, Dallas, Texas 75231. Article: Therasim 750 Teletherapy Treatment Planning Simulator and Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used to simulate radiation therapy treatment. Application received by Commissioner of Customs: August 10, 1979.

Docket Number: 79-00375. Applicant: Presbyterian Hospital of Dallas, 8200 Walnut Hill Lane, Dallas, Texas 75231. Article: Therac 6/Neptune Linear Accelerator and Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used for cancer treatment with large field X-rays with ability to record and verify each treatment. Application received by Commissioner of Customs: August 10, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-28405 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

University of North Carolina; Decision on application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00203. Applicant: University of North Carolina, Department of Medicinal Chemistry, School of Pharmacy, Beard Hall 315, Chapel Hill, N.C. 27514. Article: Model DCC-A, Droplet Countercurrent Chromatograph and Glass Columns. Manufacturer: Tokyo Rikakikai Co. Ltd., Japan. Intended use of article: The article is intended to be used for studies of extracts from plants, animals and fungus metabolites. Countercurrent chromatographic separation (with a droplet mechanism) of the mixture extracts will be conducted. The overall objective is to separate and isolate the pure active component from the mixture extracts, especially the water-soluble polar active substances. A limited number of post-doctoral and pre-doctoral graduate students will be instructed individually in Droplet Countercurrent Chromatography (DCC) when their research requires this technique.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides countercurrent chromatograph with a droplet mechanism which reduces emulsion formation by not requiring shaking during separation. The Department of Health, Education, and Welfare advises in its memorandum dated August 9, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-28401 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

University of Texas System Cancer Center; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket Number: 79-00240. Applicant: The University of Texas System Cancer Center, 6723 Bertner, Houston, Texas 77030. Article: Multi-Parameter Flow Cytophotometer ICP-22 and Accessories. Manufacturer: Phywe Company, West Germany. Intended use of article: The article is intended to be used for the study of cells from long term cultures or from biopsies specimens from patients with leukemias and solid tumors. The cells will be processed to yield single cell suspensions, and will be stained specifically for DNA, RNA and protein so that two parameter analysis of cellular properties can be performed. The determined cellular properties will be utilized to identify cell subpopulations in heterogenous samples and to further characterize malignant versus normal cells.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 78-00360 which was denied without prejudice to resubmission on December 21, 1978 for informational deficiencies. The foreign article has an excitation wavelength of 300 to 800 nanometers and a coefficient of variation of less than 2 percent (0.8% for stained DNA). The Department of Health, Education, and Welfare advises in its memorandum dated August 9, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational land Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-28402 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10:00 a.m., on October 17, 1979, in Room 3817, U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee, which is comprised of 20 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data
2. Report on Conditions in the Export Market
3. Recent Foreign Restrictions Affecting Textiles
4. Other Business

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: August 27, 1979.

Paul T. O'Day,

Acting Director, Bureau of Domestic Business Development.

[FR Doc. 79-28515 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Correction of Notice of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council has changed the dates of its scoping meeting from Wednesday, September 5, 1979, and Thursday, September 6, 1979, (Federal Register, Volume 44, No. 161, dated August 17, 1979, pages 48313-48314) to Tuesday, September 25 and Wednesday, September 26. The time and places of the meeting have not been changed.

EFFECTIVE DATE: The correction is effective September 6, 1979.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone (809) 753-4926.

Signed at Washington, D.C., this 7th day of September 1979.

Jack W. Gehringer,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 79-28411 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-22-M

Improving Government Regulations: Procedures for Development of NOAA Regulations

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Final directive.

SUMMARY: On June 1, 1979, NOAA adopted final procedures for the development of "informal" or "notice and comment" regulations. These procedures supersede Appendix H to the Department of Commerce Report on Improving Government Regulations, 44 FR 2103, and implement Executive Order 12044, Improving Government Regulations. These procedures, set forth in NOAA Directive 21-24, establish the criteria for identifying significant rules promulgated by NOAA components; prescribe the criteria for rules requiring a regulatory analysis; detail the course of action to be followed in issuing a notice of proposed rulemaking, obtaining public comment and compiling an administrative record prior to approval and publication of final rules; direct the maintenance of a regulatory agenda and review of existing rules; and, prescribe procedures for public petitions to initiate NOAA rulemaking.

FOR FURTHER INFORMATION CONTACT: Michael A. Levitt, Office of the General Counsel, National Oceanic and Atmospheric Administration, Washington, D.C. 20230 (Tel: (202) 377-4080).

Procedures for Development of Regulations

1. Purpose and Scope

.01 This directive establishes the procedures to be followed by NOAA employees engaged in "informal" or "notice-and-comment" rulemaking governed by 5 U.S.C. 553. The procedures outlined also implement Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (1978) and Departmental Administrative Order 218-7, 44 FR 2082 (1979), the Department of Commerce implementation of Executive Order 12044.

.02 This directive applies to all regulations [1] of NOAA published in the Federal Register, except as follows:

a. Regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557);

b. Regulations issued with respect to a military or foreign affairs function of the United States (but see Paragraph 7.01.d);[2]

c. Matters related to agency management or personnel;

d. Regulations related to Federal Government procurement; or

e. Regulations that are issued in response to an emergency or which are governed by short-term (fewer than 91 days) statutory or judicial deadlines (but see Paragraphs 7.01.c and 7.01.d).

.03 Whenever practicable and feasible, and whenever the public may be interested in or affected by the subject matter of a rulemaking, the rulemaking procedures set forth in this directive shall be complied with despite the availability of an exemption listed in Paragraph 1.02.

.04 For purposes of this directive, the development of a fishery management plan ("FMP") pursuant to the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.*, beginning with consideration by the Regional Fishery Management Councils and concluding with Secretarial approval of an FMP and promulgation of regulations to implement an FMP, is deemed a unitary rulemaking process.

.05 Closely related sets of rules shall be treated as a unit.

.06 In the case of regulations which NOAA plans to promulgate jointly with one or more other agencies, the agency heads or program officials involved in

[1] This directive uses the terms "regulation" and "rule" interchangeably.

[2] Unless otherwise denoted, sections cited in this text refer to those in this document.

the rulemaking shall designate one agency as lead agency for the purpose of determining which rulemaking procedures will be utilized. That agency shall be responsible for compliance with its procedures implementing Executive Order 12044. Regardless of which agency is designated as lead, NOAA will comply with the requirements of Paragraphs 9.02 and 11 of this directive.

2. Significant Rules

.01 General. Each proposed regulation shall be evaluated at the earliest practicable point in its development to determine whether the regulation is "significant" under this paragraph.

.02 Criteria. a. Fishery management plans developed pursuant to the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801, *et seq.*, and the initial regulations which implement those plans, shall be deemed significant in all instances.

b. Any other regulation, other than an amendment to an existing significant regulation, shall be deemed significant, if that regulation, or in the case of an amendment to an existing non-significant regulation, if the modification—

(1) Creates a major impact upon the environment;

(2) Creates a major impact upon the economy based upon the criteria set forth in Paragraph 3.01;

(3) Affects a large number of individuals, businesses, organizations, State or local governments;

(4) Places burdensome recordkeeping and reporting requirements on the public;

(5) Has an integral relationship either to the regulations of other programs and agencies or to major Departmental policy issues; or

(6) Is the subject of controversy or significant public interest.

c. An amendment to an existing significant regulation shall be deemed significant if it substantially and materially alters that regulation.

.03 Determination of Significance. a. The following officials shall determine initially whether a regulation is significant:

(1) The Assistant Administrator for Fisheries.

(2) The Assistant Administrator for Coastal Zone Management.

(3) The Assistant Administrator for Administration.

(4) The Assistant Administrator for Research and Development.

(5) The Assistant Administrator for Oceanic and Atmospheric Services.

The determination of significance or nonsignificance by an Assistant Administrator shall be reviewed by the Administrator as set forth in Paragraph 2.03.b.

b. If an Assistant Administrator determines that a regulation is significant, he or she shall submit a work plan to the Administrator, as described in Paragraph 4.02, and receive the Administrator's approval of that work plan. If an Assistant Administrator determines that a regulation is not significant, he or she shall promptly obtain the Administrator's review and concurrence in that decision. A determination that a regulation is not significant shall be reviewed by the Administrator, at the latest, prior to the submission of the NOAA semi-annual regulatory agenda required by Paragraph 11.02, or the notification to the Assistant Secretary for Policy of the Department of Commerce required by Paragraph 11.05, whichever occurs first.

c. The Administrator may conclude that a regulation is not significant, even if it meets the criteria established for identifying significant regulations, if the Administrator determines, in writing, that the degree of discretion available to the agency is so limited by underlying legislation or executive branch directives (e.g., Executive Orders, OMB Circulars, etc.) that no significant options for implementation are available to the agency. A copy of this determination shall be sent promptly to the Assistant Secretary for Policy of the Department of Commerce and an explanation of the determination shall be included in the preamble to the notice of proposed rulemaking (the "NPR").

d. Notwithstanding any determination of significance or non-significance made by an Assistant Administrator or the Administrator, a regulation shall also be deemed significant whenever the Secretary has determined that the regulation shall be so classified.

e. Regulations which are not significant shall be accompanied by a statement to that effect in the preamble whenever published in the Federal Register.

3. Rules Requiring A Regulatory Analysis

.01 Criteria. a. A regulatory analysis shall be performed for all regulations described in Paragraphs 2.02.a and 2.02.c.

b. A regulatory analysis shall be prepared for any other significant regulation if that regulation, or in the case of an amendment to an existing non-significant regulation, if the change resulting from that amendment—

(1) During any one year of its existence, can be expected to result in an effect (direct or indirect) on the economy exceeding $50 million;

(2) During any one year of its existence, can be expected to result in an effect (direct or indirect) on either consumers, industries, levels of government, or a geographic region exceeding $25 million;

(3) During any one year of its existence, can be expected to result in an increase in costs or prices of 5% or more for the specific activity, product(s) and/or service(s) affected by the proposed rule or regulation;

(4) Can be expected to reduce labor productivity by 1% or more in the economic activities or sector(s) affected by the proposed regulation;

(5) Can be expected to reduce employment by 5% or more in the economic activities or sector(s) affected by the proposed rule or regulation;

(6) For the particular market(s) affected, can be expected to result directly or indirectly in a 1% or more decline in supply of materials, products or services, or a 1% or more increase in consumption of those materials, products or services; or

(7) For the particular market(s) affected, can be expected to result in a distinct decline in competition as a result of the proposed rule or regulation. Factors to be considered include limitation of market entry, restraint of market information, or other restrictive factors that impede the functioning of the market system.

.02 A regulatory analysis shall be prepared when: a. In the judgment of the Administrator, such an analysis would benefit the decisionmaking process and/or promote more informed public participation; or

b. The Secretary has determined that such an analysis should be performed.

.03 Determination that a Regulatory Analysis Is Required. The work plan which is submitted to the Administrator pursuant to Paragraph 4.02 shall state whether, in the judgment of the program official developing the proposed rule, a regulatory analysis is required. The Administrator shall review that judgment and decide whether a regulatory analysis is required.

.04 Contents of Regulatory Analysis and Procedures Relating to Development Thereof. a Each regulatory analysis shall include, at a minimum:

(1) A succinct statement of the problem;

(2) A description of the major alternative ways of dealing with the problems that were considered;

(3) A comparison of the economic and other consequences of each of these alternatives;

(4) A detailed explanation of the reason for choosing one alternative over the others; and

(5) The urban and community impact analysis required by Executive Order 12074, 43 FR 36,875 (1978), and OMB Circular A-116 which implements that Executive Order.

b. The analysis in Paragraph 3.04.a may also include an examination of:

(1) The need for specific requirements versus the benefits of allowing varying degrees of discretion by those subject to the regulation;

(2) Alternative types of compliance incentives;

(3) Alternative enforcement mechanisms; and

(4) alternative governmental levels for implementation.

c. The NPR for rules requiring a regulatory analysis shall contain, among other items, a statement of how the public may review a draft regulatory analysis (see Paragraph 6.02). Public comments on the draft regulatory analysis shall be considered in preparing a final regulatory analysis, which shall be made available to the public when the final regulation is published. Significant public comments on the analysis shall be summarized and responded to in the preamble to the final regulations.

d. The Administrator shall inform the Chief Economist of the Department as early as possible of the nature and extent of the analysis being undertaken to assure adequate opportunity for consultation and assistance. The draft regulatory analysis shall be submitted to the Chief Economist of the Department for review and comment at least 15 days prior to submission of the NPR to the Federal Register.

e. To avoid duplication and inefficient use of resources, an environmental impact assessment or statement which would ordinarily include an analysis of economic impacts may instead incorporate or cross-reference the economic analysis contained in an accompanying regulatory analysis.

f. Final regulatory analyses shall be approved by the Administrator prior to or at the time of final publication of the rule (see Paragraph 9.03).

4. Preparation of Work Plan Prior to Notice of Proposed Rulemaking (NPR)

.01 Whenever one of the Assistant Administrators listed in Paragraph 2.02.a believes that development of a regulation may be necessary, that official should make an informal assessment of the need for the regulation and possible alternative approaches. If it is decided to recommend development and issuance of a regulation, the official should determine whether or not the regulation is significant (See Paragraph 2).

.02 Before committing substantial resources to the development of a significant regulation, the official shall prepare a work plan for submission to and approval by the Administrator. At the same time that a work plan is submitted to the Administrator for approval, the Assistant Administrator responsible for the work plan shall transmit a copy to all other Assistant Administrators listed in Paragraph 2.03.a.

.03 The work plan ordinarily should not exceed 5-10 pages in length. The format for the work plan may vary according to the type of regulation, but should include a discussion of the following items when they are applicable:

Purpose. This is a brief description of the possible need to regulate and the consequences of no regulation.

Classification. This is an explanation of why the proposed regulation is deemed significant, and may, where appropriate, include a recommendation to the Administrator on whether to override the determination of significance pursuant to Paragraph 2.03.c.

Alternatives. This is a summary of the major options available under the authorizing statutue that will be evaluated.[3]

Issues. This is a list of issues to be resolved including effects on other NOAA, Federal and State programs, and analyses of environmental, economic, urban, and community impacts.

Schedule. This is a timetable with target dates for identifying and notifying interested outside parties prior to an NPR, completion of the initial draft, internal and external review of drafts, awarding and completing contracts, any required progress reports, publication of the proposed regulations, end of the public comment period, and promulgation of the final regulation.

External Participation. This is a plan to involve those parties outside of NOAA in the regulation development process. It indicates how persons interested in and affected by the regulation will be identified, notified, and brought into discussions, and what provision, if any, will be made to compensate participants pursuant to NOAA regulations on Financial Compensation of Participants in Administrative Proceedings, 43 FR 17808 (April 26, 1978). It lists actions planned for coordination with State and local governments.

Regulatory Analysis. This reports on whether a regulatory analysis is required (see Paragraph 3.03). This section will identify the alternatives to be evaluated in the regulatory analysis and the major costs and (where feasible) benefits to be analyzed.

EIS. This states whether either the National Environmental Policy Act or NOAA policy calls for an environmental impact statement.

.04 Either upon receiving the Administrator's approval of a work plan or in the case of regulations deemed not significant by an Assistant Administrator, upon receiving the Administrator's concurrence in that decision, the appropriate Assistant Administrator shall notify the person in change of the Administrative Rulemaking Records Center (the "ARRC") for that office (see Paragraph 8) of the proposed rulemaking, and shall provide the Office of General Counsel with the information required to be provided in the semi-annual regulatory agenda (Paragraph 11.01).

.05 The person in charge of the ARRC shall assign the rulemaking a docket number, begin a recordkeeping file on the rulemaking, and notify the Office of General Counsel of the assigned docket number.

5. Public Participation Prior to NPR

.01 The public and State and local governments shall be given an early and meaningful opportunity to participate in the development of regulations.

.02 Program officials shall consider a variety of ways to provide this opportunity, including but not limited to:

a. Publishing in the Federal Register an advanced notice of proposed rulemaking, describing the problems the rulemaker proposes to address in the contemplated rulemaking and the alternative responses to them that are under consideration and requesting the public to supply its written views on these matters;

b. Holding open conferences or meetings at which interested persons are afforded the opportunity to exchange views with the rulemaker and with each other on desirable approaches to problems that the contemplated rulemaking would address;

[3] Such alternatives may include (1) alternative types of regulations (e.g., no additional regulatory action, approaches that specify performance or quota levels but allow those regulated to achieve attainment by whatever means they prefer, engineering design approaches that specify how a proposed outcome is to be achieved); (2) alternative stringency levels; (3) alternative timing (e.g., using different effective dates, phasing in a requirement more or less gradually); (4) alternative methods of ensuring compliance (e.g., use of economic incentives, various enforcement options, use of different compliance methods for different industry segments).

c. Sending notices of the intention to develop regulations to publications likely to be read by those affected;

d. Notifying interested parties directly; and

e. Providing for more than one cycle of public comments.

.03 The preamble of any proposed rulemaking covered by this directive shall contain a brief description of plans for obtaining public, and if applicable, State and local government participation. If none of the methods in Paragraph 5.02 are used, the preamble accompanying the final regulation shall briefly explain the reasons and indicate what other steps were taken to assure adequate opportunity for public and State and local government participation.

6. Notice of Proposed Rulemaking

.01 The NPR shall include:

a. The text of the proposed rule;

b. A statement of the time, place, and nature of public rulemaking proceedings;

c. Reference to the legal authority under which the rule is proposed;

d. A discussion of the background and major issues involved;

e. A summation of the agency's current attitudes toward critical issues in the proceeding and a description of the data on which the agency relies, indicating where the data may be inspected. If applicable, the notice should provide an explanation of the tests and other procedures followed by the agency and the significance the agency has attached to them;

f. A statement of whether funds are available to compensate participants in rulemaking proceedings pursuant to NOAA regulations on Financial Compensation for Participants in Administrative Proceedings, 43 FR 17806 (April 26, 1978). This statement may establish a limit on the total amount of financial compensation to be made to all participants in a particular proceeding and/or may establish a limit on the total amount of compensation to be made to any one participant in a particular proceeding. The statement may also specify what kinds of costs will be compensated in a particular proceeding; and

g. Any other information required by the Federal Register to be contained in the preamble pursuant to 1 CFR 18.12.

.02 If the rule is one requiring a regulatory analysis, the NPR shall also include:

a. An explanation of the regulatory approach that has been selected or is favored and a short description of the other alternatives considered;

b. The major reasons for selecting, or favoring, a particular alternative(s); and

c. A statement of how the public may review a copy of the draft regulatory analysis.

7. Opportunity for Public Comment

.01 The public shall be given at least 60 days to comment on proposed significant regulations. a. Exceptions to this requirement may be granted only by the Administrator and only in those instances where it is determined that compliance is not possible.

b. When an exception is made, the preamble to the proposed regulation shall include a brief statement citing reasons for the shorter time period.

c. Regulations exempted by Paragraph 1.01.e (emergencies or short-term deadlines) shall, when published in the Federal Register, be accompanied by a statement of the reasons why it is impracticable or contrary to the public interest to follow the procedures of this directive. This statement shall include the name of the policy official responsible for the determination.

d. Regulations exempted by Paragraph 1.01.b (military or foreign affairs functions) or 1.01.e, may be made effective on issuance. However, Federal Register publication of these regulations shall provide for a public comment period of at least 60 days after issuance and republication after public comments have been considered and appropriate modifications, if any, are made.

.02 The official responsible for the rulemaking may hold hearings or other meetings as a supplemental means of obtaining the views of interested persons on a proposed rule, draft regulatory analysis, or draft environmental impact statement. Hearings and other meetings should normally be held when a proposed rule is highly controversial, or would have special impact in specific geographic areas.

.03 In deciding whether to hold hearings or meetings, the program official should also consider special difficulties that interested persons might encounter if the submission of written comments were the only available method of public participation in the rulemaking. The program official should consult with the Office of General Counsel in determining the type of hearing or meeting that should be used in a particular rulemaking.

.04 A hearing might be held for one or more of several different reasons, including: a. The desire to clarify the meaning of a proposed rule, draft regulatory analysis, or draft environmental impact statement and to offer the public information that will be useful in a preparation of written comments; or

b. The desire to receive from interested persons oral statements serving the same function as, and submitted in lieu of, written comments.

.05 A hearing may also be held to resolve disputed issues of fact. In particular, if parties to a proposed rulemaking can demonstrate that specific issues of fact cannot be adequately explored without utilizing adjudicatory procedures, then the rulemaking should include a hearing which is formal in nature and which may include, among other procedures, sworn testimony and cross-examination. In addition, adjudicatory procedures should be utilized whenever, in the judgment of a program official, matters of great import cannot be adequately explored and discussed in a non-adjudicative hearing.

.06 If the program official, after consultation with the Office of General Counsel, finds that fairness and sound decisionmaking so require, he or she may extend the comment period specified in the NPR, establish an additional comment period, or schedule additional hearings or other meetings on the proposed rule, draft regulatory analysis, or draft environmental impact statement. The program official should be especially sensitive to the possible necessity of such action when a comment, hearing transcript, *ex parte* communication, amendment to the NPR, or other item placed in the file raises new issues that many persons interested in the rulemaking may find difficult to address within the original comment period and hearing schedule.

8. The Administrative Record and the Administrative Rulemaking Records Center

.01 Each official listed in Paragraph 2.03.a shall establish within his or her office an Administrative Rulemaking Records Center (an "ARRC") which will consist, for each rule, of a labeled, publicly accessible file drawer in a room set aside for such files, with an adequate and organized staff assigned to keep them in order. The Assistant Administrator for Administration shall maintain one ARRC for his or her office and for the Assistant Administrators for Research and Development and for Oceanic and Atmospheric Services.

.02 The Assistant Administrator for Fisheries shall establish, in addition to the ARRC within his Office, an ARRC for each Regional Office of the National Marine Fisheries Service. In addition, the Assistant Administrator for Fisheries shall require each Regional Fishery Management Council to establish an ARRC. In any case where authority to approve and/or promulgate

regulations is exercised by the Office of the Assistant Administrator in conjunction with a Regional Office and/or a Regional Fishery Management Council, both the Office of the Assistant Administrator and either the Regional Office or the Regional Fishery Management Council, as appropriate, shall maintain within its ARRC those portions of the record originating with, presented to, or considered by it.

.03 Whenever a rulemaking involves more than one ARRC, each ARRC shall contain a current index of the administrative record for that rulemaking. This index shall describe each document in the administrative record by date, source, location, and summary of content.

.04 At the time of publication of an NPR, the administrative record shall include, at a minimum: a. Where applicable, a copy of the work plan;

b. A copy of the notice of proposed rulemaking;

c. Where applicable, a copy of the draft or final environmental impact statement;

d. Where applicable, a copy of the draft regulatory analysis; and

e. Copies of the sources used in the preparation of that notice and not readily available to the general public that may clarify and help to disclose fully the reasoning underlying the proposed rule.

.05 The person or persons responsible for maintaining an ARRC shall, for each rule, place the following materials in the file promptly upon receiving them: a. All written comments timely submitted by interested persons in response to the NPR;

b. Where applicable, all written comments timely submitted by interested persons in response to an environmental impact statement or regulatory analysis prepared in connection with a proposed rulemaking, and copies or written summaries of all responses thereto;

c. The transcript, minutes, or any other record of any hearing or other public meeting held in connection with the development of a proposed rule;

d. Material submitted for inclusion in the administrative record by a program official involved in developing the rule, such as technical materials, work sheets, and memoranda;

e. Copies of written *ex parte* communications and written summaries of all oral *ex parte* communications relating to the merits of the proposed rule, and copies or written summaries of all responses to such communications; and

f. The final rulemaking document and, where applicable, the final environmental impact statement and final regulatory analysis, or the notice of withdrawal of the notice of proposed rulemaking.

.06 During the period specified in the NPR, all persons shall be afforded the opportunity to submit written comments on the proposed rule, and, where applicable, draft regulatory analysis and draft environmental impact statement. Interested persons should send these comments to the appropriate program official, who shall stamp the date received on the original document, and forward a copy of the stamped document to those responsible for maintaining the ARRC. Those responsible for maintaining the ARRC shall assign each comment a log number, enter the log number and writer's name and address in a log book, and place the comments into the file. In rulemakings which involve a large number of comments, copies of approximately fifty comments should be bound together, with a copy of the pertinent part of the log book included as a cover sheet in this binding to indicate how many comments are included and to identify the source of each comment.

.07 All documents contained in the record file must be accessible to the public except those documents exempted from disclosure under the Freedom of Information Act, 5 U.S.C. 552.

.08 When either the final rulemaking document or a withdrawal of NPR is published and placed in the file, the file shall be closed. No document may be placed in the file after it has been closed, except that in the case of judicial review of a rule, the record may be supplemented to clarify or explain the agency's position.

.09 The file shall be available for public inspection and copying during normal business hours at the appropriate ARRC. Copying charges shall be determined in accordance with Departmental regulations and NOAA Directives Manual 21-25.

.10 Any communication received by a NOAA employee from outside the Department that relates to the merits of a proposed rule shall be treated as a comment whether or not it is so designated by the commenter. If a written communication is received during the comment period specified in the relevant NPR or a subsequent notice, it shall be placed in the ARRC. If an oral communication is received during that same time period, a summary of that communication which includes an identification of the source shall be placed in the ARRC. If a written communication is received after the close of that period, it must be returned to the sender without being brought to the attention of program officials involved in the proposed rulemaking. A program official who inadvertently becomes familiar with an untimely communication shall include the communication (or, if an oral communication, a summary thereof) in the file. In the interest of fairness and sound decisionmaking, the program official may, as discussed in Paragraph 8.11, provide an opportunity for further public comment.

.11 Whenever, during the course of a rulemaking, a program official adds material to an ARRC, that official should assure that the addition of material to the record does not result in unfairness to those commenting on the proposed rule. Thus, for example, when the rulemaker includes additional material dealing with matters of controversy near the end of the comment period, or after that period has ended, the public should normally be afforded an opportunity to comment on the new material. In deciding what action to take under such circumstances, the rulemaker shall consult with the Office of General Counsel.

9. Approval of Final Rule by Administrator and Secretary

.01 The Administrator may, at his or her discretion, refer to the Secretary for approval significant regulations which are believed to be of particular importance.

.02 Whenever, under Paragraph 9.01, Secretarial approval of a regulation is requested, or whenever the Secretary desires to have final approval of a rule before it is published in final form, the Administrator shall submit the regulation to the Secretary for approval no later than 15 days before the proposed date for publication in the Federal Register in final form.

.03 Each significant regulation and, where appropriate, its related regulatory analysis must have the approval of the Administrator who will determine that the following requirements are satisfied:

a. The regulation is needed;

b. The direct and indirect effects of the regulation have been adequately considered;

c. Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

d. Public comments have been considered and an adequate response has been prepared;

e. The regulation is written in plain English and is understandable to those who must comply with it;

f. An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

g. The name, address and telephone number of a knowledgeable agency official is included in the publication; and

h. A plan has been developed for evaluation of the regulation after its issuance.

10. Publication of Final Rule

.01 If the agency decides to promulgate a final rule, it will issue a final rulemaking document. Where applicable, this document shall contain:

a. A summary of significant public comments on the proposed rulemaking and the agency response thereto;

b. A summary of significant public comments on the regulatory analysis and the agency response thereto;

c. A reference to the notice of proposed rulemaking and other important documents published in the Federal Register during the rulemaking;

d. A discussion of the departures from the provisions of the proposed rule and the reasons that one alternative has been selected over another;

e. The date on which the final rule will go into effect (which shall be no sooner than 30 days after publication, unless the agency finds and publishes good cause for doing so);

f. The name, address, and telephone number of a NOAA employee who may be contacted for additional information about the final rule;

g. The text of the final rule;

h. Information on where a copy of the final regulatory analysis may be reviewed; and

i. Any other information required by the Federal Register to be contained in the preamble pursuant to 1 CFR 18.12.

.02 The final rulemaking document and final regulatory analysis must be placed in the file, whereupon, except as provided in Paragraph 8.08, that file will be closed. The file will continue, however, to be available for public inspection at the appropriate ARRC.

.03 If a decision is made not to issue a final rule, a notice of withdrawal of the proposed rulemaking shall be published in the Federal Register. Ordinarily, the notice should contain an explanation of why the proposed rule is being withdrawn.

11. Preparation of the Regulatory Agenda

.01 The Office of General Counsel shall be responsible for maintaining a current regulatory agenda. On the last day of June and December of each year, each Assistant Administrator shall submit a status report to the Office of General Counsel updating the information the Administrator must provide to the Department of Commerce in the semi-annual regulatory agenda as set forth in Paragraph 11.02.

.02 On January 15 and July 15 of each year, the Administrator shall submit the NOAA regulatory agenda to the Assistant Secretary of the Department of Commerce for Policy in order to permit examination and review of the agenda by the Office of the Secretary. Each regulatory agenda shall include:

a. A description of each regulation covered by this directive which is under development or being considered for development, including, to the extent feasible:

(1) A statement whether the regulation has been determined to be a significant regulation;

(2) The need and the legal basis for the action being taken;

(3) A statement whether or not a regulatory analysis will be required;

(4) The name and telephone number of a knowledgeable official;

(5) A listing of major issues likely to be considered in developing the regulation;

(6) A tentative plan for obtaining public comment, and where applicable, for consulting with State and local governments;

(7) Proposed dates for completing steps in the development process; and

(8) Information on the status (including changes to the information required by this Paragraph 11.02.a) of proposed significant regulations listed in previous agendas which are not yet published as final in the Federal Register.

b. A list of each existing regulation scheduled to be reviewed, including the name and telephone number of a knowledgeable official for each regulation;

c. Information on the status of existing regulations listed for review in previous agendas; and

d. A list, including the date and Federal Register citation, of all final regulations published in the Federal Register during the previous six months.

.03 If there are no plans for developing or reviewing regulations, the Administrator will so report to the Assistant Secretary for Policy.

.04 The agency officials listed in Paragraph 2.03.a shall immediately notify the Administrator and the Office of General Counsel whenever it becomes apparent that:

a. Development or review of significant regulations not listed in the previous Department Agenda will commence before publication of the next Department Agenda, or

b. Development or review of a regulation listed in the previous agenda will not commence as scheduled.

.05 The Administrator will notify the Assistant Secretary for Policy of this fact and the Administrator shall publish a supplement to the Department of Commerce agenda.

.06 The information contained in any agenda is only that which is reasonably expected to be known at the time of its preparation.

12. Review of Existing Rules

.01 The agency officials listed in Paragraph 2.03.a. shall be responsible for a periodic selection of existing regulations for review and possible revocation or revision.

.02 In selecting regulations to be reviewed, and establishing priorities, the responsible agency official shall select those regulations:

a. For which there is no continued need;

b. Which have been the subject of a significant number of complaints or suggestions;

c. Which impose heavy burdens on those directly or indirectly affected by the regulation;

d. Which need to be clarified or simplified;

e. Which overlap and duplicate other regulations; or

f. Which have not undergone evaluation for a period of four or more years.

.03 Any existing regulation selected for review shall remain in full effect until such time as it may be revised or revoked.

.04 The review of existing regulations shall, at a minimum, contain the following procedural steps:

a. Inclusion of notice of review in the semiannual agenda as required by Paragraph 11.02.b, or, as appropriate, supplementing the Departmental Agenda and notifying the Assistant Secretary of the Department for Policy as required by Paragraph 11.05;

b. A determination whether the regulation meets the criteria established for identifying significant regulations, and, if so, approval by the Administrator of a work plan before proceeding with the review;

c. A determination whether the regulation meets the criteria established for determining if a regulatory analysis must be performed, and, if so, preparation of a regulatory analysis;

d. If the review results in a determination that a regulation should be amended or rewritten, compliance with public notice and participation

requirements in this directive and in DAO 201-9 concerning consultation with State and local governments; and

e. If the regulation is determined to be significant, compliance with Paragraph 9.

13. Plain English

.01 Each Assistant Administrator listed in Paragraph 2.03.a. shall submit to the Administrator the name of a designated employee who shall review each document to be published in the Federal Register to ensure that it is written clearly and simply as possible and is designed to be understandable by those affected by it. The Administrator shall be promptly notified of any change regarding which employees have been designated for this function.

.02 No document will be published in the Federal Register until it has been cleared by one of the employees designated in Paragraph 13.01.

14. Petition to Undertake Rulemaking

.01 Any person may petition NOAA, pursuant to 5 U.S.C. 553(e), to issue, amend, or repeal a rule.

.02 Each petition filed under this section must—

a. Be submitted to the Executive Secretariat, NOAA, Main Commerce Building, Washington, D.C. 20230;

b. Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner wants to have repealed or modified;

c. Explain the interest of petitioner in the action requested; and

d. Contain any information and argument available to the petitioner to support the action sought.

.03 The Executive Secretariat shall forward the petition to the appropriate Assistant Administrator.

.04 The Assistant Administrator responsible for considering a petition shall publish a notice in the Federal Register announcing its receipt, the name of the petitioner, and a concise statement of the petitioner's request.

.05 If the agency decides to proceed with the development of a rulemaking suggested by a petition, it will follow the procedures set forth in this directive.

.06 The agency will notify the petitioner of its decision to proceed or not to proceed with the rulemaking suggested by the petition within 120 days of the receipt of the petition.

.07 If the agency determines not to open a rulemaking proceeding, the agency will so notify the petitioner, and will provide the petitioner with a brief statement of grounds for its decision.

.08 Upon determining whether to open a rulemaking proceeding suggested by a petition, the Assistant Administrator responsible for considering a petition shall publish a notice of the agency's decision or action in the Federal Register.

.09 The appropriate Assistant Administrator shall determine, at his or her discretion, whether to accept or reject a petition. That Assistant Administrator may consider the following criteria:

a. The need for the regulation which the petitioner wishes the agency to issue, or the need to modify or repeal an existing regulation;

b. The objectives of the regulation;

c. Alternative approaches to resolving issues considered by the regulation;

d. Size of population affected;

e. Importance of the regulation to promoting established agency priorities and policies;

f. Resources necessary to develop the proposed regulation; and,

g. Public interest in the proposed regulation.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-28437 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-12-M

[NOAA Directive 21-24, Section 14]

Improving Government Regulations: Procedures for Development of NOAA Regulations

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Final directive.

SUMMARY: On June 1, 1979, NOAA adopted final procedures for the development of "informal" or "notice and comment" regulations. These procedures implement Executive Order 12044, Improving Government Regulations and are set forth as NOAA Directive 21-24. Section 14 of NOAA Directive 21-24 establishes procedures for interested persons to request that NOAA issue, amend or repeal a rule. Section 14 is set forth below.

FOR FURTHER INFORMATION CONTACT: Michael A. Levitt, Office of General Counsel, National Oceanic and Atmospheric Administration, Washington, D.C. 20230 (Tel: 377-4080).

Public Petitions To Undertake Rulemaking

.01 Any person may petition NOAA, pursuant to 5 U.S.C. 553(e), to issue, amend, or repeal a rule.

.02 Each petition filed under this section must—

a. Be submitted to the Executive Secretariat, NOAA, Main Commerce Building, Washington, D.C. 20230;

b. Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner wants to have repealed or modified;

c. Explain the interest of petitioner in the action requested; and

d. Contain any information and argument available to the petitioner to support the action sought.

.03 The Executive Secretariat shall forward the petition to the appropriate Assistant Administrator.

.04 The Assistant Administrator responsible for considering a petition shall publish a notice in the Federal Register announcing its receipt, the name of the petitioner, and a concise statement of the petitioner's request.

.05 If the agency decides to proceed with the development of a rulemaking suggested by a petition, it will follow the procedures set forth in this directive.

.06 The agency will notify the petitioner of its decision to proceed or not to proceed with the rulemaking suggested by the petition within 120 days of the receipt of the petition.

.07 If the agency determines not to open a rulemaking proceeding, the agency will so notify the petitioner, and will provide the petitioner with a brief statement of grounds for its decision.

.08 Upon determining whether to open a rulemaking proceeding suggested by a petition, the Assistant Administrator responsible for considering a petition shall publish a notice of the agency's decision or action in the Federal Register.

.09 The appropriate Assistant Administrator shall determine, at his or her discretion, whether to accept or reject a petition. That Assistant Administrator may consider the following criteria:

a. The need for the regulation which the petitioner wishes the agency to issue, or the need to modify or

b. The objectives of the regulation;

c. Alternative approaches to resolving issues considered by the regulation;

d. Size of population affected;

e. Importance of the regulation to promoting established agency priorities and policies;

f. Resources necessary to develop the proposed regulation; and

g. Public interest in the proposed regulation.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-28438 Filed 9-12-79; 8:45 am]

BILLING CODE 3510-12-M

Western Pacific Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) has established a Scientific and Statistical Committee (SSC) which will meet to review fishery management plans (FMP's) for the Spiny Lobster and Billfish fisheries; review Billfish Population Dynamics Analysis by Lovejoy; review Optimum Yield (OY) Concepts; and conduct other Council business.

DATES: The meeting will convene on Tuesday, September 25, 1979, and Wednesday, September 26, 1979, at 9 a.m. and will adjourn on both days at 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at Senate Conference Room No. 6, State Capitol, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: September 10, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–28530 Filed 9–12–79; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments to the Round White Potato Contract of the New York Mercantile Exchange

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, section 12, 92 Stat. 871 (1978), has determined that the following amendments to rules 60.03, 60.06, 60.08, 60.09 60.11 and 60.13 of the Round White Potato Futures Contract, submitted by the New York Mercantile Exchange, are of major economic significance and is therefore publishing pertinent portions of these rules, as amended, for public comment. These amendments were submitted to the Commission on July 2, 1979.

The rules, as amended, are printed below showing deletions in brackets and additions in italics.

60.03 Specifications

Potatoes delivered under this contract shall be [Maine grown. The potatoes delivered shall be] all *fall harvested* round white varieties (with the exception of Cobbler and Warba varieties), [grading] *grown in Connecticut, Indiana, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Vermont or Wisconsin. The potatoes delivered shall grade* U.S. No. 1, Size A, 2 inch minimum—4 inch maximum in straight truckloads or carloads. Substitutions are permitted as follows: On April and May contracts only, straight truckloads or carloads, of U.S. Commercial Grade, Size A, 2 inch minimum—4 inch maximum, all *fall harvested* round white varieties (with the exception of Cobbler and Warba varieties) *grown in the above States,* may be delivered at a discount of 25% from the last settling price for the delivery month. The Grade Standards in all cases shall be the United States Standards for Grades of Potatoes then in effect, as promulgated by the Secretary of Agriculture.

60.06 Delivery months

Trading shall be conducted in contracts providing for delivery in the months of November, March, April and May and such other months as may be determined by the Board of Governors. The Clearing House Committee *or the Board* shall decide when trading in the various delivery months shall begin.

60.08 Delivery

(A) Deliveries on all contracts shall be made, at the option of the seller, in properly enclosed, insulated trucks or in refrigerator cars on track on a delivered basis.

(1) Truck Delivery Option—(a) Truck freight shall be prepaid by the seller from point of origin to a final inspection point except when *the buyer elects to take delivery FOB* [delivery is made FOB at] point of origin [in which case all freight charges are prepaid by the buyer. When the truck freight is prepaid by the seller, the buyer shall allow the seller a truck allowance for the transportation from point of origin to the final inspection point in such amount as established and published by the Exchange from time to time].

[(b) The seller shall allow the buyer an amount equal to the rail freight charges from point of origin to Harlem River Yards, Bronx, New York.]

(b) When the buyer elects to take delivery FOB point of origin, all freight charges shall be prepaid by the buyer. When the truck freight is prepaid by the buyer, the seller shall allow the buyer a delivery allowance for the transportation from point of origin to Hunts Point Market, Bronx, New York in such amount as is published by the Exchange from time to time.

(c) When the seller elects to make a replacement delivery FOB point of origin in accordance with Rule 60.09(F)(a)(iii), the seller shall prepay the truck freight from point or origin to the final inspection point originally designated by the buyer.

(2) Rail Delivery Option—(a) Rail freight shall be paid by the buyer from point of origin to destination.

(b) The seller shall allow the buyer the rail freight charges from point of origin to Harlem River Yards, Bronx, New York.

[(B) The point of origin shall be a point in the State of Maine.]

(B) The seller shall determine the point of origin which shall be a point in one of the states set forth in Rule 60.03.

(C) Delivery shall be made at the buyer's option (1) at point of origin, with buyer waiving final inspection and accepting the truck or car FOB; [or (2) grade guaranteed at any final inspection point in the State of Maine that has been established and published by the Exchange; or (3) grade guaranteed at any final inspection point outside of the State of Maine that has been established and published by the Exchange.] *or (2) grade guaranteed at any final inspection point that has been established and published by the Exchange.*

60.09 Delivery procedure

* * * * *

(E) Shipment and Shipping Documents

(1) Truck Delivery option—(a) The seller shall ensure that the shipping documents include (i) the final inspection and/or destination points as specified in the buyer's delivery instructions; (ii) a statement that ten extra bags have been included in the shipment; (iii) a statement that the shipment is a New York Mercantile Exchange tender; and (iv) instructions to the trucking company that the shipment is a tailgate delivery and that the truck must arrive *at the final inspection point* on a business day [by 12:00 noon if the final inspection point is a point in the State of Maine or] by 2:00 p.m. [if the final inspection point is a point outside the State of Maine.]

* * * * *

(e) The seller shall agree with the trucking company that after completion of a final inspection in New York the trucking company will move the truck to *any point within* the Hunts Point Market free of charge to the buyer, or, at the option of the buyer, to a point *within New York State* within a thirty mile radius of the final inspection point at a charge to the buyer of $25.00 to be paid by the seller and charged to the buyer. [The seller shall agree with the trucking company that after completion of a final inspection in Boston the trucking company will move the truck to a point in Chelsea or Everett free of charge to the buyer, or, at the option of the buyer, to a point within a thrity mile radius of the final inspection point at a charge to the buyer of $25.00.]

* * * * *

(F) Replacement Delivery

* * * * *

(a) Replacement Delivery by Truck—(i) The Seller may tender a truck replacement, with a valid ("live") original inspection certificate, from any point of origin, routed to the final inspection point originally designated by the buyer, subject to a final inspection at such

final inspection point; or (ii) the seller may tender a truck replacement, from any point of origin, at the final inspection point originally designated by the buyer, with a valid ("live") final inspection certificate issued at such final inspection point[.] *; or (iii) the seller may tender a truck replacement at any point of origin FOB inspection final at a 2½ percent discount from the last settling price with a valid ("live") original inspection certificate provided that: (aa) the original inspection is conducted on a continuous basis; (bb) the lot inspected grades U.S. No 1, Size A, 2 inch minimum—4 inch maximum; and (cc) the lot inspected has no more than a total of 6 percent of the potatoes by weight which fail to meet the requirements for the grade, provided further (i) that included within such six percent tolerance, the following maximums for specific defects shall apply—four percent for external defects; four percent for internal defects; and three percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot or late blight, with no more than double said percentages in any one sample; and (ii) that the potates are free of soft rot and wet breakdown.*

(b) Replacement Delivery by Rail—[(i) If failure to grade at the final inspection point occurs on or before the 15th business day of the delivery month in the case of delivery months other than November or the last business day of November in the case of the November delivery month] [(aa)] *(i) T*[t]he seller may tender a car replacement with a valid ("live") original inspection certificate, from any point of origin, routed to the final inspection point originally designated by the buyer, subject to a final inspection at such final inspection point; or [(bb)] *(ii)* the seller may tender a car replacement, from any point of origin, at the final inspection point originally designated by the buyer, with a valid ("live") final inspection certificate issued at such final inspection point[.]; [(ii) If failure to grade at the final inspection point occurs after the 15th business day of the delivery month in the case of delivery months other than November or the last business day of November in the case of the November delivery month (aa) the seller may tender a car replacement with a valid ("live") original inspection certificate, from any point of origin routed to Northern Maine Junction, Maine, subject to a final inspection at such final inspection point; or (bb) the seller may tender a car replacement, from any point of origin at Northern Maine Junction, Maine, with a valid ("live") final inspection certificate issued at such final inspection point; or (cc) the seller may tender a car replacement, from any point of origin, at the final inspection point originally designated by the buyer, with a valid ("live") final inspection certificate issued at such final inspection point.] *or (iii) the seller may tender a car replacement at any point of origin FOB inspection final at a 2½% discount from the last settling price with a valid ("live") original inspection certificate provided that: (aa) the original inspection is conducted on a continuous basis; (bb) the lot inspected grades U.S. No. 1, Size A, 2 inch minimum—4 inch maximum; and (cc) the lot inspected has no more than a total of 6 percent of the potatoes by weight which fail to meet the requirements for the grade, provided further (i) that included within such six percent tolerance, the following maximums for specific defects shall apply—four percent for exernal defects; four percent for internal defects; and three percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot, or late blight; with no more than double said percentages in any one sample; and (ii) that the potatoes are free of soft rot and wet breakdown.*

* * * * *

(I) Delivery Day

The Delivery Day shall be the day on which delivery is completed. Delivery is completed at the following times:

* * * * *

(3) If the buyer has been given a replacement Delivery Notice which requires final inspection [of a car] to be made [Northern Maine Junction, Maine] *at a final inspecion point,* when the car has passed final inspection;

* * * * *

(5) If the buyer has been given a replacement Delivery Notice which provides for delivery FOB point of origin, when the buyer receives the replacement Delivery Notice.

* * * * *

60.11 Official inspection

(A) Original Inspection

* * * * *

(3) Where a seller has elected to make a replacement delivery FOB point of origin inspection final pursuant to Rule 60.09(F)(1)(a)(iii) or Rule 60.09(F)(1)(b)(iii), the original inspection certificate shall certify that the inspection was conducted on a continuous basis and that the lot meets the standards set forth in said rules.

[3] *(4)* The seller shall pay all costs incurred for the original inspection.

(B) Final Inspection

* * * * *

[(5) All labor charges incurred for final inspection in connection with truck or car deliveries in the State of Maine shall be paid by the buyer.]

[6] *(5)* All final inspection charges assessed by the U.S. Department of Agriculture shall be billed to and paid by the Exchange. The Exchange shall, in turn, in the event of truck delivery, bill and collect the Exchange established and published charges from the buyer for each truck which has passed final inspection and from the seller for each truck which has failed final inspection. The Exchange shall, in turn, in the event of rail delivery, bill and collect the Exchange established and published charges from the seller for each car inspected. In the event of a truck delivery in which the truck arrives on or before the time specified by the seller pursuant to Rule 60.09(E)(1)(a) and in which the truck has passed inspection, the buyer shall pay for any layover charges which may be incurred after inspection. Any other truck layover chages shall be paid by the seller.

* * * * *

Delinquency in Performance and Default

(A) Delinquency in Performance

* * * * *

(2) Charges for Delinquency in Performance—(a) A party who is delinquent in performance shall pay to the other party [$100.00] *$200.00* per contract for each day of delinquency, not exceeding five days. The Exchange shall bill the delinquent party for such charges and, when collected, shall remit them to the other party.

* * * * *

(3) Disciplinary Proceedings for Delinquency—The imposition of the charges for delinquency in performance set forth in this rule shall be governed by the provisions of this rule and shall be independent of *the Rules* [Chapter 6 of the By-Laws] governing the disciplinary proceedings. A delinquency in performance shall be deemed a violation of a rule of the Exchange and shall be subject to provisions of [Chapter 6 of the By-Laws] *the Rules governing disciplinary proceedings* provided, however, that no fine, in addition to the charges provided for in this rule, shall be imposed in any disciplinary proceeding [under Chapter 6] solely by reason of a delinquency in performance referred to in this rule.

(B) Default

* * * * *

(2) Damages for Default—The Seller or buyer in default shall pay to the other party, as liquidated damages in lieu of all other damages, including consequential damages, [10%] *20%* of the contract value for each contract in default. The Exchange shall bill the defaulting party for such damages and, when collected, shall remit them to the other party. Payment of damages for default shall be in addition to any other payments due from the seller or buyer to the other party pursuant to these rules.

(3) Disciplinary Proceedings for Default—A default shall be deemed a violation of a rule of the Exchange and shall be subject to the *Rules governing disciplinary proceedings* [provisions of Chapter 6 of the By-Laws] provided, however, that no fine, in addition to the charges payable to the Exchange provided for in the Delinquency in Performance Rule, shall be imposed in any disciplinary proceeding [under Chapter 6] solely by reason of a default referred to in this rule.

* * * * *

Any person interested in submitting written data, views, or arguments on these rules should send comments by November 13, 1979 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., 20581.

Issued in Washington on September 10, 1979.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 79-28480 Filed 9-12-79; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Notice of New System of Records

AGENCY: Department of the Air Force (AF).

ACTION: Notice of a new system of records.

SUMMARY: The Air Force is adding a new system of records to its inventory of record systems subject to the Privacy Act of 1974. The Act requires that any new proposed record system be published in advance for public comment.

DATES: This new record system shall be effective as proposed without further notice on October 12, 1979, unless comments are received on or before October 12, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any public comments, including written data, views or arguments concerning the proposed system should be addressed to: The Air Force Privacy Officer (HQ USAF/DAAD(S)), Directorate of Administraion, Headquarters United States Air Force, Washington, DC 20330.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Washington, DC 20330, Telephone, 202-694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 have been published in the Federal Register as follows:

FR Doc. 77-28255 (42 FR 50785) September 28, 1977
FR Doc. 77-31219 (42 FR 56774) October 28, 1977
FR Doc. 77-32284 (42 FR 58195) November 8, 1977
FR Doc. 77-33780 (42 FR 59996) November 23, 1977
FR Doc. 77-36260 (42 FR 64322) December 22, 1977
FR Doc. 78-10398 (43 FR 16894) April 20, 1978
FR Doc. 78-16153 (43 FR 25170) June 9, 1978
FR Doc. 78-25819 (43 FR 42376) September 20, 1978
FR Doc. 78-28090 (43 FR 46063) October 5, 1978
FR Doc. 78-30091 (43 FR 50286) October 27, 1978
FR Doc. 79-7607 (44 FR 14618) March 13, 1979

The Air Force has submitted a new system report dated August 7, 1979, for this new system under the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of a new system report and in accordance with Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
September 7, 1979.

FO 3503 ATC A

SYSTEM NAME:

Recruiting research and Analysis system

SYSTEM LOCATION:

HQ United States Air force Recruiting service, Randolph Air Force Base, Texas 78148

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Applicants for the Officer Training School. Air Force active duty officer and enlisted personnel. Air Force civilian personnel assigned to Recruiting Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey analysis records containing such items as SSN, biographical and opinion survey data, supervisor's ratings, achievement, aptitude, reading, vocational interest and adjustment and temperament inventory scores, Air Force tech training class score, statistics and trend analysis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 503, Enlistments: recruiting campaigns. Executive Order 9397, 22 November 1943, Number System for Accounts Relating to Individual Persons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Research statistical reference file used by HQ United States Air Force Recruiting Service. Specific uses are to: (1) evaluate the quality of Air Force military personnel procured by Air Force Recruiting Service, (2) develop a more objective screening process for entry into recruiting duty, and (3) develop opinion-based recommendations for recruiting effort improvements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, computer products, and written reports.

RETRIEVABILITY:

Information is retrieved by Social Security Number (SSN), study control number or name to build statistical files.

SAFEGUARDS:

File folders stored in file with lock. Computer records are physically safeguarded by controlled access to the computer facility, and/or stored in file with lock. Records are accessed through computer run scheduling arrangements by persons responsible for servicing the record system in performance of their official duties. Computer paper printouts and reports are distributed only to authorized users.

RETENTION AND DISPOSAL:

Records are retained until superseded, obsolete, no longer needed for reference, or on inactivation. They will then be destroyed by tearing into pieces, shredding, pulping, macerating, or degaussing.

SYSTEM MANAGERS AND ADDRESS:

Director of Marketing and Analysis, HQ United States Air Force Recruiting Service, Randolph Air Force Base, Texas 78148.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Social Security Number and full name are required to determine if the system contains a record relative to any specific individual. Valid proof of indentity is required.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDING PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals, supervisors, from Air Force Technical Training Centers and from the Recruiting Activities Management Support System (RAMSS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-28392 Filed 9-12-79; 8:45 am]

BILLING CODE 3910-01-M

Supersonic Flight Operations, Morenci Military Operations Area, Holloman AFB, N. Mex.; Public Hearing and Extension of Review Period

An informal public hearing will be held for the purpose of soliciting comments from the public on the Draft Environmental Impact Statement (EIS) on the Supersonic Flight Operations in the Morenci Military Operations Area (MOA), Holloman AFB, New Mexico. The hearing is scheduled to be conducted on October 2, 1979, at 6:00 P.M. in the Catron County Courthouse, Reserve, New Mexico. Any changes to this schedule will be publicized in the local news media.

The proposed action is to conduct supersonic training in the northeastern portion of the Morenci MOA in West Central New Mexico above 15,000 feet mean sea level (MSL) (5,000–8,000 feet above ground level). Subsonic training is currently conducted in this airspace lying within Catron County, New Mexico. The Air Force proposes to fly three hundred supersonic sorties per month as part of the training in the MOA.

The principal impacts associated with the proposed training are related to sonic booms generated by aircraft flying at supersonic speeds during maneuvering between 15,000 feet MSL and 51,000 feet MSL.

The Draft EIS on the proposed action was filed with the Environmental Protection Agency (EPA) on July 27, 1979 and announced in the Federal Register on August 3, 1979. The 45 day review period scheduled to end September 17, 1979 is hereby extended to end October 16, 1979. Copies of the Draft EIS are available from the Office of Information, Tactical Training Holloman, Holloman AFB, New Mexico 88330, and Office of Information, HQ Tactical Air Command, Langley AFB, Virginia 23665.

In addition, copies of the Draft EIS have been placed in the following libraries for public reference.

Silver City Public Library, Silver City, New Mexico 88061.

Reserve High School Library, Reserve, New Mexico 87836.

The Air force will provide a press release containing this information to newspapers in the area.

The following procedures will be followed during the informal public hearing. Individual speakers will be limited to five minutes, with ten minutes allotted for a group spokesman. The time limit may be waived at the discretion of the presiding officer.

There will be no relinquishing of time by one speaker to another. Air force personnel will be present to receive comments and answer questions. Written statements, in addition to or in lieu of oral presentations, will be accepted and given equal consideration. Written statements must be received no later than October 16, 1979 in order to be included in the hearing record. Submit written communications as directed at the public hearing, or to the Deputy for Environment and Safety, Office of the Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330.

For further information contact:

Capt. Bill Gauntt, Headquarters, Tactical Air Command (HQ TAC/DEEV), Langley AFB, VA 23665, Phone: 804-764-4430.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-28461 Filed 9-12-79; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

September 5, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on the Proposed MK12 Nosetip Retrofit will meet on October 2 & 3, 1979, at the Pentagon, Washington, DC. The purpose of the meeting will be to review the proposed MK12 retrofit program. The Committee will meet from 8:30 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-28468 Filed 9-12-79; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

September 5, 1979.

The USAF Scientific Advisory Board will hold its Fall General Board Meeting at Andrews Air Force Base, Maryland, on October 16 and 17, 1979. The meeting sessions will convene at 8:30 am and adjourn at 5:00 pm both days.

The Board will receive classified briefings and presentations from study committee chairmen on the scope and results of studies conducted during the past year. Consequently, meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-28469 Filed 9-12-79; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS)

To prepare a Draft Environmental Impact Statement (DEIS) for a Regulatory Permit Action under Section 404 of the Clean Water Act to construct the Cane Creek Water Supply Reservoir proposed by Orange Water and Sewer Authority (OWASA) in Orange County, North Carolina west of Chapel Hill, North Carolina.

Lead Agency: U.S. Army Corps of Engineers, Wilmington District, North Carolina.

Action: Notice of Intent to Prepare a Draft Environmental Impact Statement.

Summary: OWASA proposes to discharge fill material into Cane Creek to create an earth fill dam 900 feet long by 75 feet high. The dams would create a 480 acre water supply reservoir that would have a safe yield of 10 million gallons per day (MGD). This yield combined with the 3 MGD safe yield of the existing 200 acre water supply reservoir, University Lake, would provide 13 MGD. This is projected to meet the OWASA service area needs through 2005. The water from Cane Creek Reservoir would be pumped to Phils Creek, a tributary of University Lake. Pumping would only be conducted when the flows in the University Lake Watershed are not adequate to meet demands.

There are three reasonable alternatives to the proposed project. They are withdrawl from (1) Haw River, (2) Jordan Lake and (3) expansion of University Lake. Haw River in conjunction with University Lake would have a safe yield of 13 MGD. The water from Haw River could be pumped to Price Creek, a tributary of University Lake, or directly to the filter plant. Jordan Lake is a multipurpose Corps of Engineers Reservoir project. This project has 100 MGD allocated for water supply. The water from this reservoir could also be pumped to Price Creek or to the filter

plant. The final reasonable alternative is 7 MGD expansion of University Lake. This would inundate approximately 270 acres of land in addition to the existing 200 acre lake. A new dam 1200 feet long and 70 feet high would be required. This project would only provide a safe yield of 10 MGD which would be sufficient through approximately 1995. A larger expansion of University Lake is not reasonable due to much greater cost and large number of residents in the acquisition area.

A scoping meeting is not planned for the project. The scoping process has been fully accomplished by our early public notices and the extensive hearings that the State of North Carolina Division of Environmental Management held regarding a request by OWASA for a certificate of Eminent Domain for the Cane Creek Project. Proponents and opponents to the action and several State agencies were involved in this hearing. Numerous issues of concern were identified which would only be repeated in a scoping meeting. In addition, there has been frequent contacts with the proponents and opponents to the action and Federal agencies through meetings, letters and telephone conversations. Additional comments under the scoping process will be received at the address indicated below.

The significant issues to be analyzed in depth in the DEIS will be water quality of alternative sources, economic feasibility of alternatives, mitigation requirements, and socioeconomic impacts of land acquisition. Consultation under Section 7 of the Endangered Species Act will probably not be required.

It is anticipated that a DEIS would be made available to the public in the fall of 1979. A public hearing will be held regarding the DEIS approximately 30 days after it is published.

Questions of concern about the proposed project and DEIS can be answered by Mr. Frank Yelverton, Special Projects Manager, Regulatory Functions Branch, Wilmington District Corps of Engineers, P.O. Box 1890, Wilmington, North Carolina 28402, telephone (919) 343-4640, (FTS) 671-4640.

Adolph A. Hight,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-28406 Filed 9-12-79; 8:45 am]

BILLING CODE 3710-6N-M

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Permit Application for a Proposed Dredge and Fill Operation by the State of Alabama, Department of Conservation and Natural Resources, Division of State Parks, for the Construction of an Earth Fill Dam and Reservoir at Lightwood Knot Creek, Covington County, Ala.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Proposed Action.*—The Applicant proposes to utilize approximately 320,000 cy of earth fill during construction of a dam and reservoir on Lightwood Knot Creek. The dam will be an earthern structure with a clay core and concrete spillway and will have a maximum height of 28 feet. The normal pool will inundate approximately 1,037 acres. The overall development plan involves the creation of a state park, with a marina, campgrounds, nature trail and other recreational facilities. The lake will serve as a public facility for fishing, boating and swimming activities. Approximately 500 acres of freshwater swamp wetlands will be inundated by the reservoir pool or filled during dam construction. The remaining acres in the reservoir pool are primarily bottomland hardwoods.

2. *Alternatives to the Proposed Action.*—Alternatives to the proposed action would include: no action, development in some degree other than that proposed, and development at alternative sites. Additional alternatives may be identified during the scoping process.

3. *Description of the Scoping Process.*—Public involvement to date on the permit application has involved circulation of Public Notice No. AL78-00426-G on 15 March 1979. The scoping process, as outlined by the Council on Environmental Quality in the 29 June 1979, Federal Register, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State and local agencies and other interested persons. Significant issues to be addressed in the EIS will be identified through the scoping process.

4. *Scoping Meeting.*—The time, date, and location of the scoping meeting has tentatively been set for 1300 hours, 18 September 1979 at the Mobile Municipal Auditorium, Mobile, Alabama, in Room 3.

5. *DEIS Preparation.*—It is estimated that the DEIS will be available to the public in the summer of 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. James B. Hildreth, PD-EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, AL 36628.

Dated: August 24, 1979.

Robert H. Ryan,

Cololnel, CE District Engineer.

[FR Doc. 79-28471 Filed 9-12-79; 8:45 am]

BILLING CODE 3710-CR-M

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Recreational Boat Harbor at Cedar River, Mich.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Actions

A recreational boat harbor is proposed at Cedar River, Menominee County, Michigan. The harbor would provide additional facilities for small craft in Green Bay and Northern Lake, Michigan. The completed project would supply general navigation facilities, marina slips, sportfishing access, and support facilities.

The project would consist of a new 875 foot rubblemound pier extending into the lake to the 10 foot depth contour line. The existing west pier would remain, but may be rehabilitated with cover stone if further analysis indicates it to be necessary.

A channel, 10 feet deep and about 100 feet wide, would be dredged from the 10 foot contour in the lake to the river mouth. From the river mouth to the State Highway Bridge (approximately 1,500 feet), a channel 8 feet deep and about 80 feet wide would be dredged. Within the river channel, an existing 150 foot turning basin would be deepened.

A walkway would be provided on the pier to allow for recreational fishing. Aids to navigation would be constructed by the U.S. Coast Guard.

Alternatives

In addition to the proposed plan, two alternative pier designs will be studied. The main design difference would be in the length of the pier with one alternative at 2,100 feet, and the other approximately 500 feet long.

Sand traps would be provided for the 875 foot and 500 foot designs. The effect of no action will also be addressed.

Scoping Process

a. Public Involvement.—To encourage outside input on this project, an informal meeting was held at the project site on 21 February 1979.

Invitations for attendance were extended to cooperating State and Federal agencies, and private citizens in the Cedar River area. A public (scoping) meeting will be scheduled in the project area after the Draft EIS review period to consider the range of actions, alternatives and environmental impacts. Affected Federal, State and local agencies, affected Indian tribes, and other interested private organizations and parties will be invited.

b. Significant Issues.—Comments received at the February meeting helped to identify some of the principal environmental considerations. Effects to be studied in depth include any influence of alternative designs on the local character of littoral drift, and the possibility of secondary impacts which could result from increased development and human activity.

c. Other Environmental Review and Consultation Requirements.—This project will be reviewed for compliance with the following: The Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1966; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Executive Order 11990, Wetlands Protection, May 1977; Water Quality Act of 1977; Clean Water Act of 1977; Corps of Engineers, Department of the Army, 33 CFR, Part 230, Environmental Quality: Policy and Procedure for Implementing NEPA (ER 200-2-2); as well as the Congressional actions authorizing construction and maintenance of Federal recreational harbors.

Estimated Date of DEIS Release

It is anticipated that the DEIS will be available to the public on 15 October 1979.

Address

Questions about the proposed action and DEIS can be answered by Les Weigum, Project Manager, Environmental Resources Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, MI 48231.

Dated: September 4, 1979.

P. McCallister,
Chief, Engineering Division.

[FR Doc. 79-28470 Filed 9-12-79; 8:45 am]
BILLING CODE 3710-GA-M

U.S. Marine Corps

Privacy Act of 1974; New and Amended Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps).

ACTION: Notice of a new and amended systems of records.

SUMMARY: The U.S. Marine Corps proposes to add a new record system and amend two existing systems subject to the Privacy Act of 1974. The Act requires that any new or altered record system be published in advance for public comment. The specific changes in the systems being amended are set forth below, followed by the systems published in their entirety, as amended.

DATES: These systems shall be effective as proposed without further notice on October 12, 1979, unless comments are received on or before October 12, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the systems manager identified in the particular record system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, DC 20380, telephone: 202-694-1122.

SUPPLEMENTARY INFORMATION: The Marine Corps systems of records notices as prescribed by the Privacy Act of 1974, 5 U.S.C. 522a Pub. L. 93-579 have been published in the Federal Register as follows:

FR Doc. 77-28255 (42 FR 51177) September 28, 1977

FR Doc. 78-25819 (43 FR 42378) September 20, 1978

The Marine Corps submitted a new system report and two altered system reports, all dated August 7, 1979 for these systems under the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of a new or altered system report and in accordance with Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
September 7, 1979.

MMN00045

SYSTEM NAME:

Automated Systematic Recruiting Support System (ASRSS).

SYSTEM LOCATION:

The system will be operated at each Recruiting Station, District Headquarters, and Marine Corps Recruit Depot, within the Marine Corps. See organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marine Corps Regular and Reserve recruits.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information voluntarily provided by recruits as contained on the application for Enlistment—Armed Forces of the United States.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S.C. 301, Departmental Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Marine Corps Recruiting Stations—Ensure that a member of the Delayed Entry Pool is shipped to Marine Corps Recruit Depot on the appropriate date. Ensure that recruits are not retained in the Delayed Entry Pool longer than the authorized period. Give proper credit, e.g., Meritorious Appointment to Private First Class, to recruits who have referred other enlistees to the Marine Corps. Keep track of recruits who successfully complete recruit training for subsequent assistance as recruiter aides while on recruit leave.

Marine Corps District Headquarters—Monitor the status of accessions by category e.g., Mental Group; losses from the Delayed Entry Program recruiter performance by "waiver code."

Marine Corps Recruit Depot—Ensure that those recruits shipped from various Recruiting Stations and Armed Forces Examining and Entrance Stations (AFEES) arrive at the Marine Corps Recruit Depot on schedule. Trace recruiter malpractice allegations to the proper source.

Headquarters, U.S. Marine Corps—Monitor accessions by program option/guarantee. Match total accessions throughout the country to demographic data available through the Recruit Market Network. Track Reserve accessions by Reserve unit, Military Occupational Specialty (MOS), and availability for active service training. Respond to Congressional inquiries on individual cases in a timely, accurate manner.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The file will be stored via on-line magnetic disk with backup on magnetic tape. Backup audit trail record will be available at the point-of-entry.

RETRIEVABILITY:

Standard reports and ad hoc retrievals are generated from remote terminals using a data base management system. Additionally, updates and record browsing may be accomplished in the interactive mode through keying SSN.

SAFEGUARDS:

—Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

—"Hard copy" or paper output from the system is stored in locked containers.

—System Software contains user passwords to lock out unauthorized access.

—Software contains partitions to limit access to appropriate organizational level.

RETENTION AND DISPOSAL:

On-line magnetic records will be maintained for one year after completion of recruit training. Records are then retired to a "history file" where they will be retained for a period of four (4) years and then destroyed.

SYSTEM MANAGERS AND ADDRESS:

Commandant of the Marine Corps (Attn: Deputy Chief of Staff for Manpower,) Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Request from individuals for information concerning their ASRSS records should be addressed to the Commandant of the Marine Corps (Code MPI-40). Requesting individual should supply full name and Social Security Number.

Also the requester may visit any Marine Corps Recruiting Station (RS) to determine whether ASRSS system contains records pertaining to him or her. In order to personally visit an RS and obtain information, individuals must present proper identification such as military identification, if a service member, driver's license, or some other suitable proof of identity.

RECORDS ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The Recruiting Station, Marine Corps Recruit Depot, and the individual recruit are the sources of the information contained in the ASRSS record for that person.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Amendments

MMN00014

System name:

Work measurement labor distribution system (42 FR 51217) 28 Sep 77.

Changes:

Categories of records in the system:

Delete the entire entry and substitute: "Labor distribution cards which have been prepared by either the concerned individual or the supervisor to record the numbers of hours worked, the number of units produced by the employee, the function of the employee during that time, and the job number of the job. Also, the system contains summarizations of said cards and computer input and output relative to said card."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the third paragraph, beginning with "Work Measurement System . . ." and substitute:

"Work Measurement System—Integrates the data by individual to prepare productivity reports, statistical costs, and budget workload information which is used primarily for local reports and to provide data for manpower requirements programs, both locally and at Headquarters, U.S. Marine Corps."

Storage:

Delete the entire entry and substitute: "Labor distribution cards are processed to capture the source data. The input cards are then filed in non-sequential order pending completion of the report cycle. Punch cards or their successor equivalent will be input into a computer program to prepare the work center list by the individual. Punch cards may be summarized on non-computerized lists by individual. Such lists may be kept by the employees' supervisor."

Retention and disposal:

Delete the entire entry and substitute: "Lists are destroyed one year after the subject work week."

Record access procedures:

Delete the entire entry and substitute: "Written requests from individuals should be addressed to the system manager. Requests should include name of employee work center numbers and work week for which day is requested. Personal visits and telephone calls should be made directly to the employee's work center supervisor."

MMN00014

SYSTEM NAME:

Work Measurement labor distribution system.

SYSTEM LOCATION:

Marine Corps Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Marine Corps Employees, civilian, military and occasional summer hires funded by state and local programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Labor distribution cards which have been prepared by either the concerned individual or the supervisor to record the numbers of hours worked, the number of units produced by the employee, the function of the employee during that time, and the job number of the job. Also, the system contains summarizations of said card and computer input and output relative to said card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code 124; 133.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS, USES, AND THE PURPOSES OF SUCH USE:

To provide an input data base for daily labor on all individuals assigned to work organizations designated as part of the work measurement labor

distribution system or to provide a data base for systems implementation testing.

Work Section Supervisors—Compiled reports by individual are prepared for the work section supervisors who verifies that each of the assigned employees either reported the required number of hours or entered appropriate corrections.

Work Measurement System—Integrates the data by individual to prepare productivity reports, statistical costs and budget workload information which is used primarily for local reports and to provide data for manpower requirements programs, both locally and at Headquarters, U.S. Marine Corps.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Labor distribution cards are processed to capture the source data. The input cards are then filed in nonsequential order pending completion of the report cycle. Punch cards or their successor equivalent will be input into a computer program to prepare the work center list by individual.

Punch cards may be summarized on non-computerized lists by individual. Such list may be kept by the employees' supervisor.

RETRIEVABILITY:

The information identified by the individuals is available only from the lists maintained by the work center supervisor within one year of the work week in question.

SAFEGUARDS:

The alphabetical listings are maintained by each work center supervisor.

RETENTION AND DISPOSAL:

Lists are destroyed one year after the subject work week.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of activity.

NOTIFICATION PROCEDURE:

Information may be obtained from SYS MANAGER.

RECORD ACCESS PROCEDURES:

Written requests from individuals should be addressed to SYS MANAGER. Request should include name of employee, work center number and work week for which day is requested. Personal visits and telephone calls should be made directly to the employee's work center supervisor.

CONTESTING RECORD PROCEDURES:

The information on the list is only that which was submitted by the employee and should be corrected during the work month. After that time, the man-hours are entered on local and Headquarters reports and no corrective action is possible.

RECORD SOURCE CATEGORIES:

No particular format required for request.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MMN00042

System name:

Marine Corps Locator Files (42 FR 51225) 28 Sep 77

Changes:

Categories of records in the system:

In second paragraph, line 4, after the words "date of rank," insert new data element "selection for promotion,".

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Delete the word "tape" in the last line and add the words "records and discs."

Retrievability:

Delete the entire entry and substitute: "The data contained on magnetic records can be displayed on cathode-ray tubes, computer printed on paper, and converted to microform for information retrieval; the data in file folders and other documents is retrieved manually. Normally, all types of records are retrieved by Social Security Number and name."

MMN00042

SYSTEM NAME:

Marine Corps Locator Files

SYSTEM LOCATION:

System is decentralized—maintained at Marine Corps commands, organizations and activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator files may contain any of the following information on Officer, Enlisted and Civilian personnel assigned to respective commands, organizations and activities of the Marine Corps: name, rank/grade, date of rank, selection for promotion, social security number, billet title, lineal number, Table of Organization line number, home address and telephone number, office code, room number and telephone number, new mailing address of transferred personnel, prior mailing address of newly assigned personnel, marital status, name of spouse, names of children, name and address of next of kin, Military Occupational Specialty, date of birth, pay entry base date, expiration of active service date, home state, educational background, state where admitted to bar, identification badge number, paryroll number, government vehicle drivers license date, rotation tour date, overseas control date, date reported to respective command, organization or activity, occupation address and telephone number for inactive reserves and security clearance data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Marine Corps Commands, Organizations and Activities—By officials and employees of respective commands, organizations and activities in the execution of assigned duties such as mail and employeed directory services, social, official and semiofficial functions, emergency recall functions, mail distribution, employee welfare functions, dissemination of information, ceremonial functions and duty rosters.

Department of Defense and its Components—By officials and employees of the Department in the performance of their offical duties.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any Committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to the Marine Corps.

U.S. Postal Service—By duly designated Postal Officials pertaining to matters properly within the purview of the U.S. Postal Service.

The Attorney General of the U.S.—By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representatives of the Executive Branch agencies.

Courts—By officials of duly established local, state and federal courts as a result of court order

pertaining to matters properly within the purview of said court.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Books, cards, rosters, strip files, file folders, loose leaf binders, log books, embossed plates, microfilm/fiche or magnetic records and discs.

RETRIEVABILITY:

The data contained on magnetic records can be displayed on cathode-ray tubes, computer printed on paper, and converted to microform for information retrieval; the data in file folders and other documents is retrieved manually. Normally, all types of records are retrieved by Social Security Number and name.

SAFEGUARDS:

Marine Corps commands, organizations and activities employ one or more safeguards such as limited controlled distribution, employment of security guards, accessibility by authorized personnel only, locked containers, locked rooms or locked building.

RETENTION AND DISPOSAL:

Permanent. Updated as required.

SYSTEM MANAGER(S) AND ADDRESS:

The Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Information may be obtained from the individual, command, organization or activity to which individuals are assigned for duty. Addresses are as listed in the Navy Standard Distribution List (OPNAV P09B3-107).

RECORD ACCESS PROCEDURES:

Individuals may visit or request information by correspondence to the individual command, organization or activity as listed in the Navy Standard Distribution List (OPNAV P09B3-107).

Written requests for information should contain the full name of the requester, his Social Security Number and his signature.

For personal visits, the individual will be required to provide such proof of identification as his driver's license, his active reserve or retired identification card, his Armed Forces Report of Transfer or Discharge (DD Form 214) or such other data sufficient to insure that the individual concerned is the subject of the inquiry.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Service Record Book, Officer Qualification Record, Manpower Management System, Reserve Personnel Management Information System, Unit Diaries, Combined Lineal Lists of active duty and reserve commissioned and Warrant Officers. Tables of Organization, Official Orders, Civilian Personnel records, other Marine Corps activities and individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-28393 Filed 9-12-79; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

National Petroleum Council, Subcommittee of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a subcommittee of the Committee on Materials and Manpower Requirements has scheduled a meeting in September 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Government Subcommittee. The time, location and agenda of the meeting follows:

The sixth meeting of the Government Subcommittee is scheduled for Tuesday, September 25, 1979, starting at 9:00 a.m., Main Conference Room, GCO Minerals Company, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review the progress of the Business Environment and Regulatory Impact Task Groups.
3. Review the timetable of the Government Subcommittee.
4. Discussion of any other matters pertinent to the overall assignment of the Government Subcommittee.

The meeting is open to the public. The chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 30, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

August 30, 1979.

[FR Doc. 79-28422 Filed 9-12-79; 8:45 am]
BILLING CODE 6450-01-M

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in October 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Tight Gas Reservoirs Task Group. The time, location and agenda of the meeting follows:

The eleventh meeting of the Tight Gas Reservoirs Task Group will be held on Monday, October 29, 1979, starting at 1:00 p.m., and Tuesday, October 30, 1979, starting at 8:30 a.m., Conference

Room, Marathon Oil Company, Denver Research Center, Littleton, Colorado.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the report outline of the Tight Gas Reservoirs Task Group.
3. Review the preliminary results of the Tight Gas Reservoirs Task Group.
4. Review of the Tight Gas Reservoirs Task Group's assignments.
5. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The meeting is open to the public. The chairman of the task group 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 task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633-9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 29, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

August 29, 1979.

[FR Doc. 79-28423 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

Alaska Power Administration

Proposed Adjustment of Wholesale Power Rates; Eklutna Project, Alaska

AGENCY: Department of Energy, Alaska Power Administration.

ACTION: Proposal To Adjust Wholesale Power Rates, Eklutna Project, Alaska.

SUMMARY: Proposal to adjust Rate Schedules A-F7, A-N7, and A-L6, increasing firm energy rates from 10.3 mills per kilowatt-hour to 12.5 mills, non-firm energy from 3 mills per kilowatt-hour to 6 mills. Proposed rates will be submitted to Assistant Secretary of Energy for Resource Applications for interim approval, and are subject to confirmation and final approval from Federal Energy Regulatory Commission.

DATES: Written comments will be considered on or before December 12, 1979. Interim basis rates are expected to be in effect by January 1, 1980.

TO SUBMIT WRITTEN COMMENTS OR FOR FURTHER INFORMATION: Gordon Hallum, Chief, Power Division, Alaska Power Administration, Department of Energy, Room 825 Federal Building, P.O. Box 50, Juneau, AK 99802, (907) 586-7405.

SUPPLEMENTARY INFORMATION: The present rates, established in December 1974, will expire December 31, 1979. Preliminary studies show that increased rates are needed to meet cost recovery criteria and to offset inflation-related cost increases in operation and maintenance.

Rate proposals and supporting studies are available in Alaska Power Administration's headquarters office, Room 825 Federal Building, Juneau, Alaska, or at the Eklutna Project, Route B, Box 7785, Palmer, Alaska 99645, telephone (907) 745-3931.

Public information and comment forums will be held on September 24, 1979, 7:30 p.m., in Room C-114 New Federal Building, 704 C Street, Anchorage, Alaska, and on September 25, 1979, 7:30 p.m., Palmer Community Building, Palmer, Alaska.

All comments will be considered, and the proposed rates may be revised on the basis of public input.

Dated: August 31, 1979.

Robert J. Cross,

Administrator.

[FR Doc. 79-28521 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

Conservation and Solar Applications; National Energy Extension Service Advisory Board and Ad Hoc Subcommittees; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: National Energy Extension Service Advisory Board.

Date, time, and place: Wednesday, October 3, 1979, 9:30 a.m to 4:30 p.m.; Thursday, October 4, 1979, 9:30 a.m. to approximately 11:45 a.m.—Midtown-Best Western Hotel, 1201 K Street, N.W., The Lobby Room, Washington, D.C. 20005.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202-252-5187.

Public participation: The meetings are open to the public. The Chairmen of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees 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 call the Advisory Committee Management Office at the above number at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of committee: The Board was established to carry on a continuing review of the comprehensive Energy Extension Service program and approved plans of the Governors of each State for implementing Energy Extension Service activities.

Tentative agenda: October 3, 1979—Full Committee, 9:30 a.m.—DOE response to Board recommendations of March 1979; 10:30 a.m.—Board chairman's report; 11:00 a.m.—Board organization issues; 11:30 a.m.—Organization for 1980 Board activities; 12:00 noon—Public Participation; 12:15 p.m.—Recess of the full Board; October 3, 1979—Three Subcommittee meetings; 1:30 p.m.—Board subcommittees meet on actions for the next year; 4:30 p.m.—Public Comment (10 minute rule) Adjournment of Subcommittees; October 4, 1979; 9:30 a.m.—Full Board reconvenes, Board Subcommittees report to the full Board; 10:30 a.m.—Board plan of action for the period October 1979-September 1980; 11:30 a.m.—Public Comment (10 minute rule).

Issued at Washington, D.C., on September 10, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-28520 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Issuance of Final Decision and Order; Pennzoil Production Co.

On June 22, 1979 we issued a Proposed Decision and Order to Pennzoil Production Company that would permit, pursuant to the provisions of 10 CFR 212.78, market prices for the incremental crude oil from the Perry Sand CO_2 tertiary enhanced recovery project in the Tinsley Field of Yazoo County, Mississippi, (44 FR 37668, June 28, 1979). No objections have been received with respect to that Proposed Decision and Order. Pennzoil requested that the final Decision and Order affirm that its acceptance of such Decision and Order

would not preclude it from participating in any "front-end" benefits which might be adopted from a Notice of Proposed Rulemaking, (44 FR 18677, March 29, 1979). Because the request accords with announced statements of the Economic Regulatory Administration (43 FR 33679, August 1, 1978), the request was granted. Accordingly, we have issued a Decision and Order that permits market prices for incremental crude oil from the Perry Sand CO_2 Project.

A copy of the Decision and Order is available in the Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C., between 1 p.m. and 5 p.m., Monday through Friday and the Department of Energy Reading Room, GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., August 31, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-28519 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. TC79-94, et al.]

Alabama-Tennessee Natural Gas Co., et al.; Notice Extending Filing Date

Issued: August 30, 1979.

Alabama-Tennessee Natural Gas Company, TC79-94; Algonquin Gas Transmission Company, TC79-95; Arkansas-Louisiana Gas Company, TC79-96; Cities Service Gas Company, TC79-97; Colorado Interstate Gas Company, TC79-98; Columbia Gas Transmission Corporation, TC79-99; Consolidated Gas Supply Corporation, TC79-100; East Tennessee Natural Gas Company, TC79-101; Eastern Shore Natural Gas Company, TC79-102; El Paso Natural Gas Company, TC79-103; Equitable Gas Company, TC79-104; Florida Gas Transmission Company, TC79-105; Michigan-Wisconsin Pipe Line Company, TC79-106; Midwestern Gas Transmission Company, TC79-107; Mississippi River Transmission Company, TC79-108; National Fuel Gas Supply Corporation, TC79-109; Natural Gas Pipeline Company of America, TC79-110; Northern Natural Gas Company, TC79-111; Northwest Pipeline Corporation, TC79-112; Panhandle Eastern Pipe Line Company, TC79-113; Southern Natural Gas Company, TC79-114; Tennessee Gas Pipeline Company, TC79-115; Tennessee Natural Gas Lines, Inc., TC79-116; Texas Eastern Transmission Corporation, TC79-117; Texas Gas Transmission Corporation, TC79-118; Transcontinental Gas Pipe Line Corporation, TC79-119; Transwestern Pipeline Company, TC79-120; Trunkline Gas Company, TC79-121; and United Gas Pipe Line Company, TC79-122.

The May 2, 1979 Order issued in the omnibus dockets requires the designated pipelines to report impact of the implementation of the final rule in Docket No. RM79-15 by September 3, 1979.[1] The order indicates that since the pipelines must prepare pro-forma tariff sheets and new indices of customer entitlements by August 1, 1979 in compliance with § 18 CFR 281.212, an impact assessment should be possible at that time.

Order No. 29-B issued July 20, 1979 extends the date for the preparation of draft tariff sheets and indices of entitlements to September 14, 1979. Therefore, an impact assessment of the final rule in Docket No. RM79-15 will not be productive prior to September 14. Furthermore, the data verification committees must report to the pipelines by September 23, 1979; or by October 23, 1979, if the pipeline elects to file its tariff sheets on November 1, 1979, as allowed by Order No. 29-B. Upon receiving such reports the pipeline will then be able to prepare final tariff sheets and assess the impact of such sheets.

Therefore, the September 3, 1979 reporting date in the May 2, 1979 order is changed to October 16, 1979. Those pipelines electing to file tariff sheets on November 1, 1979, should request an extension of the October 16, 1979 date if necessary.

Kenneth F Plumb,

Secretary.

[FR Doc. 79-28501 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2573]

Arizona Power Authority; Application for Extension of Time

September 5, 1979.

Take notice that on August 14, 1979, Arizona Power Authority (APA) filed an application for extension of time in which to complete constructon of its Montezuma Project No. 2573 to be located on lands of the United States within the Gila River Indian Reservation in Maricopa and Pinal Counties, Arizona. Pursuant to Article 44 of the project license, APA is to complete construction of the project by October 1, 1979. APA requests a 5-year extension of time.

The project was originally licensed by the Commission in 1968 and APA claims that it commenced construction by October 1, 1975, as required by the license. APA attributes the delays that it has experienced to financing problems and changing load growth plans. APA has previously been granted extensions of time in which to complete construction.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 15, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inpection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28502 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-61]

Central Illinois Public Service Co.; Notice of Application

September 7, 1979.

Take notice that on August 30, 1979, Central Illinois Public Service Company (Applicant), filed an Application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue from time to time its unsecured promissory notes (including master notes) to evidence borrowings of money to be made by it from banks or through bank trust departments and its unsecured promissory notes in the form of commercial paper in an aggregate maximum principal amount not exceeding $120,000,000 outstanding at any time. Applicant is incorporated under the laws of the State of Illinois, has its principal business office at Springfield, Illinois, and is engaged in the generation, transmission,

[1] See p. 4 of July 20, 1979 order and Ordering Paragraph (A).

distribution and sale of electric energy within the State of Illinois.

The proceeds from the notes and/or commercial paper will be added to the general funds of the Company and used principally to finance; temporarily, a part of the Company's construction expenditures for the remainder of 1979 and the years 1980 and 1981.

Any person desiring to be heard or to make any protest with reference to the Application should on or before September 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to participate as a party in a hearing must file petitions to intervene in accordance with the Commission's Rules. The Application is on file with the commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28503 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-60]

Community Public Service Co.; Notice of Application

August 30, 1979.

Take notice, that on August 10, 1979, Community Public Service Company (Applicant) a corporation organized under the laws of the State of Texas and qualified to do business in the States of Texas and New Mexico, with its principal business office at Fort Worth, Texas, filed an application with the Commission, pursuant to Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations, for authorization to negotiate for the placement of 200,000 shares of Common Stock, par value $10, via competitive bidding.

The Company presently has issued and outstanding 1,838,864 shares of Common Stock with the par value of $10 per share.

The net proceeds from the issuance and sale of the Common Stock are to be used for the Applicant's 1979 construction program including the repayment of short-term borrowings incurred for that purpose.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28504 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-60]

Community Public Service Co.; Notice of Application

September 7, 1979.

Take notice, that on August 24, 1979, Community Public Service Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue $12,000,000 principal amount of unsecured five-year term Notes and up to 200,000 shares of Common Stock, par value, $10 per share, via negotiated placement.

Applicant is incorporated in the State of Texas and is domesticated in the States of Arizona and New Mexico, with its principal place of business office at Fort Worth, Texas. Applicant is engaged primarily in the generation, purchase, distribution and sale of electric energy and the purchase, distribution and sale of natural gas.

Applicant states that it proposes to use the proceeds from the sale of the unsecured five-year term Notes and the Common Stock, for the repayment of short-term bank loans obtained for such purposes, in the aggregate principal amount of more than $16,000,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28505 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2305]

Sabine River Authorities of Texas and Louisiana; Notice of Application for Use of Project Lands

September 5, 1979.

Take notice that on May 1, 1978, the Sabine River Authority of Louisiana ("SRALA") filed an application under the Federal Power Act, 16 U.S.C. §§ 791a–825r, for approval of the use of lands of the Toledo Bend hydroelectric Project No. 2305 to create a scenic drive. The project is located on the Sabine River between Texas and Louisiana, and is in DeSoto and Sabine Parishes, Louisiana. Correspondence with SRALA concerning this matter should be addressed to: Mr. Barton Rumsey, Area Engineer, Sabine River Authority, Route 1, Box 154 L, Anacoco, Louisiana 71403.

The Louisiana Department of Highways proposes to build a 95.6-mile-long scenic drive to improve access to recreational facilities on the east side of the Toledo Bend reservoir. The scenic drive would extend from Leesville to Logansport, paralleling the reservoir at a distance of approximately 2 to 4 miles. About 2.5 miles of new alignment would be constructed—existing Parish and State roads be utilized for the remaining distance. These existing roads would be upgraded to accommodate two 11-foot lanes and 8-foot aggregate shoulders.

The scenic drive would require the use of approximately 93 acres of project lands, including 26 acres for the right-of-way and 65.2 acres for scenic easements 80 feet wide on each side of the right-of-way. The scenic easements would be acquired by the Highway Department and administered by the Toledo Bend Forest Scenic Drive Commission.

Approximately 20.5 miles of the proposed scenic drive have already been upgraded. Three bridges crossing project waters were replaced, and an additional bridge was built south of the existing structure at Negreet Creek. About 6.3 more miles are currently being upgraded, including a new bridge at Salter Creek. Completion of the scenic drive beyond this section would require replacing three more bridges over project waters and lengthening an existing culvert 24 feet.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a

protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 22, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28506 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-117]

State of Nebraska, Section 102 NGPA Determination, Chain Oil, Inc., Schoen #1 Well JD79-13110; Notice of Preliminary Finding

Issued: August 31, 1979.

On July 19, 1979, the State of Nebraska Oil and Gas Conservation Commission (Nebraska) submitted to the Commission a notice of determination that the Chain Oil, Inc. Schoen #1 well met all the requirements of the new, onshore reservoir provision of section 102(c)(1)(C) of the Natural Gas Policy of 1978 (NGPA). The Commission published Nebraska's notice of determination on July 27, 1979.

According to section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new, onshore reservoir if it was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities, and natural gas could have been produced in commercial quantities from such reservoir through the well before April 20, 1977.

The record accompanying Nebraska's determination indicated that the subject reservoir, the D-1 Sand, was penetrated in May of 1963 by the Schoen #1 well, which produced crude oil in commercial quantities from a lower reservoir. By reason of the fact in the record that this reservoir was penetrated prior to April 20, 1977 and the absence of substantial evidence that the reservoir could not have produced natural gas in commercial quantities prior to April 20, 1977, the Commission does not find that the record, taken as a whole, provides sufficient evidence to affirm Nebraska's determination at this time.

Accordingly, the Commission makes a preliminary finding (pursuant to 18 C.F.R. 275.202(a)(1)) that the determination submitted by Nebraska is not supported by substantial evidence in the record on which the determination was based.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28507 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2926]

South Columbia Basin Irrigation District; Notice of Application for Major License

September 5, 1979.

Take notice that on May 3, 1979, the South Columbia Basin Irrigation District (SCBID) filed an application for major license for its proposed P.E.C. 22.7 Project No. 2926. The hydroelectric project would be located on the Potholes East Canal of the Bureau of Reclamation's (USBR) Columbia Basin Irrigation Project in Adams County, Washington. Correspondence concerning the application should be sent to: Mr. Russell D. Smith, Secretary-Manager, South Columbia Basin Irrigation District, Post Office Box 1006, Pasco, Washington 99301; and to Mr. James Leavy, Leavy, Taber, Schultz, Bergdhal & Sweeney, Attorneys at Law, Post Office Box 891, Pasco, Washington 99301.

The proposed development would be located at a check structure at mile 22.7 on the Potholes East Canal. The check structure would divert flows into a penstock, 12 feet in diameter and 200 feet long. The penstock would be connected to a 5,000-kW generating unit located a in concrete powerhouse, approximately 80 feet by 40 feet. Water from the powerhouse would be discharged back into the Potholes East Canal. A substation would be located adjacent to the powerhouse and a 34.5-kV transmission line, approximately 960 feet long, would transmit project power to an existing USBR/SCBID transmission line.

The total cost of the project is expected to be $3,725,000. Applicant is currently negotiating a contract with the cities of Seattle and Tacoma for the purchase of power from the P.E.C. 22.7 Project No. 2926.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 5, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28508 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-88]

South Texas Natural Gas Gathering Co.; Notice of Petition for Declaratory Order

September 5, 1979.

Take notice that on August 15, 1979, South Texas Natural Gas Gathering Company (South Texas), Five Greenway Plaza East, Houston, Texas 77046, filed a petition for declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure, 18 CFR 1.7(c). The petition requests that the Commission determine the proper vintage classification for a well from which South Texas purchases gas for resale in interstate commerce, i.e., the A. A. McAllen Well No. 34, Texas Railroad Commission I.D. No. 54803 (Well No. 34).

South Texas states that it is a natural gas company engaged in the gathering, transmission, sale, and transportation of natural gas through company owned and operated lines in Texas. South Texas further states that it purchases natural gas produced from Well No. 34 from Shell Oil Company (Shell) under FERC Rate Schedule 297, previously authorized in Docket No. CI63-1509.

It is alleged by South Texas that Shell has improperly classified the gas sold from Well No. 34 as subject to the "recompletion" rate approved by the Commission in Opinion No. 770-A (*see* 18 CFR 2.56a(a)(5)) and incorporated by reference in section 104 of the Natural Gas Policy Act of 1978 (*see* 18 CFR 271.402). Instead of the recompletion rate, South Texas alleges that production from Well No. 34 should receive the "flowing gas" rate (*see* 18 CFR 271.402) for deliveries on or after

December 1, 1978; the rate under Opinion No. 749 (*see* 18 CFR 2.56b(a)(2)) for deliveries prior to December 1, 1979; and the rate under Opinion No. 595 (*see* 18 CFR 154.109) for deliveries prior to January 1, 1976. According to its view of the applicable rate for deliveries from Well No. 34, South Texas estimates that its overpayments have approximated $400,000.

South Texas argues that there must be production from an "initial" completion before there can be a "recompletion" within the meaning of the Commission's regulations. South Texas asserts that there has never been more than an "initial" completion and cites records of the Texas Railroad Commission in support of its assertion. South Texas states that the Commission's regulations do not explicitly define either "completion" or "recompletion," so that a declaratory order is necessary to resolve the pricing issue. In the event the Commission determines that the rate charged by Shell is in excess of the lawful rate, South Texas requests that the Commission order Shell to make a prompt refund with interest, and grant such other relief as may be appropriate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-28509 Filed 9-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-118]

Tennessee Gas Pipeline Co. v. Highland Resources, Inc.; Notice of Protest to NGPA Blanket Affidavit Filing

September 5, 1979.

Take notice that on May 1, 1979, Tennessee Gas Pipeline Company (Tennessee), a division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77001, filed under § 154.94(h)(8) of the Commission's Regulations a protest to a blanket affidavit filing made by Highland Resources, Inc. (Highland) on December 29, 1978, pursuant to Rate Schedule No. 17 and the provisions of Order No. 15.[1]

Tennessee states that Highland's blanket affidavit proposes to increase its authorized special relief rate of $1.45 per Mcf (granted by Commission Order issued September 26, 1977, Docket No. CI76-14) to $1.559 per MMBtu, effective December 1, 1978 and adjusted monthly thereafter for inflation, pursuant to section 104(b)(1)(A) of the Natural Gas Policy Act of 1978 (NGPA).

Tennessee further states that § 271.402(c)(1) of the Commission's regulations, which implements Section 104(b)(1)(A) of the NGPA, provides for an inflation adjustment to be applicable only to base rates in effect on April 20, 1977. Rates established after that date are covered by § 271.402(c)(2), which implements section 104(b)(1)(B) of the NGPA and which does not provide for an inflation adjustment.

Tennessee asserts that Highland's special relief rate did not become effective until September 26, 1977 and accordingly was not a base rate in effect on April 20, 1977. Therefore, pursuant to the above-cited regulations, Highland is not entitled to an inflation adjustment to its special relief rate, but remains entitled only to the rate as established by Commission Order issued on September 26, 1977.

Any person desiring to be heard with reference to said protest should on or before September 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-28510 Filed 9-12-79; 8:45 am]
BILLING CODE 6450-01-M

[1] Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirement (issued November 17, 1978).

[Docket No. GP79-115]

U.S. Geological Survey, New Mexico, Section 103 NGPA Determination, Petroleum Development Corp., Hudson Federal No. 1, FERC JD No. 79-12999, New Mexico 307-79-103; Notice of Preliminary Finding

Issued: August 31, 1979.

On July 18, 1979, the U.S. Geological Survey in Albuquerque, New Mexico notified the Federal Energy Regulatory Commission (Commission) that it had determined that Petroleum Development Corporation's Hudson Federal No. 1 well, JD No. 79-12999 qualified as a new, onshore production well under section 103 of the Natural Gas Policy Act of 1978. The Commission noticed this determination on July 25, 1979.

A well qualifies as a new, onshore production well under section 103 only if, among other things, the surface drilling of the well began on or after February 19, 1977.

The well completion record accompanying the determination indicates (1) the surface drilling of the well commenced in 1959, and was completed to a total depth of 10,460 feet in search of oil; (2) the well was subsequently plugged and abandoned; (3) the well was re-entered on September 2, 1977; (4) the well was completed on September 21, 1977, at a depth of approximately 9700 feet.

Since the record indicates that the surface drilling of the well was begun before February 19, 1977, the Commission hereby makes a preliminary finding (pursuant to 18 C.F.R. 275.202(a)(1)(c) that the above referenced determination submitted by the U.S. Geological Survey is not supported by substantial evidence in the record upon which the determination was made.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-28511 Filed 9-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-116]

U.S. Geological Survey, Louisiana, Section 102(d) NGPA Determination, Forest Oil Corp., Eugene Island Block 292 B-11-D (JD79-13023), USGS Docket No. 69-519; Notice of Preliminary Finding

Issued: August 31, 1979.

On July 19, 1979, the United States Geological Survey (USGS) at Metairie, Louisiana submitted to the Commission a notice of determination which states that a Forest Oil Corporation well

(Eugene Island Block 292 B-11-D, JD79-13023) meets all the requirements of section 102(d) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621. The Commission published notice of the U.S. Geological Survey determination on July 25, 1979.

According to section 102(d)(1) of the NGPA, natural gas produced from an old lease on the Outer Continental Shelf (OCS) qualifies for the new natural gas ceiling price if the natural gas is produced from a reservoir which was not discovered before July 27, 1976. Section 102(d)(2) states that a reservoir is considered to have been discovered before July 27, 1976, if the reservoir was penetrated by a well before July 27, 1976, and the criteria in subsection 102(d)(2)(B) concerning production tests, evidence regarding production capability, and the results of certain tests showing the reservoir is commercially producible are satisfied.

The record shows that the subject reservoir was penetrated prior to July 27, 1976 by five wells. The applicant states that the subject reservoir flowed gas on prduction tests conducted in January, 1970 from one well (Eugene Island Block 292 B-1), but that the applicant was unable to locate the test results. The applicant further states that the search for the results from the production tests was limited to the applicants' own corportate records. The applicant has not indicated whether the test results are available from the other co-lessees.[1]

Pursuant to section 102(d)(4)(B) of the NGPA, the producer has the burden of showing that if any production test as described in section 102(d)(2)((B) was performed or evidence regarding production capability exists, that the results of such test or evidence do not provide the applicable demonstration or indication specified in 102(d)(2) of the NGPA. Since the applicant has not produced the results of the subject test, he has not met the burden of proof established by section 102(d)(4) of the NGPA.

Accordingly the Commission hereby makes a preliminary finding (pursuant to section 275.202(a)(1)(i)) that the determination submitted by the USGS is not supported by substantial evidence in the record on which the determinations was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28512 Filed 9-12-79; 8:45 am]

BILLING CODE 6450-01-M

[1] The co-lessees are Columbia Gas Development Corporation, CNG Producing Company, and Texas Gas Exploration Corporation.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1318-5]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of December 1, 1978 and December 31, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 15, 1979.

William D. Dickerson,

Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between December 1, 1978, and December 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
DS-COE-E34012-OO	Fifth Unit Installation at Hartwell Lake, Savannah River, Georgia and South Carolina	LO-1	E
D-COE-F36056-IL	Large Unnamed Creek, Rock River, Feasibility Study, Loves Park, Winnebago County, Illinois	ER-2	F
DS-COE-L36045-ID	Lucky Peak Modification, Bosie River, Bosie County, Idaho	LO-2	K
	DEPARTMENT OF AGRICULTURE		
D-AFS-LO1001-WA	Geothermal Leasing and Developments, Gifford Pinchot National Forest, Cowlitz and Skamania Counties, Washington (USDA-FS-R6-DES-(ADM-79-1).	LO-1	K
D-AFS-L61119-00	Land Management Plan, Quartz Mountain Planning Unit, Bonner County, Idaho, Pend Oreille Counties, Washington (R1-04-DES-ADM-79-02) (USDA-FS-R1) (04-DES-ADM-79-02).	ER-2	K

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between December 1, 1978, and December 31, 1978* —Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF AGRICULTURE —Continued		
D-AFS-L61126-ID	Landmark Planning Unit, Bosie National Forest, Ada County, Idaho (USDA-FS-R4-DES (ADM)-R4-78-10).	LO-1	K
D-AFS-L61127-OR	Malheur National Forest, 10-Year Timber Resource Plan, Grant, Harney, Baker and Malheur Counties, Oregon (06-04-78-16).	LO-2	K
D-AFS-L61128-OR	Burnt Powder Land Management Plan, Wallowa-Whitman National Forest, Baker, Grant, Malheur and Union Counties, Oregon (USDA-FS-R6-DES (ADM)-78-17).	LO-2	K
D-SCS-G36066-TX	Big Sandy Creek Watershed, Clay, Jack, Montague, Tarrant and Wise Counties Texas	LO-1	G
D-SCS-G36067-TX	Hamilton Creek Watershed, Burnet County, Texas	LO-1	G
	DEPARTMENT OF DEFENSE		
DS-USN-D51011-VA	Restrictive Easement Acquisition, Alcuz-Naval Station, Oceana, Virginia Beach, and Auxiliary Landing Field, Fentress, Chesapeake, Virginia.	LO-2	D
	DEPARTMENT OF ENERGY		
D-DOE-B07005—MA	Brayton Point Generating Station Plants 1, 2 and 3, Coal Conversion, Somerset, Bristol County, Massachusetts (DOE/EIS-0036-D).	ER-2	B
D-FRC-L08029-AK	Green Lake Project No. 2818 Alaska City and Borough of Sitka, Alaska	LO-2	K
	DEPARTMENT OF THE INTERIOR		
D-BLM-G07014-NM	Star Lake, Bisti Regional Coal, Northeastern New Mexico	ER-2	G
D-BLM-J01010-CO	West-Central Colorado Coal Resources Development, Colorado	3	I
D-NPS-F61007-MN	Master Plan, Voyageurs National Park, Koochiching and St. Louis Counties, Minnesota	LO-2	F
D-IGS-J01018-WY	Caballo Mine, Proposed Mining and Reclamation Plan, Campbell County, Wyoming	3	I
	DEPARTMENT OF TRANSPORTATION		
D-FHW-C40038-NY	Yonkers Arterial Highway System, Nepperhan Route, Westchester County, New York	LO-2	C
DS-FHW-E40081-GA	The Appalachian Highway, GA-5, Forsyth, Pickens, Cherokee, Gilmer, Fannin, Union and Towns Counties, Georgia (FHWA-GA-EIS-77-04-DS-2).	LO-1	E
D-FHW-E40152-NC	Highway Improvement, Brevard to I-26, Transylvania, Henderson, and Buncombe Counties, North Carolina.	ER-2	E
D-FHW-E40153-NC	Durham, East-West Freeway, I-85 to US 70, Durham County, North Carolina (FHWA-NC-EIS-72-13-D) (Revised).	LO-1	E
D-FHW-H40087-NB	US 20, Long Pine Junction, East and West, Brown County, Nebraska (FHWA-NEBR-EIS-78-05-D).	LO-2	H
D-FHW-E40155-NC	Improvements to US 264, Wilson to Greenville, Wilson and Green Counties, North Carolina	LO-2	E
D-FHW-K40062-CA	CA-12 Alignments, Fairfield and Suisun Bypass, Solano County, California	LO-2	J
D-FRA-B53004-CT	Replacement of Niantic River Bridge and Approaches, East Lyme and Waterford, New London County, Connecticut (FRA-RNC-EIS-78-01-D).	LO-2	B
	GENERAL SERVICES ADMINISTRATION		
D-GSA-B80009-00	Relocation and Consolidation of NRC Headquarters, Montgomery County, Maryland and Washington, DC.	LO-2	D
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-E28030-AL	West Wilcox Water System, Wilcox County, Alabama	LO-2	E
D-HUD-F85038-OH	Disposition, Fay Apartments, Cincinnati, Hamilton County, Ohio	LO-1	F
D-HUD-K85021-HI	Gentry and Waipo, Waipo, Oahu, Honolulu County, Hawaii	LO-2	J
D-HUD-K85022-CA	Proposed Chinatown Redevelopment Project, Los Angeles County, California	LO-2	J
D-HUD-K89026-CA	Residential Development, Riverview Estates, Fresno, Fresno County, California	LO-2	J
D-HUD-L85008-WA	Homestead, a Planned Community, Spokane County, Washington (HUD R10-EIS-78-2D)	ER-2	K
	OHIO RIVER BASIN COMMISSION		
D-ORB-E39005-OO	Ohio River Basin Recommended Plan, the Regional Water and Land Resource Plan, Ohio River	LO-2	E
	DEPARTMENT OF COMMERCE		
D-NOA-E64003-FL	Fishery Management Plan, Stone Crabs, Gulf of Mexico, West Coast of Florida	LO-1	E

Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objection to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient

information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between December 1, 1978, and December 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
		CORPS OF ENGINEERS	
F-COE-A36389-PA	Saw Mill Run Local Flood Protection Project, Pittsburgh, Allegheny County, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS	D
FS-COE-E25005-KY	Obion Creek, West Kentucky Tributaries Project, Kentucky.	EPA continues to have environmental reservations regarding this project as well as certain aspects of its administration. The EIS does not address the salient points of the agreement between the Corps and EPA dated June 28, 1978, which precluded 309 referral to CEQ by EPA. The supplement fails to discuss the decision changes that have been incorporated to prevent the drainage of 4,200 acres of woodlands. Since the mitigation monies are not yet available and the agreement states that mitigation land will be selected/acquired during the first year of construction, the project should not begin until mitigation funding is guaranteed. Subsequent documents should provide assurance that this condition will be met.	E
F-COE-E82001-00	Aquatic Plant Control Program, Mobile District of the Corps of Engineers.	EPA continues to have environmental reservations about the long-term consequences to both the human and natural environment of this activity. Label recommendations regarding the safety equipment for the chemical being used must be complied with, and assurance given that all label restrictions will be followed concerning container disposal and that appropriate state agencies be consulted for their concurrence in disposal sites and methods. EPA hopes these matters can be appropriately reconciled.	E
		DEPARTMENT OF AGRICULTURE	
F-AFS-K65025-CA	Timber Management Plan, Tahoe National Forest, California.	EPA's concerns were adequately addressed in the final EIS	J
		DEPARTMENT OF THE INTERIOR	
F-BLM-K07003-NV	Sierra Pacific Power Company, proposed 500 MW Coal Fired Generating Station, North Valmy, Humboldt County, Nevada.	EPA's concerns were adequately addressed in the final EIS	J
F-BLM-K65028-00	Upper Gila and San Simon Liverstock Grazing, Arizona and New Mexico.	EPA's concerns were adequately addressed in the final EIS	J
FS-NPS-E61004-TN	Obed Wild and Scenic River, Morgan and Cumberland Counties, Tennessee (See BOER-61004).	EPA recommends that regarding economic considerations, NPS may wish to rethink the scale of the Crossville and Wartburg Visitor Station. If extra savings could be realized there, perhaps it would be possible to purchase more of the headquarters for the system. EPA recommended alternative considerations be given to prevent continuation of adverse gas/oil exploration and operation impacts.	E
		DEPARTMENT OF TRANSPORTATION	
F-FHW-F40100-MN	MN-101, Shakopee By-Pass, Scott County, Minnesota.	EPA's concerns were adequately addressed in the final EIS	F
F-FHW-F40107-IL	US 51, Far 740, 5th Avenue to Lakeview Drive, Rochelle, Ogle County, Illinois.	EPA's concerns were adequately addressed in the final EIS	F
F-FHW-F53006-IN	Main Street, IN-15, Penn Central Railroad Grade Separation, Goshen, Elkhart County, Indiana.	EPA's concerns were adequately addressed in the final EIS	F
F-FHW-J40034-ND	US 2, Devils Lake Easterly to ND-18, Ramsey, Nelson and Grand Fork Counties, North Dakota.	EPA's concerns were adequately addressed in the final EIS	I
F-FHW-J40065-CO	South Santa Fe Drive, Florida to Church, Arapahoe County, Colorado.	EPA's concerns were adequately addressed in the final EIS	I
F-FHW-K40011-CA	El Segundo to Norwalk, Century Freeway Transitway, CA-1 and I-105, Los Angeles County, California.	EPA's concerns were adequately addressed in the final EIS	J
F-FHW-L40030-WA	WA-90, Junction WA-5 to Vicinity Junction WA-405, King County, Washington (FHWA-WN-EIS-75-05-F).	EPA's concerns were adequately addressed in the final EIS	K
		DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-C89003-NY	Disposition of the Amos Block, 206-220 Water Street, Syracuse, Onondaga County, New York.	EPA has environmental reservations concerning the environmental impacts of unspecified development made possible by the demolition of the Amos Block. EPA recommends that the project's full range of effects be carefully evaluated before any action is taken.	C
F-HUD-F84036-IN	Murfield Subdivision, Indianapolis, Marion County, Indiana.	EPA's concerns were adequately addressed in the final EIS	F
F-HUD-K89023-CA	Pico Union Redevelopment Project Area Number 2, Los Angeles County, California.	EPA's concerns were adequately addressed in the final EIS	J

		INTERSTATE COMMERCE COMMISSION	
F-ICC-K53002-CA	Southern Pacific Transportation Company to Discontinue the Operation of Passenger Trains between San Francisco and San Jose.	EPA's concerns were adequately addressed in the final EIS	J
		NUCLEAR REGULATORY COMMISSION	
F-NRC-K06001-CA	Sundesert Nuclear Plant, Units 1 and 2, San Diego Gas and Electric Company, Riverside County, California.	EPA's concerns were adequately addressed in the final EIS	J

Appendix IV.—*Final Environmental Impact Statements Which Were Revealed and Not Commented on Between December 1, 1978, and December 31, 1978*

Identifying No.	Title	Source of review
	DEPARTMENT OF AGRICULTURE	
F-AFS-E65020-FL	Ocala National Forest, Timber Management Plan, Marion, Lake and Putnam Counties, Florida (USDA-FS-R8-FES-ADMIN-78-05)	E
F-AFS-L61098-OR	Land Management Plan, Deschutes National Forest, Metolius, Bachelor Odell and New Barry Planning Units, Oregon (USDA-FS-R6-FES-(ADM)-77-16).	K
F-AFS-L61100-OR	Hebo Planning Unit, Siuslaw National Forest, Lincoln and Yamhill Counties, Oregon (USDA-FS-R6-FES-(ADM)-78-3)	K
F-AFS-L61105-ID	Leesburg Planning Unit, Land Management Plan, Salmon National Forest, Lemhi County, Idaho (USDA-FS-FES(ADM)R-4-78-5)	K
	DEPARTMENT OF INTERIOR	
F-BLM-L60001-ID	Silver City, Lease of Public Lands, Owynee County, Idaho	K
F-BLM-L65020-ID	Proposed Domestic Livestock Grazing Program, Challis Planning Unit, Custer County, Idaho	K
F-IBR-G34028-OK	McGee Creek Project, Atoka County, Oklahoma	G
	DEPARTMENT OF TRANSPORTATION	
F-FHW-B40031-VT	US 2, Danville to St. Johnsbury, Caledonia County, Vermont	B
F-FHW-E40116-AL	US 90 to Persons Drive, University Boulevard Mobile County, Alabama (FHWA-ALA-EIS-77-02-F)	E
F-FHW-E40123-TN	TN-51, US 45, Mississippi State Line to TN-100 in Henderson, McNairy and Chester Counties, Tennessee (FHWA-TN-EIS-77-03-F)	E
F-FHW-H40042-IA	Freeway 518 and IA-92 Relocations, Washington and Johnson Counties, Iowa	H
	FEDERAL MARITIME COMMISSION*	
F-FMC-A52128-00	Investigation, Movement of Waste Paper and Woodpulp	A
	GENERAL SERVICES ADMINISTRATION	
F-GSA-E81016-TN	Renovation of Union Station in Nashville, Davidson County, Tennessee (ETN 78002)	E
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-G85087-TX	Cypress Point Subdivision, Harris County, Texas	G
F-HUD-G85103-TX	Northcliffe Subdivision, Houston, Harris County, Texas	G
F-HUD-G85108-TX	Parkway West and Westgreen Subdivision, Harris County, Texas	G
F-HUD-J89001-CO	Lincoln Park Neighborhood Revitalization Project, Denver County, Colorado	I

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between December 1, 1978, and December 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
		DEPARTMENT OF AGRICULTURE	
R-AFS-A65132-00	36 CFR Part 219, National Forest System Land Resource Management Planning (43 FR 39046).	EPA made several specific comments in order to strengthen the proposed rulemaking	A
		DEPARTMENT OF THE INTERIOR	
A-DOI-A02131-00	Development of a 5 Year OCS Oil and Gas Leasing Program (3 Documents).	EPA made several comments intended to assist in structuring the proposed program in an environmentally acceptable manner.	A
A-NPS-K02000-00	Management Options for Oil and Gas Lease Applications, Lake Mead, Grand Wash Cliffs, Arizona and Nevada.	EPA offered several comments relating to the quality of air and water and waste disposal and requested the information be included in an EIS.	J

Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Steet, NE, Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-28520 Filed 9-12-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1318-3]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2) (C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of October 1, 1978 and October 31, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 15, 1979.

William D. Dickerson,

Acting Director, Office of Environmental Review.

Appendix I—*Draft Environmental Impact Statements for Which Commments Were Issued Between Oct. 1, 1978, and Oct. 31, 1978*

Identifying Number	Title	General nature of comments	Source for copies of comments
	CIVIL AERONAUTICS BOARD		
D-CAB-K51014-CA	Oakland Service Case, Docket 30699, California	2	J
	CORPS OF ENGINEERS		
DA-COE-A32399-MN	Flood Control, South Fork Zumbro River Watershed, Rochester and Olmsted Counties, Minn	ER-2	F
D-COE-C30005-NY	Small Boat Harbor, Olcott, Niagara County, New York	ER-2	C
DS-COE-C36022-NY	Ellicott Creek Flood Control Project, Erie County, New York	LO-2	C
DS-COE-C36024-OO	Mamaroneck and Sheldrake Byram River Basins, Connecticut and New York	LO-2	C
D-COE-G32030-TX	Deep Draft Inshore Port, Harbor Island, Nueces County, Texas	EU-2	G
D-COE-G34030-TX	Texas City and Vicinity Hurricane Flood Protection Project, Galveston County, Texas	LO-1	G
DS-COE-K32017-HI	Kawaihea Harbor for Light Draft Vessels, Hawaii County, Hawaii	LO-2	J
	DEPARTMENT OF AGRICULTURE		
D-AFS-D65008-WV	Upper Shavers Fork Sub-Unit Plan, Monongahela National Forest, Pocahontas County, West Virginia.	ER-2	D
D-AFS-J65076-MT	Land Management Plan, Logan Planning Unit, Flathead National Forest, Flathead County, Montana.	LO-2	I
D-AFS-J65078-WY	Greys-Salt River Planning Unit, Bridger and Teton National Forest, Lincoln County, Wyoming	ER-2	I
D-AFS-K61027-CA	Mt. Shasta Wilderness Proposal, Shasta-Trinity National Forest, California	LO-1	J

Appendix I—*Draft Environmental Impact Statements for Which Commments Were Issued Between Oct. 1, 1978, and Oct. 31, 1978*—Continued

Identifying Number	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF AGRICULTURE		
D-AFS-K61028-CA	Land Management Alternatives, Mammoth-Mono Planning Unit, Inyo National Forest, Madera County, California.	ER-2	J
D-AFS-L61118-OR	Upper Rogue Planning Unit, Land Management Plan, Rogue River National Forest, Douglas and Klamath Counties, Oregon (USDA-FS-R6-DES (ADM)-78-14).	LO-2	K
D-AFS-L61124-WA	Cowlitz Planning Unit, Land Management Plan, Lewis and Pierce Counties, Washington (USDA-FS-R6-DES (ADM)-78-13).	LO-1	K
D-REA-J08006-CO	Lake City to Creede, 115 KV Transmission Line, Hinsdale County, Colorado	LO-2	I
	DEPARTMENT OF COMMERCE		
DS-EDA-K35009-CA	Humboldt Bay Harbor Recreation and Conservation District Marina, Woodley Island, Humboldt County, California.	LO-2	J
	DEPARTMENT OF ENERGY		
D-DOE-A00140-NM	Los Alamos Scientific Laboratory Site (LASL), Los Alamos County, New Mexico	LO-2	A
	DEPARTMENT OF INTERIOR		
D-BIA-K60007-AZ	Navajo Land Selection, Arizona	LO-1	J
D-BLM-K08005-OO	Palo Verde and Devers 500 KV Transmission Line, Arizona and California	LO-1	J
D-IGS-J01016-UT	Development of Coal Resources in Southern Utah	ER-3	I
	DEPARTMENT OF TRANSPORTATION		
D-FHW-E40150-FL	Port Everglades Expressway, FL-817, University Drive to Proposed Relocated FL-A1A, Broward County, Florida (FHWA-FLA-EIS-78-5-D).	ER-2	E
DS-FHW-E40151-FL	I-95/FL-9, FL-74 to Canal C-23, Martin and Palm Beach Counties, Florida	ER-2	E
D-FHW-F40119-WI	WI-31, WI-20 to CTH "MM" Section, Racine County, Wisconsin	LO-2	F
D-FHW-H40086-NB	Gretna Fish Hatchery Road and the Louisville West Project, Sarpy County, Nebraska (FHWA-NEB-EIS-78-04-D).	LO-1	H
D-FHW-J40043-CO	Centennial Parkway, CO-470, Colorado	ER-2	I
D-UMT-D54027-MD	City of Baltimore, Lexington Market Station, Development Project, Baltimore County, Maryland	ER-2	D
	FEDERAL ENERGY REGULATORY COMMISSION		
D-FRC-K05006-CA	Kerckhoff Project No. 96, Fresno and Madera Counties, California	ER-2	J
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-C85023-PR	Plaza Renacimiento, Rio Piedras, San Juan, Puerto Rico	LO-2	C
D-HUD-F85037-MN	Woodland Hills Development, Woodbury, Washington County, Minnesota	ER-2	F
D-HUD-F85039-OH	Sunnyview Farms Development, Delaware, Delaware County, Ohio	ER-2	F
D-HUD-G85107-TX	Glen Iris Subdivision, Harris County, Texas	LO-2	G
D-HUD-G85111-TX	Springfield Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85114-TX	Westbourne Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85116-NM	Westgate Heights Subdivision, Albuquerque, Bernalillo County, New Mexico	ER-2	G
D-HUD-G85117-TX	East Temple Residential Project, Bell County, Texas	LO-1	G
D-HUD-G85120-TX	Amhurst Subdivision, Harris County, Texas	LO-2	G
D-HUD-G85122-TX	Southbrook Edition Subdivision, Tarrant County, Texas	LO-1	G
D-HUD-J89001-CO	Lincoln Park Neighborhood Revitalization Project, Denver County, Colorado	LO-1	I
D-HUD-K32018-CA	Port/Marina Project, Richmond, Contra Costa County, California	ER-2	J
D-HUD-K85018-HI	Makakilo Subdivision Development, EWA, Oahu, Honolulu County, Hawaii	LO-2	J
D-HUD-L85009-WA	Master Plan, Alderbrrok Estates, King County, Washington (HUD-R010-EIS-78-4D)	LO-1	K
	TENNESSEE VALLEY AUTHORITY		
D-TVA-E05009-TN	Rehabilitation, Ocoee No. 21 Hydro Plant, Ocoee River, Polk County, Tennessee	LO-1	E

Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between October 1, 1978, and October 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
		CORPS OF ENGINEERS	
FS-COE-A32508-VA	Southern Branch, Elizabeth River, Navigation Project, Chesapeake, Virginia.	Generally, EPA's concerns were adequately addressed in the supplement to the final EIS. However, EPA remains concerned with two specific project impacts relating to wetlands.	D
FS-COE-A61060-CA	Surfside-Sunset and Newport Beach, Orange County, California (S-2).	EPA's concerns were adequately addressed in the supplement to the final EIS	J
F-COE-A99071-CA	Hahn Shopping Center, Marin Mall, Corte Madera, Marin County, California.	EPA's concerns were adequately addressed in the final EIS	J
F-COE-C03002-NJ	Gatx Corporation, Proposed Terminal Facility on the Delaware River, East Bank, West Deptford Township, Gloucester County, New Jersey.	EPA expresses environmental reservations concerning contamination by stored petroleum products of underground drinking water supplies and concerning the proposal's air quality requirements under the prevention of significant deterioration program.	C
FS-COE-D90000-VA	Portsmouth Refinery and Terminal, Permit, Virginia	EPA continues to have severe environmental reservations regarding the siting of a crude oil refinery. EPA believes that the proposed action would seriously impact the future environmental quality of the region.	A
F-COE-E07005-NC	Mayo Electric Generating Plant, Permit, Person County, North Carolina.	EPA's concerns were adequately addressed in the final EIS. However, it is projected that Commonwealth of Virginia water quality standards regarding selenium concentration will be violated in Mayo Creek below the cooling lake. Also, the North Carolina proposed standard for selenium would be violated if, in fact, this standard is adopted as presently proposed. We are of the opinion that this toxicity problem can be prevented and that construction could proceed assuming that all other requirements are fulfilled. EPA has recommended that supplementary information be developed to address the satisfactory solution of the selenium toxicity questions that remain.	E
		DEPARTMENT OF AGRICULTURE	
F-AFS-J65075-CO	Williams Fork Land Management Plan, Arapahoe National Forest, Grand County, Colorado.	EPA's concerns were adequately addressed in the final EIS	I
F-AFS-K61019-CA	Trabuco Planning Unit, Cleveland National Forest, Orange and Riverside Counties, California.	EPA's concerns were adequately addressed in the final EIS	J
F-AFS-L61076-ID	Management Alternatives for Diamond Creek Planning Unit, Caribou National Forest, Caribou and Bear Lake Counties, Idaho.	EPA's concerns were adequately addressed in the final EIS. However, EPA is concerned that no details are provided in the EIS regarding the water quality monitoring system to be used. EPA recommends that all streams be monitored and that monitoring include measurements of sedimentation and contamination by toxics.	K
F-REA-E07003-GA	Plant Scherer Project, Georgia Power Company, Loan Guarantee, Units 1-4, 500 KV Transmission, Monroe County, Georgia.	EPA continues to have some procedural and technical questions regarding air quality phenomena associated with the facility. EPA is presently working to resolve the issues of the percentage of increment consumption as well as overall air quality degradation which can be expected from this plant.	E
F-SCS-K36023-AZ	Roosevelt Water Conservation District Floodway, Arizona.	EPA's concerns were adequately addressed in the supplement to the final EIS	J
		DEPARTMENT OF COMMERCE	
FS-EDA-K35009-CA	Humboldt Bay Harbor Recreation and Conservation District Marina, Woodley Island, Humboldt County, California.	EPA's concerns were adequately addressed in the final EIS	J
		DEPARTMENT OF ENERGY	
F-DOE-C84001-NY	Proton-Proton Storage Accelerator Facility, Brookhaven National Laboratory, Upton, Suffolk County, New York.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA believes that two assumptions of the radionuclide movement analysis in ground water are in error	C
F-DOE-G03012-LA	Capline Group Salt Domes, Iberia Iberville, and Lafourche Parishes, Louisiana.	EPA continues to have environmental reservations with the proposed capline group SPR program. EPA has requested application for NPDES ocean discharge permits for both the Weeks Island and Chacahoula sites. EPA needs information that would be presented in permit applications to effectively evaluate all associated impacts. In addition to this, EPA requests that the statement address all impacts of the Cote Blanche site in the same manner afforded the alternatives in the capline EIS. Also, in view of the recent blowout and spill at the West Hackberry SPR site, EPA is requesting a full investigation of this accident by DOE and its findings be submitted to EPA Region 6. EPA is asking that completed SPCC plans be submitted before continuation of any further development of selected SPR site.	G
		DEPARTMENT OF THE INTERIOR	
F-BLM-J01012-WY	Development of Coal Resources in Southwestern Wyoming.	EPA is concerned that this regional EIS does not set the pattern for other regional or site-specific coal statements. EPA expects that future regional and site-specific coal EIS's analyze mining plans. Unless this procedure can be followed by delaying a final EIS until a revised plan is submitted, EPA believes that the EIS is inadequate and should be resubmitted.	I
F-BLM-K65029-00	Tuledad and Home Camp Planning Unit, Grazing, California and Nevada.	EPA's concerns were adequately addressed in the final EIS	J

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF THE INTERIOR—Continued		
F-BLM-K65030-AZ	Proposed Livestock Grazing Program, Cerbat/Black Mountain Planning Unit, Hohave County, Arizona.	EPA's concerns were adequately addressed in the final EIS.	J
F-FAA-F51012-MN	New Runway 13-31, Fergus Falls Municipal Airport, Otter Tail County, Minnesota.	EPA's concerns were adequately addressed in the final EIS. However, EPA requested that the loss of wetlands to the southeast be minimized, in accordance with E.O. 11990.	F
F-FHW-K40038-HI	Kuakini Highway Realignment, Hawaii County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
	DELAWARE RIVER BASIN COMMISSION		
F-DRB-C99005-NJ	Proposed Bulk Chemical Storage and Distribution Facility, Bordentown, Burlington County, New Jersey.	EPA expressed environmental reservations concerning the potential impacts of these chemicals, some suspected to be carcinogenic, on riverine and underground drinking water supplies, and concerning the proposal's air quality requirements under the prevention of significant deterioration program.	C
	GENERAL SERVICES ADMINISTRATION		
F-GSA-D81008-DC	Leaseheld, 1900 Half Street, SW, Buzzards Point, Washington, DC.	EPA's concerns were adequately addressed in the final EIS.	D
FS-GSA-L81003-AK	Supplement II to the FEIS for the Federal Building, Courthouse, and Parking Facility, Anchorage, Alaska.	EPA's concerns were adequately addressed in the final EIS.	K
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-D85017-VA	4447 Duke Street Rehabilitation, Alexandria, Fairfax County, Virginia.	EPA's concerns were adequately addressed in the final EIS.	D
F-HUD-E85035-TN	Farmington Subdivision, Knoxville, Knox County, Tennessee (HUD-R04-EIS-77-18-D).	EPA continues to have environmental reservations on the project as proposed. Specifically, EPA believes the project should address future air quality maintenance and development. Furthermore, EPA believes its comments on water quality were not sufficiently addressed.	E

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between October 1, 1978, and October 31, 1978*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
F-COE-A36416-NM	Rio Grande and Tributaries, Santa Fe River and Arroyo Mascaras, Santa Fe and Vicinity, New Mexico	G
F-COE-F35022-MI	Sebewaing River, Operation and Maintenance, Diked Disposal and Flood Control, Michigan	F
F-COE-G34024-TX	Texas City Channel, Industrial Canal, Galveston County, Texas	G
F-COE-G36002-TX	Burnett, Crystal and Scott Bays, Harris County, Texas	G
F-COE-H35001-00	Regulatory Permits, Dredging in Conjunction With the Missouri River Bridge, South Sioux City, Nebraska and Sioux City, Iowa	H
	DEPARTMENT OF AGRICULTURE	
F-AFS-G65024-AR	Timber Management Plan, Ozark National Forest, Arkansas	G
F-SCS-A36445-00	Rural Clean Water Program	A
F-SCS-E36045-TN	Pine Creek Watershed Project, Oneida, Scott County, Tennessee (SCS-EIS-WS-78 (ADM)-2-F-TN)	E
F-SCS-E36049-TN	Middle Fork Obion River Watershed Project, Henry and Weakley Counties, Tennessee (USDA-SCS-EIS-WS (ADM)-78-2-F-TN)	E
F-SCS-E36054-SC	White's Mill Flood Prevention, Drainage, RC&D Measure, Sumter County, South Carolina (USDA-SCS-EIS-RC&D-(ADM)-78-1-(F)-SC)	E
F-SCS-E36055-SC	Hungry Hall Flood Prevention, Drainage, RC&D Measure, Clarendon and Sumter Counties, South Carolina (USDA-SCS-RC&D-(ADM)-78-2-(F)-SC).	E
F-SCS-H36036-KS	Elk Creek Watershed, Atchison, Jackson and Nemaha Counties, Kansas	H
	DEPARTMENT OF THE INTERIOR	
F-BLM-J99004-CO	Uncompahgre Basin Resource Area Grazing, Colorado	I
F-BLM-J99006-WY	Sandy Area Livestock Grazing, Rock Spring District, Wyoming	I
F-NPS-E61019-AL	General Management Plan, Tuskegee Institute National Historic Site, Macon County, Alabama	E
	DEPARTMENT OF TRANSPORTATION	
F-FHW-E40083-TN	TN-111, Appalachian Corridor J-22 to J-23, White and Putnam Counties, Tennessee	E
F-FHW-E40102-NC	Extension of Dawson and McDowell Streets in Raleigh, Wake County, North Carolina	E
F-FHW-F40071-IL	IL-409 O'Fallon to Sandoval St. Clair, Clinton and Marion Counties, Illinois	F
F-FHW-J40020-WY	Cheyenne Federal Aid Urban System, Northern Section, Laramie County, Wyoming (FHWA-WY-EIS-76-01-F)	I
F-FHW-J40032-WY	Evanston Streets, US 30, WY-150, WY-89, Uinta County, Wyoming	I
	GENERAL SERVICES ADMINISTRATION	
F-GSA-B81004-MA	Courthouse and Federal Office Building, Springfield, Hampden County, Massachusetts	B
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-E85038-AL	Grandview Pines, Ltd., Millbrook, Elmore County, Alabama (HUD-R04-EIS-77-31F)	E
F-HUD-G85084-TX	Pipers Meadow Subdivision, Harris County, Texas	G
F-HUD-G85089-TX	Highland Creek Village Subdivision, Harris County, Texas	G
F-HUD-G85091-TX	Cornerstones Subdivision, Harris and Fort Bend Counties, Texas	G
F-HUD-G85136-TX	Colony Creek Village Subdivision, Harris County, Texas	G

Identifying No.	Title	General nature of comments	Source for copies of comments
	NUCLEAR REGULATORY COMMISSION		
F-NRC-J00007-WY	Irigaray Uranium Solution Mining, Johnson County, Wyoming		1

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued*

Identifying No.	Title	General nature of comments	Source for copies of comments
None.			

Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-28526 Filed 9-12-8:45 am]
BILLING CODE 6560-01-M

[FRL 1318-4]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2) (C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of November 1, 1978 and November 30, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available for the originating Federal department or agency.

Dated: August 15, 1979.

William D. Dickerson,

Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Nov. 1, 1978, and Nov. 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
D-COE-36027-NJ	Green Brook Sub-Basin Flood Control Project, Middlesex and Union Counties, New Jersey	LO-2	C
D-COE-E32024-FL	Manatee Harbor, Channel Maintenance for Navigation, Manatee County, Florida	LO-2	E
DS-COE-E35027-NC	Wilmington Harbor, Northeast Cape Fear River, New Hanover County, North Carolina	LO-2	E
D-COE-E35047-MS	Hatcher Bayou and Durden Creek, Enlargement Channel, Warren County, Mississippi	LO-2	E
D-COE-G36065-NM	Flood Control, Puerco River and Tributaries, Gallup, McKinley County, New Mexico	LO-1	G
D-COE-L39012-WA	Billingham Harbor Navigation Project, Operation and Maintenance, Whatcom County, Washington.	LO-1	K
	DEPARTMENT OF AGRICULTURE		
D-AFS-D65009-WV	Cranberry Wilderness Area, Monongahela National Forest, Pocohontas County, West Virginia	LO-1	D
D-AFS-G65032-NM	Guadalupe Escarpment Wilderness, Lincoln National Forest, Eddy County, New Mexico	LO-1	G
D-AFS-J64000-SD	Norbeck Wildlife Preserve, Black Hills National Forest, Custer County, South Dakota	LO-1	I
D-AFS-J65077-UT	Proposed High Uintas South Slope Land Management Plan, Ashley National Forest, Wasatch County, Utah.	ER-2	I
D-AFS-J65079-MT	Land Management Plan, Ziegler Planning Unit, Kootenai National Forest, Lincoln County, Montana.	LO-2	I
D-AFS-L61125-OR	Desolation Planning Unit, Umatilla National Forest, Umatilla, Union and Grant Counties, Oregon (06-14-78-02).	ER-1	K
D-REA-G07013-LA	Cajon Electric Coal Fired Plant, Point Coupee Parish, Louisiana	LO-2	G
D-SCS-B36017-NH	Baker River Watershed, Grafton County, New Hampshire (USDA-SCS-EIS-WS-(ADM)-78-1-(D)-NH).	ER-2	E
D-SCS-E36056-KY	Salt Lick Creek Watershed, Bath and Menifee Counties, Kentucky (SCS-EIS-(ADM)-78-1-(D)-KY).	LO-2	E
D-SCS-G36064-OK	Paw Paw Bottoms, RC&D Measure, Sequoyah County, Oklahoma	LO-2	G
D-SCS-K36028-CA	San Miguelito Subwatershed, Santa Ynez Flood Prevention Project, Santa Barbara County, California.	LO-2	J
	DEPARTMENT OF DEFENSE		
D-USA-G60003-TX	Acquisition of Maneuver Area II, United States Army Air Defense Center and Fort Bliss, El Paso County, Texas.	LO-1	G
D-USA-K11011-CA	National Training Center, Fort Irwin Site, San Bernardino County, California	LO-2	J
	DEPARTMENT OF ENERGY		
D-DOE-A09071-SC	Long-Term Management of Defense High Level Radioactive Waste, Savannah River Plant, Aiken, South Carolina (DOE/EIS-0023-D).	3	A
D-DOE-F08006-00	500 kV International Transmission Line, Forbes, Minnesota to Manitoba, Canada	ER-2	F
D-DOE-J08007-00	Miles City, New Underwood 230 kV Electrical Transmission Line, Montana and North Dakota	ER-2	I
	DEPARTMENT OF THE INTERIOR		
D-BLM-A02129-CA	Proposed 1979 Outer Continental Shelf (OCS) Oil and Gas Lease Sale #48, Offshore Southern California.	3	A
D-BLM-A02130-00	1979 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 58, Offshore Gulf of Mexico	3	A
D-BPA-L08032-00	Bonneville Power Administration Proposed 1980 Wholesale Rate Increase, Idaho, Montana and Oregon (DOE/EIS 0031-D).	LO-2	K
DS-BPA-L08033-00	BPA Proposed Fiscal Year 1979 Program Facility Location, Franklin Area System Reinforcement, Walla Walla, Washington and Umatilla Counties, Oregon.	LO-1	K
DS-IBR-H31002-NB	North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska	ER-3	H
RD-IBM-A01052-00	Section 501(B) Regulations Surface Mining Control and Reclamation Act of 1977	2	A
D-IGS-J01017-WY	Surface Mining, Mining and Coal Creek Mine Reclamaiton Plan, Campbell County, Wyoming	LO-2	I
D-NPS-D61009-DC	FDR Memorial, West Potomac Park, Washington, DC	LO-1	D
D-NPS-K61024-CA	General Management Plan, Yosemite National Park, Tuolumne County, California	LO-1	J
	DEPARTMENT OF TRANSPORTATION		
D-FHW-C40037-PR	PR-14, Malecon Avenue, Ponce, Puerto Rico	LO-2	C
D-FHW-E40154-GA	I-75 Widening and Improvement, Fulton and Clayton Counties, Georgia (FHWA-GA-EIS-78-01-D).	LO-2	E
DS-FHW-F40085-WI	Improvement, University and Monroe Avenues, Green Bay, Brown County, Wisconsin	LO-2	F
D-FHW-H40085-IA	U.S. 151, Marion Bypass, Cedar Rapids, Linn County, Iowa (FWHA-IOWA-EIS-77-03-D)	ER-2	H
D-FHW-K40061-CA	Freeway Development of Route I-180, Hoffman Corridor, Contra Costa and Alameda Counties, California.	LO-2	J
D-FHW-L40072-ID	ID-64, Nezperce to Kamiah, Lewis County, Idaho (FHWA-IDA-78-02-D)	LO-2	K
	GENERAL SERVICES ADMINISTRATION		
D-GSA-H81004-NB	Construction, Federal Office Building, Parking and Vehicle Maintenance Facility, Omaha, Douglas County, Nebraska.	LO-1	H
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-C85024-PR	Toa Alta Heights Development, Toa Alta, Puerto Rico	LO-2	C
D-HUD-D85015-MD	Frederick Heights Residential Development, Frederick County, Maryland	LO-2	D
D-HUD-G85118-TX	Ricewood Tract Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85121-TX	The Morton Road Tract, Harris County, Texas	LO-1	G
D-HUD-K85019-AZ	Maryvale Terrace 53-A, Phoenix, Maricopa County, Arizona	ER-2	J
D-HUD-K85020-HI	Village Park, Waipahu, Oahu Island, Honolulu County, Hawaii	LO-1	J
D-HUD-K89022-CA	Central Business District Redevelopment Project, Los Angeles, California	LO-2	J
D-HUD-K89023-CA	Pico-Union Redevelopment, Project Area Number 2, Los Angeles County, California	LO-2	J
D-HUD-K89024-CA	North Hollywood Redevelopment Project, City of Los Angeles, Los Angeles County, California	LO-2	J
D-HUD-K89025-CA	Development of Ardenwood Village, Fremont, Alameda County, California	ER-2	J
D-HUD-L85010-WA	Navy Yard City, Bremerton, Kitsap County, Washington (CDBG)	LO-1	K

Identifying No.	Title	General nature of comments	Source for copies of comments
	INTERNATIONAL BOUNDARY AND WATER COMMISSION		
D-IBW-G39006-TX	Rio Grande Boundary Preservation, Hudspeth and Presidio Counties, Texas	LO-1	G
	DEPARTMENT OF STATE		
D-STA-L20001-00	Incineration of Wastes at Sea Under the 1972 Ocean Dumping Convention	LO-1	K

Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between November 1, 1978, and November 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
F-COE-F32060-MI	Navigation Season Extension Demonstration Program, FY-79.	EPA's concerns were adequately addressed in the final EIS. EPA's lack of objection is based on the temporary nature of demonstration activities. However, EPA recommends that no further demonstration activity beyond FY 79 take place on the upper lakes without prior systemwide environmental studies of appropriate magnitude and duration.	F
	DEPARTMENT OF DEFENSE		
FS-USA-J10002-CO	Transporation of Chemical Material, Operation RMT, Investigation of Leaking Weteye Bombs, Adams County, Colorado.	EPA's concerns were adequately addressed in the supplement to the final EIS. However, EPA remains concerned about the environmental and social risks of the proposed shipment.	I
	Department of the Interior		
F-BLM-A02126-00	1979 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 49, Offshore Mid-Atlantic States.	EPA feels that the final EIS is unresponsive to EPA's specific concerns regarding the hazards of structure emplacement in unstable bottom areas, the potential for environmental impact from emerging technology that will be necessary to develop deep-water tracts, and the impact of oil development activities on unique coral populations.	A
F-BOR-99000-PA	Pine Creek State and National Scenic River, Lycoming and Tioga Countries, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS.	D
FS-IBR-J34008-CO	Frying Pan-Arkansas Project, Fountain Valley Conduit, El Paso and Pueblo Counties, Colorado.	EPA's concerns were adequately addressed in the final supplement. However, EPA advises the bureau to continue monthly monitoring as required by the Safe Drinking Water Act.	I
F-NPS-D61008-00	Youghiogheny State and National Wild and Scenic River, Maryland and Pennsylvania.	EPA's concerns were adequately addressed in the final EIS.	D
	DEPARTMENT OF TRANSPORTATION		
F-FHW-D40054-VA	I-264, Cities of Chesapeake, Norfolk and Portsmouth, Virginia.	EPA's concerns were adequately addressed in the final EIS.	D
F-FHW-D40057-MD	MD-404, Denton Bypass, Caroline County, Maryland.	EPA's concerns were adequately addressed in the final EIS.	D
F-FHW-E40129-TN	Improvement, I-40 and I-75, Knoxville, Knox County, Tennessee.	EPA's concerns were adequately addressed in the final EIS.	E
F-FHW-F40099-MI	MI-24 Extension, Caro, MI-25 to Unionville, Tuscola County, Michigan.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested the possibility of housing set-back as a noise mitigation measure in areas which may experience significant adverse noise impacts.	F
F-FHW—J40019-UT	I-15 Through Bear River Valley, Box Elder County, Utah.	EPA's concerns were adequately addressed in the final EIS.	I
F-FHW-K40033-HI	Kalananaole Highway Transportation Evaluation, FAP 72 Improvement, Honolulu County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
F-FHW-K40043-AZ	I-10, 91st Avenue to Junction I-10, Phoenix, Maricopa County, Arizona.	EPA's concerns were adequately addressed in the final EIS.	J
F-FHW-K40050-CA	I-980/17 Corridor Development, Oakland, Alameda County, California.	EPA's concerns were adequately addressed in the final EIS.	J

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between November 1, 1978, and November 30, 1978*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
		FEDERAL ENERGY REGULATORY COMMISSION	
F-FRC-L03001-00	Western LNG Project, Construction and Operation of a LNG Liquefaction Terminal, Nikiski, Alaska (FERC/EIS-002F).	EPA's concerns were adequately addressed in the final EIS. However, EPA feels that the discussion of the disposal of the haul road spoils should have included the results of soil constituent testing.	K
		GENERAL SERVICES ADMINISTRATION	
F-GSA-D80008-DC	University of District of Columbia, Mt. Vernon Campus Square, Washington, DC.	EPA's concerns were adequately addressed in the final EIS	D
F-GSA-F81006-MI	Federal Courthouse Annex, Detroit, Wayne County, Michigan.	EPA's concerns were adequately addressed in the final EIS	F
		DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-D89019-PA	Golf Ranch Lease Purchase, Centennial Industrial Park, Bristol, Bucks County, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS	D
F-HUD-K85017-CA	Residential Development of a Portion of Dover Valley, Fairfield, Soland County, California.	EPA continues to have environmental reservations on the proposed action. Specifically, HUD did not include the EPA draft comments or its recommendations in preparation of the final EIS.	J

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between November 1, 1978, and November 30, 1978*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
FS-COE-A32037-MO	Smithville Lake, Little Platte River, Relocation of Trimble Wildlife Area Replacement, Jackson, Ray, and Clay Counties, Missouri	H
FS-COE-A35139-TX	Lavon Dam and Reservoir Modification and East Fork Channel Improvement, Kaufman County, Texas	G
F-COE-G32013-LA	Mermentau River and Gulf of Mexico, Navigation Channel, Louisiana	G
	DEPARTMENT OF AGRICULTURE	
F-AFS-B61008-NH	Waterville Unit Plan, White Mountain National Forest, Grafton and Carroll Counties, New Hampshire (USDA-FS-R9-FES-ADM-77-07)	B
F-AFS-J65067-00	Ashley National Forest, Timber Management Plan, Utah and Wyoming	I
F-AFS-L61106-ID	Caribou National Forest, Bear River Planning Unit, Bear Lake, Franklin and Caribou Counties, Idaho (USDA-FS-R4-77-4-)	K
F-AFS-L65040-WA	Ten-Year Timber Resource Management Plan, Shelton Cooperative Sustained Yield Unit, Olympic National Forest, Mason County, Washington.	K
F-REA-G06005-TX	Guaranteed Loan, Black Fox Station Units 1 and 2, Rogers County, Texas	G
F-REA-G07012-OK	Western Farmers Coal-Fired Plant and Associated Transmission, Choctaw County, Oklahoma	G
F-REA-J07007-ND	Stanton Generating Station, 60 MW Steam Generator, Mercer County, North Dakota	I
F-SCS-H36035-MO	Mozingo Creek Watershed, Nodaway County, Missouri	H
	DEPARTMENT OF COMMERCE	
F-NOA-B90002-ME	Maine Coastal Zone Management Program (CZM)	B
F-NOA-B91009-00	Atlantic Herring Fishery of the Northwestern Atlantic	B
	DEPARTMENT OF DEFENSE	
F-USA-J21001-UT	Operation of the Drill and Transfer System, Dugway Proving Ground, Tooele County, Utah	I
	DEPARTMENT OF THE INTERIOR	
F-BLM-J99005-UT	Hot Desert Grazing Management Plan, Dixie Resource, Washington County, Utah	I
	DEPARTMENT OF TRANSPORTATION	
F-FHW-E40132-TN	TN-1 Warren, McMinnville to Sparta, Warren, White and Van Buren Counties, Tennessee (FHWA-TN-EIS-77-09-F)	E
F-FHW-E40133-AL	Project I-65-3(52)(53) and M-7257(1), Lewisburg to Warrior, Jefferson County, Alabama	E
F-FHW-E40140-FL	Hospital Loop Road, Lake City, Columbia County, Florida	E
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
FS-HUD-B89003-MA	Central Business District, Urban Renewal Project, Newburyport, Essex County, Massachusetts (HUD-ROI-EIS-78-OIS)	B
F-HUD-F85030-OH	Forest Park Subdivision, Hamilton, Clermont and Warren Counties, Ohio	F
F-HUD-G85062-LA	Belle Terre Development, Le Place, St. John the Baptist Parish, Louisiana	G
F-HUD-G85097-TX	Southbridge Subdivision, Harris County, Texas	G
F-HUD-G85104-TX	Atascocita North Subdivision, Harris County, Texas	G
F-HUD-G85117-TX	East Temple Residential Project, Bell County, Texas	G

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between November 1, 1978, and November 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	FEDERAL ENERGY REGULATORY COMMISSION		
A-FRC-B05003-ME	Application for Minor License for Unconstructed Barker's Mill Project No. 2808, Little Androscoggin River, Auburn, Maine.	EPA has concerns regarding the potential adverse effects of these projects on streamflows and water quality. EPA is also concerned about the potential adverse impacts on water quality and stream habitat during construction and operation of these projects.	B
A-FRC-B05004-ME	Application for Minor License for Unconstructed American Tissue Project No. 2809, Cobbosseecontee Stream, Gardiner, Maine.	EPA has concerns regarding the potential adverse effects of these projects on streamflows and water quality. EPA is also concerned about the potential adverse impacts on water quality and stream habitat during construction and operation of these projects.	B
A-FRC-B05005-ME	Application for Minor License for Unconstructed Goose River Project No. 2804, Goose River, Belfast, Maine.	EPA has concerns regarding the potential adverse effects of these projects on streamflows and water quality. EPA is also concerned about the potential adverse impacts on water quality and stream habitat during construction and operation of these projects.	B
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
R-HUD-A86145-00	24 CFR Part 58, Community Development Block Grant Program, Environmental Review Procedures, Proposed Amendments and Revision (43 FR 42220).	EPA feels that the proposed amendments and revisions are a substantial improvement over the existing rules. However, EPA feels that changes should be made to section 58.21 and 58.25 to assure that projects which could conceivably require an EIS are not routinely exempted.	A

Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.

B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30308.

F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.

K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-28527 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1317-5]

Disapproval of Temporary Emergency Suspension of an Implementation Plan; Particulate Emissions From Kennecott Copper Smelter, McGill, Nev.

AGENCY: Environmental Protection Agency.

ACTION: Disapproval of Governor's Temporary Emergency Suspension of the Nevada Implementation Plan.

SUMMARY: EPA disapproves a temporary emergency suspension of the Nevada State Implementation Plan issued by the Governor. The suspension would allow large increases in particulate matter emissions from the Kennecott copper smelter in McGill, Nevada, and consequent violations of the national ambient air quality standards.

DATES: The disapproval was effective September 6, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Engineering Section (A-4-1), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA. 94105:

Copies of the information supporting this disapproval are available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Arnold Den, Cheif, Air Technical Branch, Environmental Protection Agency, Region IX, (415) 556-7882.

SUPPLEMENTARY INFORMATION: On August 24, 1979, Nevada Governor Robert List signed an executive order, pursuant to section 110(g)(1) of the Clean Air Act, 42 U.S.C. 7410(g)(1). The order suspended "Articles 4.1 and 7.2.1 of the State of Nevada Air Quality Regulations, and related regulations, insofar as they limit emissions of particulate matter from the smelter of Kennecott Minerals Company at McGill, Nevada." Those articles constitute a portion of the federally-approved Nevada State Implementation Plan ("SIP") for the control of particulate matter.

Section 110(g) allows a Governor to suspend a portion of a SIP subject to the following conditions:

1. The State must have adopted and submitted to EPA a proposed SIP revision. Section 110(g)(1).

2. The State must determine that the proposed SIP revision meets the requirements of Section 110 of the Act, *and* that the revision is necessary to prevent the closing for one year or more of the affected source and to prevent substantial increases in unemployment

which would result from such closing. Section 110(g)(1)(A), (B).

3. EPA must not have approved or disapproved the revision within the required four-month period. Section 110(g)(1).

4. EPA may disapprove a suspension if it does not meet the requirements of Section 110(g). Section 110(g)(2).

The proposed SIP revision on which the Governor relies was submitted to EPA by the State on October 7, 1976. The revision would establish an emission limitation of 1300 lb./hr. of solid particulate matter, averaged over 24 hours. This represents an approximately eight-fold increase in emissions as compared to the current SIP. Before EPA was able to act on the revision, Kennecott filed suit in the U.S. District Court for the District of Nevada to compel EPA to approve it. On November 24, 1976, the District Court did order EPA to approve it. The District Court's order remained in effect until 1978, when it was reversed by the U.S. Court of Appeals for the Ninth Circuit. *Kennecott Copper Corp.* v. *EPA*, 572 F. 2d 1349.

After the *Kennecott* decision, EPA proceeded to review the revision, and proposed to disapprove it on the grounds that it did not meet the requirements of Section 110 of the Act. 44 FR 15735 (March 15, 1979). EPA proposed to disapprove the revision as it related to particulate matter emissions chiefly because the control strategy submitted by the State in support of the revision "projects violations of the primary and secondary 24-hour [ambient air quality] standards after implementation of the control strategy." 44 FR at 15738. EPA also proposed to disapprove the revision on the grounds that it was unenforceable, since the State had not specified any test method for measuring particulate matter emissions. Finally, in the Evaluation Report supporting the proposed disapproval, and referenced at 44 FR 15737, EPA noted that the State had given Kennecott credit for the dispersion of particulate matter from the tall stack at the McGill smelter. The Clean Air Act allows credit for such dispersion only in certain circumstances. Section 123; see 44 FR 2608 (January 12, 1979). The State had not attempted any showing that such dispersion credit was appropriate for the McGill stack.

EPA offered a 90-day period, which expired on June 13, 1979, for the public to submit comments on the proposed disapproval. The only comments received were submitted by Kennecott on May 10, 1979.

Kennecott's comment raised four issues relating to the proposed disapproval of the revision for particulate matter. First, Kennecott stated that EPA must take into account the economic and technological feasibility of the proposed revision. Second, Kennecott stated that "smelter emissions made a very small contribution to ambient concentrations of particulate and would not cause violation of any national ambient air quality standards." Third, Kennecott stated that the State's failure to specify a test method for particulate matter emissions was irrelevant, since "Such test methods are specified elsewhere in EPA's regulations and need not be incorporated into each specific emission limitation." Fourth, Kennecott stated that it was lawful for the State to have given full credit for the dispersion of particulate matter from its tall stack. Kennecott requested a meeting of EPA, Kennecott and the State to discuss the proposed disapproval.

Representatives of EPA, Kennecott and the State met on May 31. Kennecott and the State submitted additional information at that meeting, and Kennecott submitted more information by a telegram dated June 11, 1979.

At the May 31 meeting, Kennecott requested assurances that EPA would not enforce the federally-approved SIP. After evaluating the additional information, EPA advised Kennecott by letter dated June 14, that the evidence still showed that the smelter contributed to violations of the ambient standards for particulate matter and that enforcement of the SIP for particulate matter would not be suspended.

In July, Kennecott contacted EPA to discuss a possible alternative SIP revision. Under this alternative proposal, Kennecott would reduce emissions of particulate matter from a tailings pile near the smelter, but would be able to relax stack controls significantly. Kennecott submitted information on the air quality impact of the alternative revision on July 30, August 7, and August 10. EPA evaluated all this information, including the results of air dispersion modelling of the smelter's stack emissions. The results showed that under certain meteorolgical conditions, the stack emissions alone can cause violations of the primary particulate standard. Kennecott was advised of these conclusions by letter dated August 20.

In light of the entire record of the proposed SIP revision, it is clear that the revision does not meet the requirements of Section 110 of the Act. First, the revision does not provide for attainment of the ambient standards, as required by Section 110(a)(2)(A). The control strategy submitted by the State shows that the revision is inadequate to protect the ambient standards. Contrary to Kennecott's statements, emissions from the smelter stack contribute significantly to violations of the ambient standards for particulate matter. Indeed, under certain circumstances, the stack emissions alone can cause violations of the ambient standards.

Second, the State's failure to include a test method for measuring particulate matter emission does make the revision unenforceable. The State's failure to specify a test method cannot be cured as Kennecott suggests by adoption of an EPA test method. The proposed revision specifies a limit on *solid* particulate matter. EPA's test methods measure *total* particulate matter (solid plus liquid). The State did not define "solid particulate matter" in its submitted revision. Since the amount of particulate matter measured at a source depends on a definition of "solid particulate matter" and the selection of the test method, the regulation is unenforceable. EPA explained this in proposing to disapprove the revision (Evaluation Report at 7).

EPA has not improperly excluded considerations of feasability in evaluating the revision. The revision would permit emissions that in and of themselves could cause violations of the ambient standards. Section 110 of the Act does not permit a SIP relaxation that does not protect the ambient standards, even where it is alleged that the more stringent controls are infeasible. See *Union Electric* v. *EPA*, 427 U.S. 246 (1976). Moreover, the State has not alleged that the current SIP is infeasible; nor has either the State or Kennecott submitted information that would tend to show that it is infeasible.

EPA has not completed its evaluation of Kennecott's comments on the appropriate dispersion credit for the smelter's tall stack. However, even if Kennecott's position on the dispersion credit is correct, that would not make the revision approvable. All the reasons given above for disapproving the revision, and those recited in the preamble to the proposed disapproval, are independent of the dispersion issue, and remain valid even if Kennecott's position on dispersion is correct.

Because the proposed SIP revision on which the Governor's order is based clearly does not meet the requirements of Section 110 of the Act, I hereby disapprove the Governor's order pursuant to Section 110(g)(2). Because the Governor's order is disapprovable on this ground alone, I do not reach the question of whether the Governor's order may be disapproved on other grounds. I note, however, that the

Governor's order is not accompanied or supported by any evidence on the findings required by Section 110(g)(1)(B), namely, that approval of the revision is necessary to prevent the closing of the smelter for a year or more and to prevent substantial increases in unemployment that would result from such closing.

EPA is now preparing the final rulemaking disapproving the proposed SIP revision for particulate matter. That rulemaking will address all the issues discussed in this disapproval notice and will be published shortly.

This approval is effective immediately. This is necessary because the Governor's order allows the smelter immediately to emit the same quantities of particulate matter as would be allowed by the proposed SIP revision. As discussed above, this would allow violations of the ambient air quality standards and would therefore constitute an immediate threat to public health and welfare. Assuming, without conceding, that this disapproval constitutes rulemaking for the purposes of the Administrative Procedure Act, I find that there is good cause for making the disapproval effective immediately without notice and comment, under the tests laid for rulemaking in Sections 553(b)(B) and 553(d)(3) of that Act. This finding is based on the immediate threat to public health and welfare just noted, and also on the fact that EPA has already given the public ample opportunity to comment on the proposal to disapprove the revision.

This disapproval is a final action which is locally applicable for the purposes of Section 307(b)(1) of the Clean Air Act. Therefore, judicial review of the disapproval is available only in the United States Court of Appeals for the Ninth Circuit. A petition for review must be filed on or before November 13, 1979.

Dated: September 6, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-28525 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50440, FRL 1318-1]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 2724-EUP-18. Zoecon Industries, Dallas, Texas 75234. This experimental use permit allows the use of 0.165 pound of the insecticide permethrin for household use to evaluate control of cockroaches. A total of 6 houses is involved; the program is authorized only in the States of Arizona, California, Mississippi, and Texas. The experimental use permit is effective from July 23, 1979 to July 23, 1980. (PM-17, Franklin Gee, Room: E-229, Telephone: 202/426-9417)

No. 2724-EUP-17. Zoecon Industries, Dallas, Texas 75234. This experimental use permit allows the use of 0.110 pound of the insecticide permethrin for household use to evaluate control of cockroaches. A total of 6 houses is involved; the program is authorized only in the States of Arizona, California, Mississippi, and Texas. This experimental use permit is also effective from July 23, 1979 to July 23, 1980. The permits will use the same active ingredient, but different formulations. These permits are being issued with the limitation that no part(s) of the treated area(s) or chemical will enter into the food chain. (PM-17, Franklin Gee, Room: E-229, Telephone: 202/426-9417)

No. 3125-EUP-155. Mobay Chemical Co., Kansas City, Missouri 64120. This experimental use permit allows the use of 9,100 pounds of the insecticide O-ethyl O-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate on corn and tomatoes to evaluate control of various insects. A total of 1,052 acres is involved; the program is authorized only in the States of California, Florida, Idaho, Illinios, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Washington, and Wisconsin. The experimental use permit is effective from July 25, 1979 to July 25, 1980. Temporary tolerances for residues of the active ingredient in or on corn and tomatoes have been established. (PM-12, Frank Sanders, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: September 4, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-28524 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

[PF-149, FRL 1317-7]

Pesticide Programs; Filing of Pesticide Petition

U.S. Borax Research Corp., 412 Crescent Way, Anaheim, CA 92801, has submitted a petition (PP 9F2236) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180 be amended by establishing tolerances for residues of the herbicide prodiamine [2,4-dinitro-N^3,N^3-dipropyl-6-(trifluoromethyl)-1,3-benzenediamine] in or on the raw agricultural commodities almonds, almond hulls, walnuts, cottonseed and forage, grapes, soybeans, soybean hay and forage at 0.1 part per million (ppm). The proposed analytical method for determining residues is by gas chromatography. Notice of this submission is given pursuant to the provisions of section 4508(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 23, Room E-351, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460, telephone number 202/755-1397. Written comments should bear a notation indicating the petition number "PP 9F2236". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's Office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Herbert S. Harrison,

Acting Director, Registration Division.

[FR Doc. 79-28523 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-C31031, FRL 1317-6]

Pesticide Programs; Receipt of Application to Conditionally Register Pesticide Product Entailing a Changed Use Pattern

Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, has submitted to the Environmental Protection Agency (EPA) an application to conditionally register the pesticide product POLADO (EPA

File Symbol 524–GGE) containing 75% of the active ingredient sodium sesqui salt of [*N*-(phosphonomethyl) glycine]. The application received from Monsanto Agricultural Products Co., proposes that the use pattern of this pesticide be changed from use as a weed killer herbicide in sugarcane to plant regulator on sugarcane. The application also proposes that the product be classified for general use in sugarcane. Notice of this application is given pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162).

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 25, Room E–359, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2196. The comments must be received on or before October 15, 1979 and should bear a notation indicating the EPA File Symbol "524–GGE". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Monsanto Agricultural Product Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Notice of approval or denial of this application to register POLADO will be announced in the Federal Register. Except for such material protected by section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the Federal Register if an application is approved.

Dated: September 6, 1979.

Herbert S. Harrison;

Acting Director, Registration Division.

[FR Doc. 79–28522 Filed 9–12–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-2]

AM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: September 4, 1979.

Cutoff Date: October 12, 1979.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after October 12, 1979. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 12, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on October 12, 1979.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 12, 1979.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP–20,358 (KXRB), Sioux Falls, South Dakota, Southern Minnesota Broadcasting Co. Has: 1000 kHz, 10 kW, DA–Day. Req: 1000 kHz, 50 kW, (10 kW–CH), DA–2, Day.

BP–20,635 (WLEM), Emporium, Pennsylvania, Emporium Broadcasting Company. Has: 1250 kHz, 1 kW, Day. Req: 1250 kHz, 5 kW, Day.

BP–21,270 (new), Alamo, Tennessee, Crockett Broadcasting Corporation. Req: 810 kHz, 250 W, DA–Day.

BP–780911AK (KWOW), Pomona, California, Wickstrom, Inc. Has: 1600 kHz, 500 W, 5 kW–LS, U. Req: 1600 kHz, 5 kW, DA–N, U.

BP–780929AD (KMDO), Fort Scott, Kansas, Fort Scott Broadcasting Company, Inc. Has: 1600 kHz, 500 W, Day. Req: 1600 kHz, 1 kW, Day.

BP–781030AL (WEWO), Laurinburg, North Carolina, Curtis and Associates. Has: 1080 kHz, 5 kW, (1 kW–CH), Day. Req: 1460 kHz, 5 kW, DA–2, U.

BP–781130AD (WPWC), Dumfries-Triangle, Virginia, Happy Broadcasting Co., Inc. Has: 1530 kHz, 250 W, Day (Quantico). Req: 1480 kHz, 500 W, DA–2, U (Dumfries-Triangle).

BP–790115AF (WEEF), Highland Park, Illinois, Metroweb Corp. Has: 1430 kHz, 1 kW, DA–Day. Req: 1430 kHz, 1 kW, DA–2, U.

BP–790130AB (new), Hatillo, Puerto Rico, Aurora Braodcasting Corp. Req: 1120 kHz, 250 W, 1 kW–LS, DA–2, U.

BP–790131AA (new), Dadeville, Alabama, Fidelity Braodcasting, Inc. Req: 1450 kHz, 250 W, U.

BP–790202AI (WPLP), Pinellas Park, Florida, Pinellas Radio Corp. Has: 570 kHz, 500 W, DA–Day. Req: 570 kHz, 1 kW, DA–2, U.

BP–790212AB (new), Waite Park, Minnesota, Kleven Broadcasting Co. Req: 1390 kHz, 1 kW, 2.5 kW–LS, DA–2, U.

BP–790222AE (new), Boone, North Carolina, Blue Ridge Media, Inc. Req: 1510 kHz, 500 W (250 W–CH), Day.

BP–790223AI (new), Trenton, Georgia, Ra-Ad of Trenton. Req: 1420 kHz, 500 W, DA–Day.

BP–790226AD (KWPR), Claremore, Oklahoma, Green County Broadcasting, Inc. Has: 1270 kHz, 500 W, Day. Req: 1270 kHz, 1 kW, Day.

BP–790226AJ (WFAB), Juncos, Puerto Rico, Aerco Broadcasting Corp. Has: 1460 kHz, 500 W, DA–Day. Req: 1460 kHz, 500 W, DA–2, U.

BP–790228AL (KVSF), Sante Fe, New Mexico, Fiesta Communications Corp. Has: 1260 kHz, 1 kW, U. Req: 1260 kHz, 1 kW, 5kW–LS, U.

BP–790301AF (WBSG), Blackshear, Georgia, Pierce-Ware Broadcasting Corp. Has: 1350 kHz, 500 W, Day. Req: 1350 kHz, 2.5 kW, Day.

BP–790308AE (KLMS), Lincoln, Nebraska, Telegraph-Herald, Inc. Has: 1480 kHz, 1 kW, DA–2, U. Req: 1480 kHz, 1 kW, 5 kW–LS, DA–2, U.

BP–790314AC (KBYR), Anchorage, Alaska, Northern Television, Inc. Has: 700 kHz, 500 W, 1 kW–LS, U. Req: 700 kHz, 1 kW, U.

BP–790322AG (new), Oliver Springs, Tennessee, Motherlode Communications Corp. Req: 1080 kHz, 2.5 kW, DA–Day.

BP–790323AA (new), Lynchburg, Tennessee, Moore County Radio Co. Req: 1290 kHz, 1 kW, DA–Day.

BP–790323AB (WASR), Wolfboro, New Hampshire, Radio Wolfboro, Inc. Has: 1420 kHz, 1 kW, Day. Req: 1420 kHz, 5 kW, Day.

BP–790402AA (new), Cross City, Florida, Seashore Broadcasting, Inc. Req: 1240 kHz, 250 W, 1 kW–LS, U.

BP–790402AB (KICY), Nome, Alaska, Arctic Broadcasting Associates. Has: 850 kHz, 5 kW, U. Req: 850 kHz, 10 kW, U.

BP–790403AE (new), Corrales, New Mexico, Harold S. Schwartz and Associates, Inc. Req: 1310 kHz, 1 kW, Day.

BP–790411AA (new), Las Vegas, New Mexico, San Miguel Broadcasting Co., Inc. Req: 540 kHz, 5 kW, DA–Day.

BP–790417AH (new), McGrath, Alaska, Kuskokwin Public Broadcasting Corporation. Req: 870 kHz, 1 kW, 5kW–LS, U.

BP–790509AE (WFGL), Fitchburg, Massachusetts, Montachusett Broadcasting, Inc. Has: 960 kHz, 1 kW, DA–2, U. Req: 960 kHz, 1 kW, 2.5 kW–LS, DA–2, U.

[FR Doc. 79–28444 Filed 9–12–79; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Rescheduled Meeting

An earlier Federal Register notice for the meeting listed below contained a date of September 13. That meeting date was cancelled in a subsequent Federal

Register notice. The rescheduled meeting date is Thursday, September 27.

Special Committee No. 71, "VHF Automated Radiotelephone Systems", Notice of 19th Meeting, Thursday, September 27, 1979—10:00 a.m. (Full-day meeting), Conference Room 10234/36, Nassif Building, 400 Seventh Street, SW, at D Street, Washington, D.C.

Agenda

1. Call to Order.
2. Administrative Matters.
3. Discussion of future work.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-28445 Filed 9-12-79; 8:45 am]

BILLING CODE 6712-01-M

Canadian Standard Broadcast Stations; Notification List; List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments of Canadian Standard Broadcast Stations Modifying the Assignments of Canadian Broadcast Stations Contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941

August 1, 1979.

Canadian List No. 388

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							No. of radials	Length (feet)	
CHNO	Sudbury, Ontario, N. 46°26'10", W. 80°58'30" (P.O. 10D/2.5N) (Change of day-time directional antenna radiation pattern; 10kW night operation under construction)	10	DA-2	550 kHz U	III				Aug. 1, 1980.
CJSL	Estevan, Saskatchewan, N. 49°03'26", W. 102°55'20" (Correction to Recapitulative List of Assignments) (P.O. 1kW DA-1) (10kW operation under construction)	10	DA-2	1290 kHz U	III				Nov. 1, 1979.
CHOO	Ajax, Ontario, N. 43°50'09", W. 78°58'30" (Change of day-time directional antenna radiation pattern in List No. 363 withdrawn)	10	DA-1	1390 kHz U	III				

Richard J. Shiben,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 79-28446 Filed 9-12-79; 8:45 am]

BILLING CODE 6712-01-M

Mexican Standard Broadcast Station; Notification List; List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments of Mexican Standard Broadcast Stations Modifying the Assignments of Mexican Broadcast Stations Contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941

August 1, 1978.

Mexican List No. 286

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							No. of radials	Length (feet)	
(New)	Juchitan, Oax., N. 16°25'56", W. 95°01'31"	5,000	ND-D-190	770 kHz D	II	320	120	320	Feb. 1, 1979.
(New)	Zacapu, Mich., N. 19°49'50", W. 101°52'30"	.500	ND-D-175	790 kHz D	III	218	120	287	Feb. 1, 1979.
(New)	S. Cristobal, Chis., N. 16°43'52", W. 92°37'41"	.250	ND-D-180	950 kHz D	III	171	120	259	Feb. 1, 1979.
(New)	Jiquilpan, Mich., N. 19°58'07", W. 102°43'43"	.500	ND-D-190	950 kHz D	III	249	120	249	Feb. 1, 1979.
(New)	Santiago Txcuin, Nay., N. 21°50'28", W. 105°12'24"	.500	ND-D-190	950 kHz D	III	249	120	249	Feb. 1, 1979.

Mexican List No. 286—Continued

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							No. of radials	Length (feet)	
(New)	CD. Mante, Tam., N. 22°44'30", W. 98°58'24"	1.000	ND-D-175	950 kHz D	III	149	120	192	Feb. 1, 1979.
(New)	Juchitan, Oax. N. 16°25'09", W. 95°01'00"	.500	ND-D-190	970 kHz D	III	254	120	254	Feb. 1, 1979.
(New)	Lagos de Moreno, Jal. N. 21°21'54", W. 101°55'45"	.250	ND-D-175	990 kHz D	II	197	120	207	Feb. 1, 1979.
(New)	Hgo. Del Parral. Chih. N. 26°56'41", W. 105°39'50"	1.000	ND-D-175	1000 kHz D	II	213	90	213	Feb. 1, 1979.
(New)	Zacatecas, Zac. N. 22°44'45", W. 102°31'19"	.500	ND-D-190	1090 kHz D	II	226	120	226	Feb. 1, 1979.
(New)	Monclova, Coah. N. 26°54'14", W. 101°25'08"	.250	ND-D-190	1110 kHz D	II	220	120	220	Feb. 1, 1979.
(New)	Nueva Casas G., Chih. N. 30°21'55", W. 107°58'42"	.250	ND-D-175	1140 kHz D	II	173	120	171	Feb. 1, 1979.
(New)	Mazatlan, Sin. N. 23°13'42", W. 106°23'42"	1.000	ND-D-190	1170 kHz D	II	210	120	210	Feb. 1, 1979.
(New)	El Fuerte, Sin. N. 26°25'14", W. 108°39'00"	.500	ND-D-190	1170 kHz D	II	210	120	210	Feb. 1, 1979.
(New)	Tamazula De G. Jal. N. 19°39'22", W. 103°13'13"	.500	ND-D-175	1270 kHz D	III	136	120	178	Feb. 1, 1979.
(New)	Acaponeta, Nay. N. 22°39'31", W. 105°21'45"	1.000	ND-D-190	1280 kHz D	III	169	120	169	Feb. 1, 1979.
(New)	Caborca, Son., N. 30°41'50", W. 112°09'29"	.500	ND-D-175	1280 kHz D	III	190	90	197	Feb. 1, 1979.
(New)	Cardenas, Tab., N. 17°58'51", W. 93°22'48"	.250	ND-D-190	1320 kHz D	III	185	120	185	Feb. 1, 1979.
(New)	Leon, Gto., N. 21°07'20", W. 101°41'00"	.250	ND-D-190	1350 kHz D	III	182	120	182	Feb. 1, 1979.
(New)	Aguascaltentes, Ags., N. 21°54'17", W. 102°17'20"	.500	ND-D-190	1370 kHz D	III	180	120	180	Feb. 1, 1979.
(New)	Tehuacan, Pue., N. 18°28'48", W. 97°23'00"	.250	ND-D-190	1390 kHz D	III	177	120	177	Feb. 1, 1979.
(New)	Zamora, Mich., N. 20°01'52", W. 102°18'09"	1.000	ND-D-175	1410 kHz D	III	122	120	161	Feb. 1, 1979.
(New)	Acambaro, GTo., N. 20°04'18", W. 100°42'30"	.250	ND-D-175	1440 kHz D	III	123	120	157	Feb. 1, 1979.
(New)	Cd. Jimenez, Chih., N. 27°07'52", W. 104°55'29"	5.000	ND-D-190	1460 kHz U	III	169	120	168	Feb. 1, 1979.
(New)	Acapulco, Gro., N. 16°53'26", W. 99°56'13"	1.000	ND-D-190	1460 kHz D	III	169	120	169	Feb. 1, 1979.
(New)	Tepic, Nay., N. 21°30'50", W. 104°52'22"	1.000	ND-D-190	1460 kHz D	III	192	120	192	Feb. 1, 1979.
(New)	Cd. Camargo, Chih., N. 27°41'49", W. 105°10'09"	1.000	ND-D-175	1520 kHz D	II	130	120	136	Feb. 1, 1979.
(New)	Navojoa, Son., N. 27°07'36", W. 109°26'01"	.500	ND-D-190	1540 kHz D	II	160	120	160	Feb. 1, 1979.
(New)	Fresnillo, Zac., N. 23°11'48", W. 102°52'36"	1.000	ND-D-190	1540 kHz D	II	160	120	160	Feb. 1, 1979.
(New)	Guasave, Sin., N. 25°33'00", W. 108°28'00"	.500	ND-D-190	1560 kHz D	II	158	120	158	Feb. 1, 1979.
(New)	Tequila, Jal., N. 20°49'42", W. 103°49'55"	.100	ND-D-175	1590 kHz D	III	108	120	142	Feb. 1, 1979.

Richard J. Shiben,
Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 79-28447 Filed 9-12-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Proposed Report Requirement; Extension of Comment Period and Effective Date

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Proposed report requirement; extension of comment period and of proposed effective date.

SUMMARY: By notice published on August 14, 1979, 44 FR 47597, the Federal Financial Institutions Examination Council requested comment on a proposed report of condition to be submitted by all U.S. agencies and branches of foreign and Puerto Rican banks. The Council has received a number of requests for an extension of the comment period. In light of the Council's desire to encourage participation in this matter, the comment period is extended to October 15, 1979. As a consequence, it is proposed that the report be required beginning with the report for March 31, 1980.

DATE: Comments must be received on or before October 15, 1979. Address comments to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Stanley J. Sigel, Assistant to the Board (202-452-2696), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

By order of the Federal Financial Institutions Examination Council, September 7, 1979.

Robert J. Lawrence,

Executive Secretary.

[FR Doc. 79-28443 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 8, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120: Security Pacific Corporation, Los Angeles, California (mortgage banking activities; Minnesota): to engage, through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans; including development and construction loans on multifamily and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others and the servicing of such loans for others. These activities will be conducted from offices in Minneapolis, Minnesota, serving the State of Minnesota.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28427 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsold banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not alter than October 9, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120: First

Security Corporation, Salt Lake City, Utah (mortgage banking activities; Montana): to engage, through its subsidiary, Utah Mortgage Loan Corporation, in the origination and servicing of mortgage loans. These activities would be conducted from an office located in Billings, Montana, serving in the State of Montana.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 6, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28428 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

FirstBank Holding Co.; Acquisition of Bank

FirstBank Holding Company, Lakewood, Colorado, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 98.3 per cent or more of the voting shares (less directors' qualifying shares) of FirstBank of Governor's Ranch, National Association, Denver, Colorado. The factors that are considered in acting on the application are set forth in Section 3(C) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28429 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

FirstBank Holding Co.; Acquisition of Bank

FirstBank Holding Company, Lakewood, Colorado, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 98.4 per cent of the voting shares (less directors' qualifying shares) of FirstBank of Villa Italia, N.A., Lakewood, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28430 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Frederick Holding Co.; Formation of Bank Holding Company

Frederick Holding Company, Stanberry, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Farmers State Bank Stanberry, Stanberry, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 6, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28431 filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Graham National Bancorporation; Formation of Bank Holding Company

Graham National Bancorporation, Graham, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of the The Graham National Bank, Graham, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 6, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28432 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Mid-Continent Bancshares, Inc., Formation of Bank Holding Company; Correction

This notice corrects a previous Federal Register document (FR Doc. 79-27274) appearing in the right column on page 51333 of the issue for Friday, August 31, 1979. The name of the bank is corrected so that the first paragraph reads as follows:

Mid-Continent Bancshares, Inc., Belleville, Illinois, has applied for the Board's approval under § 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Belleville National Savings Bank, Belleville, Illinois. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1843(c)).

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28433 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Muscatine Bancorporation; Formation of Bank Holding Company

Muscatine Bancorporation, Muscatine, Iowa, has appled for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Central State Bank, Muscatine, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28434 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Society Corp.; Acquisition of Bank

Society Corporation, Cleveland, Ohio, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of The Second National Bank of Bucyrus, Bucyrus, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 28435 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

Wynnewood Bancshares, Inc.; Formation of Bank Holding Company

Wynnewood Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Wynnewood Bank & Trust, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 8, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28430 Filed 9-12-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services: Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, October 5, 1979, from 9 a.m. to 3 p.m., Public Buildings Service Conference Room, GSA Center, 15th and C Streets, S.W., Auburn, WA. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for improvement and conversion of the U.S. Courthouse, 1010 Fifth Avenue, Seattle, WA. The meeting will be open to the public.

R. D. Casad,

Regional Administrator.

[FR Doc. 89-28407 Filed 9-12-79; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1979:

Name: Interagency Committee on Emergency Medical Services

Date and Time: October 31, 1979, 9:00 a.m.

Place: Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: The Committee coordinates and provides for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and carries out its responsibilities under section 1208(c).

The Committee will develop and publish: (1) A coordinated, comprehensive Federal emergency medical services funding and resource-sharing plan, designed to promote the coordination between, and enhance the effectiveness of Federal, State, and local funding and operation of programs and agencies relating to emergency medical services and related activities (including communication and transportation systems of public safety agencies). (2) A description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities related to emergency medical services. (3) Recommended uniform standards of quality, health, and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services.

Agenda: The items include: (1) Briefing on rechartering of IAC EMS, (2) Assignment of Federal representatives and public members to IAC Work Groups, (3) 1979 Awards and status of HEW extension legislation for EMS, (4) Indian Health Service EMS Report, (5) Medical Control and Accountability, (6) Communications Configurations for providing Medical Control, (7) Radio Telephone Switch Station (RTSS), (8) Briefing on new National Center for Health Services Research (NCHSR) contract with the University of Pittsburgh on Rural EMS, and (9) DOT's Rural Study.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of

meeting, or other relevant information should contact Mr. Lee Shuck, Division of Emergency Medical Services, Bureau of Medical Services, Suite 11-64D, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436-6284. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

Agenda items are subject to change as priorities dictate.

Dated: September 6, 1979.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 79-28382 Filed 9-12-79; 8:45 am]

BILLING CODE 4110-84-M

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

Correction

In FR Doc. 79-27335 appearing at page 51542 in the issue for Friday, August 31, 1979, on page 51546, in table IIIA, in the second column, on the line of Cedar Rapids, IA, ".7879741" should be ".7870741"; on the line of Davenport-Rock Island-Maine, IA-IL, "Maine" should be "Moline"; on the line of Eugene-Springfield, OR, ".8379397" should be ".8370397"; and on the line of Knoxville, TN, ".7458802" should be ".7454802". In table IIIA, in the third column, on the line of Newark, NJ, "1.15300874" should be "1.1530874"; and on the line of Rochester, NM, "NM" should be "MN". In table IIIA, on page 51547, in the first column, on the line of Vineland-Millville-Bridgeton, NJ ".8849921" should be ".8849021".

BILLING CODE 1505-01-M

Social Security Administration

Redelegation of Authority To Review and Decide on Appeals of Adverse Determinations Under Pub. L. 93-502 (tThe Freedom of Information Act)

The Freedom of Information Act, codified at 5 U.S.C. 552, provides that Federal agencies must disclose reasonably described records to any person, except to the extent that the records are covered by any of nine exemptions. Pub. L. 93-502 establishes a 10-day limit (excluding Saturdays, Sundays, and legal public holidays) following the receipt of a request for records within which an agency must notify the requestor of the agency's determination and reason for it and if the requestor's right to appeal any adverse determination to the head of the agency. It also establishes a 20-day limit (excluding Saturdays, Sundays, and legal public holidays) following the receipt of an appeal of an adverse determination within which the agency must notify the requestor of its determination to affirm or revise, in whole or in part, the findings and decision in question.

Section 422.448 of Social Security Regulations No. 22 provides that, when a request for review of an adverse Freedom of Information Act decision has been filed, based on the data considered in connection with the decision and whatever other evidence and written argument is submitted by the person requesting the review or which is otherwise obtained, the Commissioner of Social Security or his designee will affirm or revise in whole or in part the findings and decision in question.

Notice is given that the Commissioner of Social Security has redelegated his authority to review and decide on appeals of adverse determinations under Pub. L. 93-502 to the Social Security Administration's Deputy Commissioner (Programs).

Dated: September 4, 1979.

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79-28472 Filed 9-12-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Part of Makah Indian Reservation

September 6, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Pursuant to the authority contained in Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 986, 25 U.S.C. 467), the following described lands located in Clallam County, Washington, are hereby added to and made a part of the Makah Indian Reservation:

Lot 1 of Section 17, Lots 5 and 6 of Section 18, and Lot 5 of Section 19, Township 33 North, Range 14 West, Willamette Meridian, Clallam County, Washington.

The lands added to the reservation by this proclamation are subject to all valid leases, permits, easements, rights-of-way and other interests that are of record as of the date of this proclamation.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-28473 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

McCain Valley Resource Conservation Area; Closure of Eastern McCain Valley to Off-Road Vehicle Use

Notice is hereby given that pursuant to the McCain Valley Wildlife Habitat Management Plan in accordance with provisions of 43 CFR 8341.2 (formerly 43 CFR 6292.2) the public lands located east of the Bureau of Land Management's public road known as McCain Valley Road are designated closed to off-road vehicle use. Public lands designated closed are in:

T. 15 S., R. 6 E., SBM.,
Sec. 35.
T. 16 S., R. 6 E., SBM.,
Secs. 1, 2, 11, 12 and 13.
T. 15 S., R. 7 E., SBM.,
Secs. 31, 32, 33, 34 and 35.
T. 16 S., R. 7 E., SBM.,
Secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 20, 21, 22, 23, 26, 27, 28, 29, 32, 33, 34 and 35.
T. 17 S., R. 7 E., SBM.,
Secs. 1, 2, 3, 4, 10, 11, 12, 13, 14 and 15.

The public lands within the designated area will remain open to other resource and recreation uses. Administrative access by vehicle into areas closed to vehicular recreation is allowed for BLM and BLM contractors, licensees, permittees, lessees and all other Federal, State and County employees when on official duty. Permission to cross areas closed to vehicular recreation by private land owners is also permitted for access to private land only. Private land owners wishing keys to access gates should contact the Bureau's El Centro Resource Area Office, 333 South Waterman, El Centro, California 92243. Permission to enter areas closed to vehicular recreation by other than Bureau of Land Management employees is subject to approval by the authorized officer.

The closure will be effective immediately and will remain in effect until further notice. The decision to designate eastern McCain Valley as closed to off-road vehicle recreation will be reviewed in 1980 as part of the update of the Eastern San Diego County Resource Management Plan. At that time a determination will be made to continue the closed designation or to redesignate the area as a "Special Area" which would permit off-road vehicle use in the future through the issuance of

Special Recreation Use Permits as prescribed in 43 CFR 8372.1–1(d). Such a determination would be based on the findings of on-going resource studies.

Areas of McCain Valley closed to off-road vehicle recreation are identified by signed gates and barricades. Brochures identifying the affected area are available at each established Bureau campground in McCain Valley, the Bureau's Riverside District Office, 1695 Spruce Street, Riverside, California 92507, the El Centro Resource Area Office or from BLM Rangers patrolling McCain Valley. Any person who violates or fails to comply with the vehicle closure is subject to arrest as prescribed in 43 CFR 8340.0–7. Penalties for violations may be a fine of not more than $1,000.00 or imprisonment for not longer than 12 months, or both.

James B. Ruch,

State Director.

[FR Doc. 79-28474 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-84-M

[M 44466 (ND)]

North Dakota; Right-of-Way Application for Pipeline

September 7, 1979.

Notice is hereby given that, pursuant to Sec. 28 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 185), Belle Fourche Pipeline Company has applied for a 6⅝" crude oil pipeline right-of-way across the following described public lands:

Fifth Principal Meridian, North Dakota

T. 144 N., R. 103 W.,
Sec. 18, N½NE¼.

This pipeline will convery crude oil across 0.55 miles of public land to hookup Diamond Shamrock Wells to the Company's existing gathering pipeline system in Golden Valley County, North Dakota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1229, Pulver Hall, Dickinson, North Dakota 58601.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-28475 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-84-M

Utah; Mountain Valley Grazing Environmental Impact Statement; Notice of Intent To Prepare an Environmental Impact Statement and Scoping Meetings

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The Department of the Interior, Bureau of Land Management, Richfield District Office will be preparing a Grazing Management Environmental Impact Statement in connection with a 1974 Federal court order to prepare site specific environmental impact statements concerning the effects of livestock grazing activities on public lands.

Public lands administered by the BLM in Piute, and Sanpete counties and in Sevier county west of the Wasatch Plateau will be considered.

Public meetings were held in July, 1979 in connection with the gathering of data and issues of concern for the public at Manti, Richfield, and Junction, Utah. Press releases were issued and individual announcements were sent to 300 individuals, organizations, and agencies.

A public meeting in the form of an open house for the purpose of scoping the alternative for the environmental impact statement will be held at the Richfield District BLM Office in Richfield, Utah, October 16, 1979 from 3:00 p.m. to 8:00 p.m. Scope consists of the range of actions, alternatives, and impacts to be considered. Those who wish to attend may come at their convenience and will have an opportunity to go over the proposed alternatives which the environmental impact statement will address and provide any information they desire to attendant BLM personnel at the open house. Interested individuals may submit comments at the meeting or send written comments to the Richfield District Office at the address listed below.

For information concerning the proposed grazing management program or the environmental impact statement, contact Donald L. Pendleton, District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, Telephone (801) 896–8221.

Dated: September 13, 1979.

Donald L. Pendleton,

District Manager, Richfield, Utah.

[FR Doc. 79-28476 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 66356]

Wyoming; Notice of Application

August 31, 1979.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application to amend their pending right-of-way application to construct additional 4½ inch and 6⅝ inch O.D. pipelines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 91 W.,
Sec. 8, S½SW¼.
T. 18 N., R. 92 W.,
Sec. 12, SE¼NE¼.

The additional pipelines are proposed additions to their gathering system to transport natural gas from wells located in the NE¼NE¼ sec. 12, T. 18 N., R. 92 W., and the S½SW¼ section 8, T. 18 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P. O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-28477 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-84-M

Montrose District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Montrose District Grazing Advisory Board will be held on October 25, 1979. On October 25 the meeting will convene at 8 a.m. in the conference room of the Bureau of Land Management Office, Highway 550 South, Montrose, Colorado. At 9:30 a.m. attendees will travel to allotments within the Uncompahgre Basin Resource Area to

discuss and make recommendations concerning development of allotment management plans.

The agenda for the office meeting will include: (1) election of Board Officers; (2) summary of duties and responsibilities of the Board; (3) arrangements for the next meeting.

The meeting is open to the public. Persons desiring to make the tour on October 25 should furnish their own transportation, food, and drink.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Robert S. Schmidt,

Acting District Manager.

[FR Doc. 79-28408 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-84-M

[2880; U-43234 (U-942)]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½" natural gas pipeline right-of-way across the following lands:

Salt Lake Meridian, Utah

T. 20 S., R. 21 E.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

September 6, 1979.

[FR Doc. 79-28409 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement on the Preservation of Spring Green Dunes in Sauk County, Wis.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposed acquisition of Spring Green Dunes National Wildlife Refuge in Sauk County, Wisconsin. Public meetings regarding this proposal and preparation of the EIS will also be held. This notice is being furnished as required by The National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by October 15, 1979. A public meeting will be held in Spring Green, Wisconsin on October 16, 1979.

ADDRESSES: Comments should be addressed to: Regional Director (Attention: Environmental Coordinator), U.S. Fish and Wildlife Service, Twin Cities, Minnesota 55111.

The public meeting on October 16, 1979, will be held in the River Valley High School Theater, 660 Varsity Avenue, Spring Green, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Ron Crete, Ascertainment Biologist, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612) 725-3313.

Persons planning to attend the public meeting should notify Ron Crete at the above address.

SUPPLEMENTAL INFORMATION: Ron Crete, Ascertainment Biologist, is the primary author of this notice. The Fish and Wildlife Service (FWS), Department of the Interior, proposes to preserve and protect approximately 625 acres in Spring Green Township, Sauk County, Wisconsin (T. 8 N., R. 3 E.; Part of Section 1 and T. 9 N., R. 3 E.; Parts of Sections 35 and 36). This land will be acquired in fee title or easement with funds made available through the Land and Water Conservation Fund Act of 1965, as amended. This area, to be known as Spring Green Dunes National Wildlife Refuge will become part of the National Wildlife Refuge System (NWRS) as a unique wildlife ecosystem, and will be subject to the regulations and policies governing access, use and management of lands within that system. The objective of the Unique Wildlife Ecosystem Program is to preserve areas having wildlife and wildlife values which either (1) provide substantial benefits to many people, or (2) support wildlife communities significantly different from other habitats within the region.

Spring Green Dunes is the largest dune and sand blowout area in this portion of Wisconsin. Approximately one-half of this tract of stabilized sand prairie was cultivated at one time, and most topsoil on the disturbed area was subsequently removed by wind erosion. Native plant species have recolonized the area following changes in land use practices. A variety of snakes, lizards, frogs, toads and salamanders not found together in other areas of Wisconsin inhabit Spring Green Dunes. Acquisition of Spring Green Dunes will preserve and enhance plant and animal communities native to the area. Public use of natural habitat for environmental and interpretive education, research and other esthetic purposes is also ensured for present and future generations.

The following alternatives have been identified:

a. Federal Acquisition (fee title and/or easements);

b. No Action;

c. Alternative Boundaries;

d. Zoning or Administrative Regulation;

e. Acquisition by State or Private Conservation Agency;

f. Annual Rent.

The scoping process for the DEIS will be initiated by letter to interested Federal, State, and local agencies and those private organizations and affected parties who have expressed an interest in the proposal. Anyone else who has an interest in participating in the scoping process and the development of the DEIS is invited to do so and should contact the Regional Director on or before October 12, 1979.

Significant issues to be resolved include:

a. The acquisition in fee and easement of approximately 625 acres within Sauk County, Wisconsin;

b. The determination of final project boundaries which will ensure a contiguous tract of sand dune-prairie habitat for endemic and migrant wildlife species;

c. The degree of public use such as hiking, bird watching, and hunting, which will be compatible with Department of the Interior and FWS objectives:

d. Commitment of public funds for preservation of the area.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as amended, Council on Environmental Quality Regulations (40 C.F.R. Parts 1500-1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the DEIS will be made available to the public by January 1980.

Dated: September 10, 1979.

Rolf L. Wallenstrom,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-28516 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

Notice of Intent to Prepare an Environmental Impact Statement on the Preservation of a Portion of the Lower Kinnickinnic River Valley in Pierce County, Wis.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposed acquisition of a portion of the lower Kinnickinnic River Valley in Pierce County, Wisconsin, for addition to the National Refuge System. A public meeting regarding this proposal and preparation of the EIS will also be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by October 15, 1979. A public meeting will be held near River Falls, Wisconsin on October 16, 1979.

ADDRESSES: Comments should be addressed to: Regional Director (Attention: Environmental Coordinator) U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

The public meeting on October 25, 1979, will be held in the Clifton Town Hall approximately four miles West of River Falls, Wisconsin on County Road FF at the County Road QQ intersection.

FURTHER INFORMATION CONTACT: Peter Knight, Assertainment Biologist, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612) 725-3313.

Personnel planning to attend the public meeting should notify Peter Knight at the above address.

SUPPLEMENTAL INFORMATION: The Fish and Wildlife Service (FWS), Department of the Interior, proposes to acquire approximately 1,900 acres along the lower Kinnickinnic River Valley in Pierce County, Wisconsin (T. 27 N., R. 19 W.; Parts of Sections 2, 7, 8, 9, 10, 11, 15, 16, 17 and 18), as a unique wildlife ecosystem. The objective of the Unique Wildlife Ecosystem Program is to preserve areas having wildlife and wildlife values which either (1) provide substantial benefits to many people, or (2) support wildlife communities significantly diferent from other habitats within the region. This land will be acquired in fee title or through easement with funds made available through the Land and Water Conservation Fund Act of 1965, as amended. Acquisition will preserve diverse forest and riverine habitats within a limited geographic area along and adjacent to the Kinnickinnic River. Habitats within the proposed area include mixed northern and southern forests, scattered remnant prairie, steep-walled canyons, and riparian communities. The inclusion of the Kinnickinnic River floodplain is an intergral part of the acquisition proposal which contributes to the diversity of plants, animals, and habitats of the area. Approximately 30-40 percent (480) of the vascular plant species found in Wisconsin are within the proposed area. The Kinnickinnic River is a Class I brown trout stream with about 25 species of fish represented. There are approximately 30 species of mammals, including white-tailed deer, and about 75 nesting species of birds within the project area. The area will be managed for the protection, preservation, and enhancement of wildlife and natural habitats.

The following alternatives have been identified:

a. Federal Acquisition (fee title and/or easement);

b. Alternative Boundaries;

c. Acquisition by State Conservation Agency;

d. Zoning or Administrative Regulation;

e. Annual Rent;

f. No Action.

The scoping process for the DEIS will be initiated by letter to interested Federal, State, and local agencies and those private organizations and affected parties who have expressed an interest in the proposal. Anyone else who has an interest in participating in the scoping process and the development of the DEIS is invited to do so and should contact the Regional Director on or before October 15, 1979.

Significant issues to be resolved include:

a. Acquisition of approximately 1,900 acres including a floodplain in fee and easement.

b. Amount of watershed needed to insure the integrity of the acquisition.

c. Public use and/or non-use of the area for such activities as hunting, fishing, hiking, canoeing, bird watching, cross-country skiing, photography, etc.

d. Commitment of public funds for preservation of the area.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as amended, Council on Environmental Quality Regulations (40 C.F.R. Parts 1500-1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the DEIS will be made available to the public by January 1980.

Dated: September 10, 1979.

Rolf L. Wallenstrom,

Acting Director, Fish and Wildlife Service.

FR Doc. 79-28513 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Upper Delaware Citizens Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 p.m., September 28, 1979, at the Tusten Town Hall, Tusten, New York. The Advisory Council was established by Pub. L. 95-625, section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978.

2. New business.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Kimball, Chief Planner, Mid-Atlantic Region, National Park Service,

143 South Third St., Philadelphia, Pennsylvania 19106, area code 215 597-9655.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Mid-Atlantic Regional Office.

Dated: September 11, 1979.

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations National Park Service.

[FR Doc. 79-28586 Filed 9-12-79; 8:45 am]

BILLING CODE 4310-70-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-37]

Accident Report and Special Study, Safety Recommendations and Responses; Availability

Aircraft Accident Report

Near Collision of Delta Air Lines, Inc., Boeing 727-200, N467DA, and Flying Tiger, Inc., Boeing 747-F, N804FT, O'Hare International Airport, Chicago, Illinois, February 15, 1979.—The National Transportation Safety Board announces the availability of copies of its formal investigation report on this accident. The report, No. NTSB-AAR-79-11, was released to the public on September 4.

Investigation showed that when cleared to taxi Delta Flight 349, a scheduled passenger flight, was instructed by the air traffic ground controller to stop before crossing an active runway. The controller later gave Delta Flight 349, a Boeing 727, clearance to cross this runway. At about this time, Flying Tiger Flight 74, a scheduled cargo flight, had been cleared to land. Shortly after touchdown, the captain of Flying Tiger 74 saw the Delta aircraft entering the runway, and, to avoid collision, he veered his aircraft off the runway. The cargo plane, a Boeing 747, incurred substantial damage. Ther was no damage to the Boeing 727, and there were no injuries to the occupants of either aircraft.

A majority of the Board, Chairman James B. King, and Members Patricia A. Goldman and G. H. Patrick Bursley, determined that the probable cause of this accident was the O'Hare outbound ground controller's issuance of a taxi clearance across runway 9R, which permitted Delta Flight 349 to move into a collision path with Flying Tiger Flight 74 and, further, the failure of the pilots of Delta Flight 349 to maintain a continuous vigil for landing traffic before entering an active runway. The improper clearance was the result of the ground controller's failure to see the displayed radar target of the landing aircraft.

In a separate dissenting statement included in the investigation report, Member Francis H. McAdams said that he disagreed with the majority of the Board wherein they concluded *inter alia* that the probable cause of the accident was "... the failure of the pilots of Delta Flight 349 to maintain a continuous vigil for landing traffic before entering an active runway." Member McAdams stated that a pilot receiving positive clearance to cross an active runway should visually clear the runway for landing traffic if he can physically see it, but in this case the ground controller should have been aware of the restricted meteorological conditions and not have issued the clearance.

As a result of the O'Hare accident and other runway incursion incident/accidents which occurred at La Guardia Airport, N.Y, June 21, 1978, and Memphis (Tenn.) Airport on February 24, 1979, the Safety Board last June 8 recommended that the Federal Aviation Administration (1) conduct a directed safety study on a priority basis of the runway incursion problem and formulate remedial acion to reduce such hazardous conflicts, and (2) alert all controller/pilot personnel that runway incursion mishaps are a serious safety problem and emphasize the need for both groups to maintain greater visual surveillance in taxi operations involving runway crossing. (For recommendations A-79-42 and 43, see 44 FR 52064, September 6, 1979.) FAA responded to these recommendations on August 22 (44 FR 52064, September 6, 21979).

Member McAdams indicated in his dissenting opinion tha the Board should have recommended to the FAA that either positive coordination be required between ground and local control with no exemptions before an aircraft is cleared to cross an active runway, or that only the local controller should have the authority to issue a taxi clearance to cross an active runway.

Hazardous Materials Special Study

"Noncompliance with Hazardous Materials Regulations."—This study, No. NTSB-HMZ-79-2 released August 30, grew from findings of noncompliance in nearly every case among eight serious air, rail, and highway accidents involving hazardous materials which the Safety Board has investigated since 1972. In addition to data from Federal agencies, the Board evaluated information from some 100 interviews in all areas of the U.S. transportation industry to prepare the study.

The Safety Board found government and industry agreement that noncompliance with Federal hazardous materials regulations can be traced to (1) regulations which are complex and difficult to understand, (2) the complexities of the industry, (3) economic pressures, (4) industry personnel who are unaware of the regulations, (5) lack of training for inexperienced personnel, and (6) indifference. The Board said that there is no way to determine the total quantity and types of hazardous materials which pass through the U.S. transportation system without meeting Federal regulations. Thus it is impossible to measure just how effectively the Department of Transportation compliance and enforcement program is working.

As a result of its findings in this special study, the Safety Board on August 14 recommended that DOT (1) continue its program of simplification of its hazardous materials regulations; (2) publish regularly, on a scheduled basis, with a cross-reference index, all of its nonemergency regulation amendments; (3) expand the Materials Transportation Bureau compliance program to work through the executives of shipping companies as a means of improving compliance with regulations through increased industry awareness and as a means of eliciting from these executives information on the effectiveness of the regulations; (4) develop a compliance assurance program which will be a model for other departments with regulatory responsibilities, and will permit measurement of its effectiveness. (See recommendations I-79-1 through 4, 44 FR 49533, August 23, 1979.)

The Board voted 3-1 to adopt this study; the majority consisted of Chairman James B. King, and Members Francis H. McAdams and G. H. Patrick Bursley. Member Patricia A. Goldman dissented from the majority but voted to accept the recommendations.

The report contains the following appendixes:

A—Accidents Involving Hazardous Materials.
B—Agency Compliance Assurance Program Information Request.
C—Case Studies from Interviews.
D—Interpretation of Hazardous Materials Regulations.
E—Status of Federal Motor Carrier Safety Regulations Adopted by States as of October 31, 1979.
F—Summary of Violations in DOT Compliance Records.
G—Example of Complexity of Hazardous Materials Regulations and Changes to the Regulations.

Safety Recommendation Letters

Aviation

A-79-72 to the Federal Aviation Administration.—Following investigation of the crash last November 9 of a Beechcraft B19 at Gurney, Ill., the Safety Board on September 7 recommended that the FAA:

Amend 14 CFR Part 23 to require that fuel selector valves incorporate devices that prevent movement to "off" positions without separate lever-release action by the pilot. (A-79-72) (Class III, Longer-Term Action)

According to the pilot of the Beechcraft, the engine had quit after he switched from right to left fuel tanks; he switched tanks again and applied carburetor heat and the electric boost pump. He then negotiated an emergency landing after the engine failed to restart. Investigation disclosed fuel in both tanks but the fuel selector valve was in an "off" position. (The valve was designed to rotate 360°, with four positions: left, right, off, and off.)

A survey of accident briefs of 152 general aviation fuel starvation accidents for the latest complete 3-year period, 1975 through 1977, revealed 10 accidents involving various makes and models of aircraft in which the pilot unintentionally placed the fuel selector valve in the "off" position.

Pipeline

P-79-26 to the materials Transportation Bureau, Department of Transportation.—At 9:30 a.m. last January 16 an explosion and fire destroyed five commercial buildings and damaged several other buildings in London, Ky.; two persons were injured. Firefighters, the first emergency personnel on the scene, evacuated the buildings. The local manager and a gas serviceman from the Gas Service Company, Inc. (a subsidiary of the Delta Natural Gas Co., Inc.), arrived about 5 minutes after the explosion and, by 9:40 p.m., closed a valve which shut off the gas in the buildings' service line; 25 fire companies assisted in extinguishing the fire.

Nitrogen pressure testing of the 7-inch O.D., steel distribution main, which had a recent pressure increase to 17 psig, revealed a corrosion hole in the pipe. Further investigation indicated that the gas which had escaped from the corrosion hole had migrated through a break in an adjacent sanitary sewer and then into the buildings where it was ignited possibly by a spark from an electric motor in a beverage cooler.

At the time of the accident, the gas company had been modifying some 1,500 feet of the steel gas main by inserting a 2-inch plastic pipe so the main's operating pressure could be increased to serve a larger load. Most of the existing line being uprated was used, bare, 7-inch O.D., steel, well casing pipe that had been installed with mechanical couplings in 1930 and 1931. The Gas Service Company was not in compliance with 49 CFR 192.457(b) because there was no cathodic protection provided for this type of pipe throughout the system. Corrosion holes could exist elsewhere in the system. The uprating was accomplished in August 1978 by installing regulators at each service and conducting a flame ionization survey. At that time all detected leaks were reported to have been repaired. A manhole survey was not included.

The Safety Board has concluded that applicable portions of 49 CFR Subpart K were not complied with, and that the leak could have been detected and the accident prevented if proper uprating procedures had been followed. The Board's formal investigation report on this accident is being prepared for distribution and copies will be available to the public within a few weeks.

As a result of its investigation of this accident, the Safety Board on September 4 recommended that the Materials Transportation Bureau:

Monitor, through its State agent, the Kentucky Public Service Commission, the activity of the Gas Service Company, Inc., to uprate its gas distribution system in London, Ky., in compliance with Federal regulations. (P-79-26) (Class II, Priority Action)

Responses to Safety Recommendations

Aviation

A-79-35 through 39.—The Federal Aviation Aministration on August 29 responded to recommendations issued following investigation of the crash of a National Airlines Boeing 727 into Escambia Bay near Pensacola, Fla., on May 8, 1978. (See 44 FR 32756, June 7, 1979.)

In response to recommendation A-79-35, FAA reports that it will issue by September 30, 1979, an air carrier operations bulletin asking principal operations inspectors to ensure that air carriers' training programs include instructions to crewmembers with respect to the availability, capabilities, and use of flotation-type cushions on their aircraft.

With respect to A-79-36, which asked FAA to amend 14 CFR 121.340 to require that all passenger-carrying air carrier aircraft be equipped with approved flotation-type seat cushions, FAA notes that this section requires either a life preserver or an approved flotation means for each airplane occupant unless the carrier can show that it does not operate over any body of water for which a flotation means would be needed. Considering charter flights and the number of large lakes, rivers, etc., throughout the United States, no air carrier can operate without life preservers or an approved flotation-type seat cushion in today's environment. FAA says that since the life preserver is superior to a flotation-type seat cushion as a life-saving device, flotation-type cushions are not necessary when life preservers are being carried.

FAA, in response to A-79-37, reports that Operations Review Program Proposal 5-14 to amend 14 CFR 121.571(a)(1)(iv) was adopted May 23, 1978, with an effective date of June 26, 1978. This section requires that all passengers be orally briefed before each takeoff on the location and use of any required emergency flotation means.

As recommended by A-79-38, FAA will issue an air carrier maintenance bulletin instructing maintenance inspectors to emphasize to their assigned carriers the need to maintain lifevest stowage pocket closures in operable condition. In accord with A-79-39, FAA is revising the life preserver performance standards under Technical Standard Order TSO-C13c which will include updated provisions for stowage and donning. FAA is processing a notice of proposed rulemaking and intends to issue the notice as expeditiously as possible.

A-79-44.—Letter of August 29 from FAA is in response to a recommendation based on the Safety Board's special study, "Single-Engine, Fixed-Wing General Aviation Accidents, 1972-1976." The recommendation called on FAA to generate, through a stratified sampling of general aviation pilots, the date, duration, aircraft make and model, the geographical location of the flight, and the flight time in IFR, high density altitude, and wind conditions; all on a per flight basis; the data collected should include the pilot's total time, time in each type aircraft flown, age, occupation, certificate, and medical waivers. (See 44 FR 34222, June 14, 1979.)

FAA in response notes that its current approach to obtaining exposure information is based on a recently introduced random sample technique. The results of its first application are contained in the document "1977 General Aviation Activity and Avionics Survey" (April 1979). FAA says that the information in this document does not contain information in the detail suggested in recommendation A-79-44, but does contain all information which could be effectively collected under present circumstances. General aviation

exposure information is available to FAA only on a voluntary basis. FAA suggests coordinating with the Safety Board in identifying additional pilot exposure data, if any, which can be included in NTSB Accident reporting Forms 6120.1 and 6120.2. FAA states that this is in consonance with its April 27 response to the Safety Board's February 28 letter which deals with the Board's Safety Objective Project as it relates to general aviation accident injury studies. FAA's General Aviation Accident Data System can be utilized for exposure data acquisition and storage so that real time information will be available for the identification of trends.

Highway

H-75-45.—The Federal Highway Administration on August 21 wrote pursuant to a discussion held July 6 between representatives of FHWA's Office of Highway Safety and the Safety Board's staff concerning this recommendation, relating to fire extinguishers having flexible hoses.

FHWA refers to its February 10, 1976, letter indicating that an informal study of FHWA's Bureau of Motor Carrier Safety's accident data would be performed to determine whether other accidents had been reported in which a flexible hose on a fire extinguisher might have been helpful. Narrative accounts of all accidents involving fire reported during 1974 were reviewed; no accidents were identified in which a flexible hose might have lessened the consequences of the accident. The informal study was completed in the spring of 1976.

H-78-53 and 54.—The National Highway Traffic Safety Administration on August 24 wrote with reference to the Safety Board's December 12 letter commenting on NHTSA's September 29, 1978, response. (See 44 FR 48744, October 19, 1978.) The recommendations were issued following investigation of the highway accident near Marion, N.C. May 12, 1978.

The Safety Board's December 12 letter advised that recommendation H-78-53 was closed with the expectation that a report would be useful as to State acceptance and implementation of the model licensing classification system developed jointly by the American Association of Motor Vehicle Administrators and NHTSA. NHTSA reports that about a dozen States have recently revised their driver licensing laws by adopting for the first time a classified system or by replacing their obsolete "operator-chauffeur" licensing laws which were based on the occupational status of the driver. Thus, these latter jurisdictions now provide for license testing and classification based upon factors of vehicle type rather than on the distinction as to whether the driver is employed to drive a vehicle for hire.

With respect to recommendation H-78-54, which the Board was holding in open status, NHTSA reports that its research on truck accident data studies is being extended based on the North Carolina Highway Safety Research Center study. NHTSA says that the study was unable to clearly establish the relationship between accident exposure rates, types of trucks, and the age and experience of truck drivers. A new research procurement will specifically address these issues. Also, NHTSA has extended the 1980 National Accident Sampling System data elements to include more information on truck drivers. These activities will assist in defining more precisely the safety problems attributed to heavy duty vehicle operators.

Intermodal

I-78-9.—The Research and Special Programs Administration, U.S. Department of Transportation, on August 23 acknowledged the Safety Board's August 13 letter, addressed to the Materials Transportation Bureau, which advised that recommendations H-71-27, H-71-28, HM-75-1, HM-75-2, I-76-1, and I-76-2 had been closed, no longer applicable, and consolidated into recommendation I-78-9. (See 44 FR 50936, August 30, 1979.) MTB endorses this consolidation.

For purposes of at least partially implementing I-78-9, RSPA refers to its May 11 letter (44 FR 30181, May 24, 1979) which transmitted to the Safety Board a safety analysis plan, entitled "Safety Analysis for Exemptions," employed in RSPA's exemption program. RSPA understands the Board is reviewing the plan and will transmit detailed comments in the near future. Also, RSPA is working on a similar safety analysis plan for its regulatory review and development program and will be seeking additional staff contact in furtherance of this project.

Marine

M-78-79 through 85.—On August 17 the U.S. Coast Guard responded to recommendations issued following investigation into collision of the French tankship SS SITALIA with moored vessels on the Mississippi River near New Orleans, La., July 28, 1977. (See 44 FR 6536, February 1, 1979.)

Recommendation M-78-79 asked Coast Guard to amend proposed steering standards for tankships to reduce time allowed for alarms to alert the crew of a failure and to reduce time allowed to restore steering control, and to make these requirements applicable to all sea-going vessels entering U.S. navigable waters. In response Coast Guard reports attempting to obtain international acceptance of a steering failure alarm but the Inter-Governmental Maritime Consultative Organization (IMCO) has not followed. Consensus of the February 1978 International Conference on Tanker Safety and Pollution Prevention was that the rudder angle indicator was sufficient to indicate steering failure. Coast Guard says it will issue soon a notice of proposed rulemaking (CGD 74-125A) for all U.S. vessels with regard to steering systems. An alarm is included in that proposal. Also, Coast Guard will continue to work to reduce the differences between the U.S. and international rules.

Recommendation M-78-80 sought action through IMCO to develop a program to insure that owners, operators, crewmen, and inspectors are made aware of the importance of a vessel's steering gear and the importance of proper maintenance of this equipment. Coast Guard reports that it has initiated and reviewed many national and international efforts at improving steering gear reliability, maintenance, and crew familiarity with the systems. IMCO has consistently chosen not to adopt the guidelines that Coast Guard felt necessary for safety in U.S. ports. As a result, Coast Guard unilaterally published the regulations found in 33 CFR Part 164 which apply to all vessels over 1,600 gross tons and, when properly complied with, meet the intent of the recommendation, the response letter indicates.

Coast Guard was asked by recommendation M-78-81 to amend 46 CFR 58.25 and 33 CFR Part 164 to require that all vessels be equipped with test devices which will indicate whether the steering gear is operating properly and to require that operating parameters, test procedures, and maintenance records be made available to crewmembers and inspectors during inspections and tests, including those required by 46 CFR 35.20-10, 78.17-15, and 97.15-3, and by 33 CFR 164.25, so that proper evaluations can be made regarding the machinery's operation. In response, Coast Guard enumerates the steering reliability actions taken and those proposed, and states "Requirements for test devices to be used by the crew should not be proposed at this time." Some measures, such as pressure gauges, have been considered but the normal variance of operating parameters would make it difficult to test for specific alarm

conditions. Coast Guard believes the most appropriate test is an operation of the gear from the bridge and from the steering gear compartment. Coast Guard states, "In this casualty serious system leaks which were obvious had been ignored. It is very doubtful that the addition of pressure gauges would have had any significant effect."

In response to M-78-82, which recommended that Coast Guard amend 33 CFR Part 164 to require that pilots review the maneuvering characteristics of the vessel, as discussed in 33 CFR 164.11(k), before they commence navigation of the vessel, Coast Guard notes that the ultimate responsibility for safe navigation of any vessel rests with the master. Pilots do not assume that responsibility and it is the pilot's role to act as a professional licensed advisor. Placing the responsibility on the owner and master to insure the pilot is properly informed about the vessels follow the natural order of authority and responsibility. Once informed, the pilot is bound to use the information to avoid being investigated for possible negligent action. The Coast Guard declines to consider this recommended action because current regulations are adequate to meet the intent of the recommendation.

Recommendation M-78-83 asked Coast Guard to determine which vessels entering U.S. waters are fitted with the same type steering gear installed on the SITALA; require testing of the installed cast-iron differential controller foundation to determine if defects similar to those detected on the SITALA are present, and report the findings. In response, Coast Guard states that in view of the unspecified conditions in which the steering gear was tested following the casualty, Coast Guard is not convinced that the fracture of the differential controller foundation would have occurred had necessary maintenance procedures been observed. Therefore, Coast Guard believes that the extensive testing of all differential controller foundations on vessels having steering gear similar to that of the SS SITALA is not warranted.

With respect to M-78-84, which recommended expansion of the foreign vessel boarding program regarding steering gear inspections to determine the adequacy of current maintenance practices and report the findings, Coast Guard believes that the current boarding program is a workable means of ensuring port and vessel safety. A study of foreign vessels' maintenance practices is not considered warranted. Coast Guard does not have direct control over these vessels, nor does the Coast Guard have the resources to conduct such inspections. Coast Guard declines the recommended action.

Recommendation M-78-85 asked Coast Guard to expand the U.S. Government's effort through IMCO to obtain more comprehensive and more uniform annual surveys of merchant vessels of all types rather than just tankships. The response letter notes that during the actions before and at the International Conference on Tanker Safety and Pollution Prevention, Coast Guard led out and was instrumental in the development and final acceptance of the 1978 Protocol to MARPOL 1973 and SOLAS 1974. This Protocol includes greatly improved and strengthened international standards for inspections, surveys, certifications and control of all cargo ships. Coast Guard notes that Resolution 10 of the Protocol required that guidelines for conducting inspections and surveys be developed. Consequently, through intense Coast Guard effort, guidelines will be presented for approval by the Maritime Safety Committee and the Maritime Environment Protection Committee for forwarding to the IMCO Assembly in November 1979 for initial ratification as international guidelines.

Pipeline

P-77-4.—Letter of August 28, from the Research and Special Programs Administration is a followup to Materials Transportations Bureau's response dated September 30, 1977. (See 42 FR 55959, October 20, 1977.) The recommendation, which resulted from investigation of the natural gas accident at Allentown, Pa., August 8, 1976, asked MTB to encourage, coordinate, and monitor development of equipment which could be used to detect the location of sinkholes in the vicinity of underground utilities.

MTB's response indicated that UGI Corporation and some geophysical companies are continuing research for developing economically feasible methods and equipment which will be capable of locating sinkholes or potential sinkholes in areas containing cast-iron natural gas mains, and that MTB would continue to encourage development of this equipment. RSPA reports that it has recently been in contact with the Transportation and Instrumentation Sciences Division of ENSCO, Inc., regarding development of such equipment. ENSCO has been developing a ground probing radar that they believe may be used to detect the location of sinkholes in the vicinity of underground utilities. RSPA plans to see if UGI can test this equipment to determine if underground sinkholes in areas containing cast-iron mains can be detected. The Safety Board will be advised.

P-79-22 through 25.—The Natural Gas Pipeline Company of America on August 23 responded to recommendations issued by the Safety Board following investigation of the pipeline accident which occurred last April 18 in a rural area near Dallas, Iowa. (See 44 FR 40082, August 16, 1979.

Note.—The site of the accident was incorrectly shown in line 16, center column of page 40082 as "Dallas, Tex."

Natural Gas reports that prior to the receipt of the recommendations, which were issued August 8, it had established a task group to study the problems associated with its 24" compression-coupled pipeline and to determine suitable remedial action. Results of the Company's studies as they are related to the recommendations, as well as additional actions being taken to fulfill the intent of the recommendations, are:

Recommendation P-79-22: Written procedures have been revised to specify continuous monitoring of pressure during pipeline maintenance or construction work. In addition, the district superintendent has been designated as responsible for the pressure monitoring.

Recommendation P-79-23: At future Safety Recognition meetings, the Company will continue to review with its employees the hazards of exposing a compression-coupled pipeline which is pressured. This was done at the 1979 series of meetings, completed in June. Further, the Company Field Construction Manual and standard construction specifications will be revised to include such information. These actions will provide an awareness of the possible hazards to older employees, new employees, transferred employees, and contractor's personnel.

Recommendation P-79-24: A massive program has been initiated to locate vertical and horizoantal bends in the pipeline. The early stage of this program has been confined to Iowa because of three accidents will be extended to other States where the rolling terrain requires many changes in direction of the pipeline. The Company reports that at each location where a bend is found, the depth of cover and degree of bend are measured. A calculation is then made to determine if a net unbalanced force can exist under the most adverse conditions. At vertical bend locations where an unbalanced force can exist, the pipe will be secured at both sides of the bend with anchors whose holding strength exceeds the calculated unbalanced force. At horizontal bend locations, remedial action will consist of reinforcing sleeves welded over the couplings on either side of the bend. On a random basis, couplings adjacent to bends will be exposed and visually inspected for evidence of corrosion or partial pullout. At those locations where there is evidence of partial pipe pullout, radiography will be used to

determine the position of the pipe end in the coupling. Where corrective action is necessary, reinforcing sleeves will be welded over the couplings.

Recommendation P-79-25: The effect of soil conditions on soil ability to restrain pipeline movement has been investigated by Company consultant, Soil Testing Services, Inc. Their findings have been incorporated in plans for remedial work. In addition, prevention of changes in land contour (prevention of soil erosion) has been an ongoing effort along Company pipeline rights-of-way for many years in areas where needed.

Natural Gas also reports that as of August 17, 1979, 57 locations in Iowa have been identified as sites where remedial work may be beneficial, and the work has been completed at 28 of these.

Note.—Single copies of the Safety Board's accident reports and special studies are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports and special studies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1907)))

Margaret L. Fisher,

Federal Register Liaison Officer.

September 10, 1979.

[FR Doc. 79-28459 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Managing Federal Assistance in the 1980's: Interim Working Papers Available for Public Comment

AGENCY: Office of Management and Budget.

ACTION: Notice of availability for public comment of Working Papers developed in support of the study of federal assistance management required by the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224).

SUMMARY: Pursuant to the Federal Grant and Cooperative Agreement Act of 1977, OMB is conducting a study to develop a better understanding of alternative means of implementing federal assistance programs, to determine the feasibility of developing a comprehensive system of guidance for federal assistance issues. A report to Congress is required by February 1980.

A draft study plan was published in the Federal Register on June 23, 1978. On the basis of comments and suggestions received, the plan was revised and published in final form on January 8, 1979. Eight task groups were formed, comprised of federal agency representatives and volunteers from federal agencies, state and local governments, universities, non-profit organizations, public interest groups, and the private sector to develop initial analyses of issues identified in the study plan.

The task groups have produced a series of 52 documents that are now being made available in draft form for public comment. OMB has not reached conclusions on these issues and will not do so until it has the benefit of public comments. The Working Papers and comments on them will guide the development of the February 1980 report to Congress.

DATE: The papers are available on request. Comments must be received by November 15, 1979, to be considered in the development of findings and recommendations to be submitted to Congress.

ADDRESS: Requests for papers should be made to Thomas L. Hadd, Intergovernmental Affairs Division, Office of Management and Budget, Room 5217, NEOB, Washington, D.C. 20503. A clear statement of the address to which papers are to be mailed should be provided.

I. Requirements of the Act

Section 8 of Pub. L. 95-224 requires the Director of OMB to conduct a broad study of federal assistance programs and related administrative practices. Section 8 says:

> The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for federal assistance programs. . . . The report on the study shall include (1) detailed descriptions of the alternative means of implementing federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for federal assistance programs, the development of which may be determined feasible and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

II. Working Papers

The Working Papers have been assembled in ten separate volumes, plus an introductory "study overview" volume. The following summary is to help potential reviewers identify which of the topical volumes contain issue analyses of particular interest.

Volume 1 Study Overview

Explains the background of the study, offers suggestions for reviewing the papers, outlines eight major policy questions about the types and extent of changes that might be made in the way federal assistance is managed, and outlines the content of the Working Papers.

Volume 2 Description of Existing Guidance—Summary Analyses

A-1 *Summary.*—Identifies federal crosscutting requirements; describes their administration; traces their development and communication through the agencies; describes agency mechanisms for dispute resolution; summarizes GAO influence; and digests court cases with highlights of major decisions.

A-2 *Description of National Policy Requirements.*—An overview of general crosscutting federal policy and administrative requirements;

Summarizes crosscutting requirements, including the 59 inventoried in paper A-8.

A-3 *Administration of Selected Crosscutting Requirements.*—Reviews the administration of 4 requirements in 3, agencies and departments, with impact analyses.

A-4 *Internal Development and Distribution of Guidance in Assistance Agencies.*—Examines 12 agencies' receipt, development and implementation of crosscutting guidance.

A-5 *GAO Role in Federal Assistance.*—Discusses Comptroller General decisions, individual audits and special studies, and general audit.

A-6 *Administrative Dispute Resolution Mechanisms.*—Discusses mechanisms for resolving federal grantor-grantee disputes, Administrative Procedure Act models, and appeal processes in 8 agencies.

A-7 *Survey of Case Law Relating to Federal Grant Programs.*—Provides a digest of court decisions on over 500 cases dealing with federal assistance issues.

Volume 3 Descriptions of Existing Guidance: Inventory of National Policy Requirements

A-8 *Inventory of National Policy Requirements.*—Describes in detail the 59 crosscuts with legal basis, applicability, guidance processes, and mechanisms for compliance.

Volume 4 Alternatives for a Comprehensive System—Basic Concepts

Identifies different functions a guidance system might perform, with alternative ways of performing them; discusses alternative degrees of centralization; analyzes agency problems with guidance, suggesting alternative organizational arrangements for handling; and raises basic questions for reviewer response.

Volume 5 Alternatives for a Comprehensive System of Guidance: System Models

Provides detailed description and alternative configurations of the basic concepts related to a comprehensive system.

Volume 6 Alternative Means of Implementing Federal Assistance

C-1 *Summary.*—Synopsizes Basic Task Group Report.

C-2 *Basic Task Group Report.*—Defines concept of alternative means, its framework and procedures; discusses mean decisions; relates alternative means to accountability, intervention, control and risk; discusses grants, cooperative agreements and other alternatives with their legislative, resource and professional development implications; and suggests further steps to be taken.

C-3 *Alternative Means for Implementing University Programs.*—. University activities described and analyzed in terms of alternative means.

C-4 *Uses and Implications of the Alternative Means Concept.*—A brief analysis of the alternative means concept.

C-5 *Use, Benefits and Meaning of Pub. L. 95-224.*—General survey of alternative means.

C-6 *Accountability in Assistance Programs.*—A general discussion of the accountability issue.

C-7 *Financial Accountability: A Concept for Federal Assistance.*—University perspective on distinctions between procurement and assistance in implementing federal programs.

C-8 *An Experiment in Grant Administration.*—Describes an experiment to simplify the federal grant, reduce paperwork and increase accountability.

C-9 *"Joint Ventures"*—Presents a Department of Agriculture perspective on cooperative agreements.

C-10 *Performance Criteria Over Design Specifications: the New York State Experience.*—Underlines importance of federal requirements by examining advantages and disadvantages of design and performance specifications.

C-11 *Toward a Structure of Accountability.*—Discusses various views on accountability, accountability system goals, alternative mechanisms and factors to consider in developing the system.

Volume 8 Evaluation of Pub. L. 95-224

D-1 *Summary Evaluation of Pub. L. 95-224.*—Identifies strengths of the Act; summarizes the agencies' reported implementation experience; describes the agencies' implementation problems and their effects on recipients and the government; presents 7 legislative alternatives for action on these problems, with advantages and disadvantages of each; describes the evaluation method with particular emphasis on experimental computer linguistic analytical techniques; raises basic questions for reviewer response; includes a copy of the Act and the OMB Implementing Guidance.

Volume 8 Equity, Fairness and Competition

E-1 *Summary.*—Discusses key issues of equity and fairness; identifies and examines specific problems considered important; and considers whether such issues should be part of a comprehensive system of guidance for assistance programs and agencies.

E-2 *Equity and Fairness Issues Relating to Notification.*—Discusses grant notifications of potential applicants and grantees, with optional mechanisms.

E-3 *Competition.*—Analysis of competition among applicants for federal assistance and methods of selection in terms of equity and fairness.

E-4 *Administrative Resolution of Disputes of the Grantor/Grantee Level.*—Examines need for better dispute mechanisms, and options for uniform guidance on informal and formal dispute resolution.

E-5 *Judicial Review.*—Examines judicial review of assistance decisions, especially as to jurisdiction, standing and scope.

E-6 *Third-Party Issues.*—Discusses selection of government contractors, administrative review of controversies with contractors, third-party rights, and debarment of contractors.

E-7 *Suspension, Termination and Debarment.*—Views these subjects as forms of remedies for seeking complaince with terms and conditions of assistance grants.

E-8 *Sub-Grantee Issues.*—Identifies some special problems of third parties who receive federal financial assistance through an intermediary agency.

Volume 9 Research and Development

F-1 *Summary.*—Evaluates alternative instruments for funding R & D, reviews instrument selection criteria and processes, with policy options; discusses the Act's impacts on agencies' R & D programs and on the recipients; suggests 2 innovative experiments; and reviews potential use of cooperative agreements to stimulate innovation.

F-2 *Selection of Transaction Type to Fund R & D.*—Discusses instrument selection and proposes policy options to improve R & D assistance administration.

F-3 *Impact of the Present Assistance/Procurement Choice on Agencies R & D Funding.*—Reviews effects of P.L. 95-224 on federal agencies in R & D and offers options for strengthening their guidance.

F-4 *Impact of the Present Assistance/Procurement Choice on Awardees.*—Explores recipient participation in design and evaluation of R & D programs and suggests improvements.

F-5 *Using Cooperative Agreements to Stimulate Technological Innovation.*—Suggests interagency strategy for use of the instrument and identifies guidance needs.

Volume 10 Recipient Related Issues

G-1 *Summary, Recipient-Related Issues.*—Discusses the general recipient perspective; analyzes problems common to all recipients; discusses issues or problems of specific concern to individual classes or groups of recipients; and raises basic questions for reviewer response.

G-2 *Recipient Accounting Problems: Especially Overhead.*—Identifies accounting problems and discusses techniques for reducing recipient overhead.

G-3 *Should Interest be an Allowable Cost in Assistance Agreements?*—Analyzes the impacts of treating interest as an allowable cost and of not allowing it.

G-4 *Payment of Fees or Profits.*—Explores such payments in assistance agreements.

G-5 *Varying Levels of Recipient Capacity.*—Classifies and explores various measures of recipient capacity.

G-6 *Fixed-Price Grants for Achieving Federal Program Goals.*—Discusses fixed-price grants as an alternative in assistance.

G-7 *Cost Participation Policies for Federal Assistance.*—Discusses cost sharing and cost matching with policy needs and options.

G-8 *Improving Recipient Participation in Federal Program Design.*—Discusses 4 options for improving recipient participation.

G-9 *Eligibility of For-Profit Organizations in Assistance.*—Discusses related problems and issues.

G-10 *Issues and Problems of Voluntary Social Service Organizations in Federal Assistance.*—Reviews assistance-related problems affecting this group.

G-11 *Assistance Problems Experienced by Federally-Recommended Indian Tribes.*—Reviews assistance-related problems affecting this group.

G-12 *Federal Assistance in the States: A New Legislative Perspective.*—Explores differing state government perspectives based upon institutional locations.

G-13 *Federal and University Relations in Assistance Programs.*—Surveys tensions between universities and the government and recommends a study of accountability.

G-14 *Problems Affecting International Recipients of Assistance.*—Reviews assistance relationships with international organizations and other nations, and recommends a special study.

G-15 *Recipient Perceptions—Counties.*—Documents results of a survey of 200 county officials.

G-16 *Impact of Federal Assistance on State and Local Cash Management and Budget Cycles.*—Reviews several N.Y. State units of government with suggested options for addressing problems.

G-17 *Attachment "O" and the Model Procurement Code.*—Analyzes the Code's effect on state and local governments in meeting the Attachment "O" requirements of OMB Circular A-102.

G-18 *Federal and State Relations in Assistance Programs.*—Surveys the issue's history and discusses the States' resistance to intrusion, with related recommendation.

G-19 *Reimbursement of Specialized or Technical Services.*—Centers discussion on specialized or technical services to state and local governments.

G-20 *Cost Principles for Research Performed by State and Local Governments.*

Volume 11 *Environment of Federal Assistance*

Provides descriptive context for the other Working Papers, especially B and C; describes major competing forces and values in development and administration of federal assistance programs; discusses program origins, design, delivery, responsibility and accountability, conflicts and tensions, intergovernmental relationships, and trends in the intergovernmental environment.

David R. Leuthold,
Budget and Management Officer.

[FR Doc. 79-28479 Filed 9-12-79; 8:45 am]
BILLING CODE 3110-01-M

Agency Forms Under Review

Background

September 10, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one-half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are indentified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Departmental and Other
USDA Public Opinion Survey on Soil and Water Conservation
Single time
Individuals 18 years old and over, non-institutionalized, 7,000 reponses; 7,000 hours
Charles A. Ellett, 395-5080

Food and Nutrition Service
Study of the Nutrition Education and Training Program: Phase 1 Surveys
Single time
Local project directors, State program coordinators, 723 reponses; 1,446 hours
Charles A. Ellett, 395-5080

Revisions

Economics, Statistics, and Cooperatives Service
*Prices Received by Farmers Surveys
Monthly

Firms buying farm products, 80,270 responses; 9,780 hours
Charles A. Ellett, 395-5080

Rural Electrification Administration
Financial and Statistical Report—Typical Electric Bills
REA Form 7
Annually
REA electric borrowers, 976 responses; 22,851 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

U.S. Gasoline Shortages: Consumer Survey
ERA-414A
Single time
Gasoline consumers in 14 SMA's, 4,800 responses; 1,200 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
*The Effect of Physician's Recognition of Emotional Disturbance in Patients
On occasion
Primary care providers and their patients, 2,500 responses; 325 hours
Office of Federal Statistical Policy and Standard, 673-7974

Center for Disease Control
Evaluation of Interview Techniques to Estimate
Individual Water Consumption
Single time
Randomly selected employes at a CDC facility, 300 responses; 33 hours
Richard Eisinger, 395-3214

Food and Drug Administration
National Survey of Chest X-Ray Screening Policies
Single time
Non-Federal U.S. hospitals, 800 responses; 200 hours
Richard Eisinger, 395-3214.

Food and Drug Administration
Radiation Experience Data Study
Other (See SF-83)
Short-stay hospitals in United States, 750 responses, 3,750 hours
Richard Eisinger, 395-3214

National Center for Education Statistics
Museum Program Survey, 1979
NCES 2424
Single time
Museum administrators, 1,600 responses; 2,400 hours

Laverne v. Collins, 395-3214

Office of the Secretary
Identification of Policy Issues in the Cuban Community
OS-18-79
Single time
Household interviews, 1,200 responses; 600 hours
Offices of Federal Statistical Policy and Standard, 673-7974

Public Health Service
Evaluation of Participation in National Utilization Surveys
Single time
Selected health services administrators in coterminous United States
Office of Federal Statistical Policy and Standard, 673-7974

Revisions

Health Services Administration
Data Required by PHS from 1979 national public health program reporting system
Annually
57 State health Agencies, 57 responses; 4,959 hours
Richard Eisinger, 395-3214

National Center for Education Statistics
NLS Fourth Follow-Up
2422-1, 2422-2
Single time
Graduates of the high school class of 1972, 19,500 responses; 19,500 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance—Robert G. Masarsky—755-5184

New Forms

Housing Management
Housing Owners' Certification and Application for Housing Assistance
HUD-52670/52670-A
Monthly
Section 8 owners and program administrators, 15,300 responses; 15,300 hours
Arnold Strasser, 395-5080

Housing Production and Mortgage Credit
*Notice of Intention to File Title I Claim and Request for Collection
FH-83
On occasion
Title I lenders, 9,000 responses; 2,700 hours
Arnold Strasser, 395-5080

Revisions

Community Planning and Development
Relocation Payment Claim Forms
HUD-4000, 4002, 4003, 4004, and 4004A
On occasion
Persons (claimants) displaced by HUD-assisted activities, 50,000 responses; 25,000 hours
Arnold Strasser, 395-5080

Reinstatements

Community Planning and Development
Application for Federal Assistance, Community Development Program, and Assurances
HUD 6757, 7015.12
On occasion
Description not furnished by agency, 50 responses; 250 hours
Arnold Strasser, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

New Forms

Employment and Training Administration
WIN Special Mail Surveys: Child Care
MT 1069B
Single time
WIN-SAU Staff, 900 responses; 396 hours
Arnold Strasser, 395-5080

Revisions

Bureau of Labor Statistics
Job Openings Pilot Survey and Monthly Report on Labor
DL-1219, BLS-3115
Monthly
Non agricultural establishments, 601,440 responses; 83,270 hours
Office of Federal Statistical Policy and Standard, 673-7974

Employment and Training Administration
Longitudinal Manpower Survey Questionnaires
LMS-1C, 2, 3, 4, 5B, 9L, 102, 109L, 202, 209L, and 302
Quarterly
Participants in ETA CETA program, 69,300 responses; 41,983 hours
Arnold Strasser, 395-5080

Extensions

Employment and Training Administration
Indicators of Compliance
ETA 5-148A-E
Monthly
State ES agencies, 624 responses; 18,720 hours
Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

Revisions

Federal Aviation Administration
*Application for Aerodrome Vehicle Operators Permit

MA 4670-5 and 4670-1
On occasion
Personnel at National and Dulles Airports who drive on the aerodrome, 580 responses; 58 hours
Susan B. Geiger, 395-5867

Reinstatements

National Highway Traffic Safety Administration
*General Requirements of the Federal Motor Vehicle Safety Standards
HS 189
On occasion
Importers of non-conforming vehicles, 3,000 responses; 1,500 hours
Susan B. Geiger, 395-5867

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—634-4070

New Forms

Occupational Survey of Information Professionals
(NSF Project DSI 7727115)
Single time
Individual sections, colleges and universities, state and local jurisdictions, and federal agencies, 2,000 responses; 4,000 hours
Office of Federal Statistical Policy and Standard, 673-7974

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Revisions

Income—Net Worth and Employment Statement
21-527
On occasion
Description not furnished by agency, 174,000 responses; 174,000 hours
Richard Eisinger, 395-3214

Reinstatements

*Authorization and Certification of Entrance or Reentrance into Training (Vocational Rehabilitation)
22-1905
On occasion
Training institutions, 11,250 responses; 2,813 hours
Richard Eisinger, 395-3214

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Managment.

[FR Doc. 79-28517 Filed 9-12-79; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21207; 70-6190]

Alabama Power Co.; Notice of Proposed Nuclear Fuel Financing

September 5, 1979.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, as amended, which is summarized below for a complete statement of the proposed transaction.

In order to provide funds to finance a portion of the nuclear fuel ("Fuel") requirements of the Joseph M. Farley Nuclear Plant Units No. 1 and No. 2 ("Farley Units") Alabama proposes to enter into arrangements whereby the Bank of America National Trust and Savings Association ("Bank") will establish a line of credit to provide funds to a trustee of an express trust established pursuant to a trust agreement ("Trust Agreement"). The First National Bank of Mobile Alabama will serve as trustee in connection with the proposed transaction. The trustee will use such funds to pay the costs of acquiring, processing and fabricating the Fuel, including reimbursement to Alabama of Fuel costs incurred or to be incurred by Alabama. Alabama will transfer to the trustee its interest in the Fuel and in procurement contracts in respect thereof. The trustee, as owner of the Fuel, will lease the fabricated Fuel to Alabama pursuant to the nuclear fuel lease ("Lease") described below. The line of credit will be in the aggregate principal amount of $60,000,000 and will expire March 31, 1982, unless extended pursuant to the provisions of the credit agreement between the trustee and the Bank ("Credit Agreement"), which will provide for the terms and conditions of the credit. On or before March 31 of each year, the trustee may request the Bank to extend the expiration date for an additional year beyond its then 3 year term, with the Bank to act on such request by June 30 of that year.

The trustee will effect the borrowings in accordance with instructions from Alabama, not inconsistent with the terms of the Trust Agreement and the Credit Agreement, as to the amount and date from, or prepayment to, the Bank. Each time the trustee borrows from the bank, the trustee will issue a finance bill draft having maturity of from one to not more than 270 days. Each finance bill draft will be issued by the trustee at a discount equal to the sum of the bid rate on comparable maturities of major bank certificates of deposit, the interest equivalent of actual reserve requirements on such certificates of deposit, (or, in the case of finance bill drafts having a maturity of less than 30 days the reserve requirements shall be that of ineligible acceptance) taxes, if any, and a commission of 1¼% per annum.

The face value of the finance bill drafts generally will be in multiples of $100,000, the minimum value of any bill being $100,000 and the maximum value being $1,000,000. Finance bill drafts may be prepaid prior to maturity if held in the Bank's portfolio and upon the payment of liquidation costs, if any, due to interest rate differentials and administrative cost of $50 per finance bill draft. In no even shall the maturity of a finance bill extend beyond the expiration of the line of credit.

A commitment fee of ½ of 1% per annum must be paid on the unutilized portion of the line of credit, on a 360 day basis, payable quarterly in arrears.

The trustee will purchase the Fuel from time to time wth the proceeds of the loan from the Bank. The Lease will require payments of Alabama, including rent, sufficient to fully amortize all costs and expenses of the trustee over the useful life of the Fuel as it is consumed and requiring Alabama at the expiration of the line of credit to purchase the Fuel, whether or not it is consumed, for an amount sufficient to retire all debts, interest and fees of the trustee associated with the Bank's commitment. The trustee will assign to the Bank substantially all rights and payments under the Lease pursuant to an assignment agreement with the Bank. If the Lease is terminated for any reason, Alabama will be required to purchase the Fuel immediately for an amount equal to the unamortized cost of the Fuel and repay all associated debts and any amounts outstanding under the line of credit, including accrued interest. The trustee will also be required to furnish the Bank with a security agreement ("Security Agreement") giving the Bank security interests in the Fuel and the Lease.

The effective cost to Alabama of funds obtained under the nuclear fuel leasing arrangement will be dependent upon prevailing rates for certificates of deposit in the secondary market at the time of each borrowing. utilizing the ninety-day certificate of deposit rate of

10.23% in existence at August 1, 1979, the current reserve requirement of 8%, and assuming utilization of 75% of the total funds available under the Lease, the effective annualized cost rate would be 12.89%.

If either of the Farley Units ceases to operate for operational reasons for 24 consecutive months after having been placed in commercial operation, Alabama will be required either to purchase that respective units's Fuel immediately for an amount equal to the unamortized cost of the Fuel and repay any corresponding amounts outstanding under the line of credit or to purchase the Fuel on a semiannual basis over the remaining life of the line of credit. The proceeds of such purchases will be used to retire all amounts owing to the Bank.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The proposed transaction has been authorized by the Alabama Public Service Commission. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 1, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28468 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-578]

Arden Mayfair, Inc.; Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Arden Mayfair, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of that Act.

The Applicant states, in part:

1. In December 1978, by virtue of a corporate reorganization, the Applicant became a wholly-owned subsidiary of Arden Group, Inc, ("Group"), a Delaware corporation.

2. The Applicant is the issuer of $21,900,200 face amount of 7% Subordinated Income Debentures due September 1, 2014 ("7% Debentures"). $18,150,202 face amount of the 7% Debentures are owned by Group as the result of a 1978 registered exchange offer, prusuant to which new 8¼% Debentures of Group were exchanged for Arden's 7% Debentures. The remaining $3,749,998 face amount of 7% Debentures are held of record by more than 300 persons.

3. The 7% Debentures are unconditionally guaranteed by Group.

4. There is very limited trading activity in the 7% Debentures in the over-the-counter market.

5. The 7% Debentures are not listed on any national securities exchange.

6. Group is not an operating company but is subject to the reporting requirements imposed by Section 13 of the 1934 Act.

In the absence of an exemption, Applicant is required to file annual and periodic reports with the Commission pursuant to section 15(d) of the 1934 Act.

Applicant contends that the exemptive order requested is appropriate in view of the facts that since the debentures are fully guaranteed by Group, it is the reports of that Company in which investors will be primarily interested; that the time, effort, and expense involved in preparation of the reports would be disproportionate to any benefit to the public; and that there has been little trading in the debentures.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L. St., NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than October 1, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

FR Doc. 79-28429 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-539]

Campbell Chain Co.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Campbell Chain Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. As a result of a tender offer made by Studebaker-Worthington, Inc., a Delaware corporation, from March 6, 1978 to May 31, 1978 and subsequent common stock repurchases of Applicant's stock by the Applicant itself, the Applicant's number of shareholders was reduced to below 300. Registration of the Applicant's common stock under Section 12(g) was terminated on August 12, 1979 pursuant to Rule 12(g)(4) of the 1934 Act.

2. There is no significant present trading in Applicant's common stock.

3. In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act for the fiscal year ending December 31, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate, in view of the fact that the time, effort and expense involved in the preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested persons not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28490 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-581]

College/University Corp.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that College/University Corporation has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. As a result of an offer made by College/University Holding Corporation ("C/U Holding"), a Delaware corporation which is a subsidiary of Baldwin-United Corporation, also a Delaware corporation, in February 1979 to purchase or exchange shares of Applicant's common stock for cash or shares of C/U Holding, the Applicant's number of shareholders was reduced to below 300. Registration of the Applicant's common stock under section 12(g) was terminated on August 13, 1979 pursuant to Rule 12(g)(4) of the 1934 Act.

2. There is very little trading in Applicant's common stock.

3. In the absence of an exemption, Applicant is required to file reports pursuant to sections 13 and 15(d) of the 1934 Act for the fiscal year ending December 31, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of sections 13 and 15(d) of the 1934 Act is appropriate, in view of the fact that the time, effort, and expense involved in the preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28491 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-561]

Lawry's Foods, Inc.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Lawry's Foods, Inc., a Delaware corporation, ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "Act") seeking an exemption from the requirement to file reports pursuant to section 15(d) of the Act.

The Applicant states in part:

1. Prior to July 9, 1979 the common stock of Lawry's Foods, Inc., a California corporation, (the "Old Company") was subject to the provisions of section 15(d) of that Act.

2. As of July 9, 1979 with shareholder approval, the Old Company was merged into the Applicant, a wholly-owned subsidiary of Thomas J. Lipton, Inc.

3. As a result of the merger, all the issued and outstanding shares of common stock of the Old Company were converted into the right to receive $43.75 in cash per share.

4. As a result of the merger all the issued and outstanding shares of the Old Company are owned by the Applicant.

5. The Applicant is required to file reports pursuant to section 15(d) of the Act.

6. In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission for the fiscal year ending in 1979.

The Applicant contends that no useful purpose would be served in filing the periodic reports because none of its securities is publicly held, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views on any substantial facts bearing to the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the

application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28492 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21205; 70-6345]

Louisiana Power & Light Co.; Notice of Proposal to Finance Construction of Pollution Control Facilities

August 31, 1979.

Notice is hereby given that Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a), 10 and 12(d) of the Act and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

In order to comply with water discharge standards LP&L has constructed and installed at its Little Gypsy Steam Electric Generating Station ("Little Gypsy Station") and Units 1 and 2 of its Waterford Steam Electric Generating Station ("Waterford 1 and 2"), in St. Charles Parish, Louisiana (collectively, the "St. Charles Stations"), and at its Sterlington Steam Electric Generating Station ("Sterlington Stations") in Ouachita Parish, Louisiana, certain facilities solely for water pollution control purposes. In 1977, prior to and in contemplation of the construction of such facilities, and pursuant to the authorization of this Commission as set forth in its orders dated June 15, 1977, June 24, 1977 and July 8, 1977 (HCAR Nos. 20073, 20089, and 20106), LP&L arranged certain long-term financing for these pollution control facilities. In order to effect the then contemplated financing of the pollution control facilities at the St. Charles Stations ("St. Charles Facilities")for the Parish to issue and sell its pollution control revenue bonds ("1977 St. Charles Bonds") in the principal amount of $4,000,000, for the bond sale proceeds to be deposited with a Trustee pursuant to an Indenture ("St. Charles Indenture") entered into by the Parish and the Trustee, for LP&L to sell the St. Charles Facilities to the Parish (in one or more completed portions) for cash, to be paid by the Trustee out of such proceeds, and for LP&L simultaneously to repurchase from the Parish the facilities sold to it, on an installment payment basis, for an aggregated price equal to the amount of money required to fully pay or retire the 1977 St. Charles Bonds in accordance with their terms. In order to effect the then contemplated financing of the polution control facilities at the Sterlington Station, LP&L entered into a substantially similar sale agreement with the Parish of Ouachita, Louisiana ("1977 Ouachita Agreement"), and that Parish entered into a substantially similar Indenture with a Trustee ("1977 Ouachita Indenture"), in connection with the issuance and sale by that Parish of its pollution control revenue bonds (the "1977 Ouachita Bonds") in the principal amount of $2,000,000. Due to the inaccurate and unduly low cost estimate originally made by the contractor for these projects and to the high rate of inflation during the period since such financings were effected in 1977, the proceeds of these 1977 bond issues were substantially insufficient to finance the respective projects to which they pertained. The instant application-declaration proposes additional long-term financing for the aforesaid pollution control facilities, to cover such cost overruns, through the issuance and sale of additional bonds of the nature aforesaid by the Parishes, and also to LP&L's proposed long-term financing of $1 million of additions and improvements ("industrial development facilities"), to be located on the site of the Sterlington Station.

In order to effect the additional financing of the pollution control facilities at the St. Charles Stations, LP&L proposes to enter into another sale agreement with the Parish of St. Charles, Louisiana ("1979 St. Charles Agreement"), which will provide that before the date of the 1979 St. Charles Bonds, LP&L will convey the St. Charles Facilities to the Parish in accordance with the 1977 St. Charles Agreement and the Parish will reconvey the St. Charles Facilities to LP&L further in accordance with the 1977 St. Charles Agreement. The Saint Charles Agreement will further provide for the Parish to issue and sell its pollution control revenue bonds ("1979 St. Charles Bonds") in the principal amount of $3,000,000, sufficient to cover the construction cost overruns and related costs of the St. Charles Facilities, for the bond sale proceeds to be deposited with a Trustee pursuant to an Indenture ("St. Charles Indenture") to be effect the redemption (without premium) of $750,000 principal amount (25%) of said bonds prior to such maturity date.

The 1979 St. Charles Agreement provides that LP&L will have the option to prepay the re-purchase price at any time upon payment of a premium corresponding to the redemption premium on said bonds as determined by the provisions of the 1979 St. Charles Indenture, or without premium in certain extraordinary and burdensome circumstances. Prepayment of the re-purchase price (without premium) will be mandatory if it is determined that the interest on the bonds is subject to Federal income tax. Under the 1979 St. Charles Indenture, said bonds are non-callable for redemption prior to July 1, 1989, except in the event that LP&L shall exercise its prepayment option or shall be obligated to pre-pay under the above mandatory prepayment provision, in either of which event the bonds shall be called and redeemed without premium.

The 1979 St. Charles Indenture will provide for the establishment with the Trustee thereof of a Bond Fund, a Project Acquisition Fund and an Escrow Fund; for any accrued interest and/or premium paid by the purchasers of said bonds to be deposited in the Bond Fund and for the remainder of the sale proceeds to be deposited and held by the Trustee in the Escrow Fund and never invested to produce a yield greater than the yield on said bonds; and for the Bond Fund to be used to pay the principal of, premium, if any, and interest on said bonds. The installment payments to be made by LP&L in payment of the re-purchase price are to be deposited in the Bond Fund. On the date fixed for payment of all of said bonds, the moneys in the Escrow Fund are to be transferred to the Bond Fund and used for the redemption of bonds.

In order to effect the additional financing of the pollution control facilities at the Sterlington Station, it is proposed that LP&L enter into a sale agreement with the Parish of Ouachita, Louisiana ("1979 Ouachita Agreement") and that said Parish will enter into an Indenture with a Trustee ("1979 Ouachita Indenture"), which, except as hereinafter set forth, are substantially similar to the 1979 St. Charles Agreement and the 1979 St. Charles Indenture, respectively and that pursuant thereto said Parish will issue and sell its pollution control revenue bonds ("1979 Ouachita Bonds") in the principal amount of $1,300,000 sufficient to cover the above-mentioned construction overruns and related costs of said facilities, LP&L will thereafter

sell the completed facilities to said Parish for cash, to be paid by said Trustee of the bond sale proceeds, and simultaneously LP&L will re-purchase said facilities from the Parish on an installment payment basis, all in the same manner and under the same terms as with respect to the financing of the St. Charles Facilities. The sinking fund payments under the 1979 Ouachita Indenture will be effective during the eleventh through the twenty-seventh years of the term of said bonds, and will effect the redemption (without premium) of $325,000 principal amount of said bonds prior to maturity.

In order to effect the contemplated financing of the industrial development facilities to be located on the site of the Sterlington Station ("Ouachita Industrial Development Facilities"), it is proposed that LP&L enter into a sale agreement with the Parish of Ouachita, Louisiana, ("Ouachita Industrial Development Agreement") and that the Parish will enter into an Indenture with a Trustee ("Ouachita Industrial Development Indenture"), which, except as hereinafter set forth, are substantially similar to the 1979 Ouachita Agreement and the 1979 Ouachita Indenture, respectively; and that pursuant thereto LP&L will construct, install and complete the Ouachita Industrial Development Facilities, the Parish will issue and sell its industrial development revenue bonds ("Ouachita Industrial Development Bonds") in the principal amount of $1,000,000, to cover construction and related costs of the Ouachita Industrial Development Facilities, and LP&L will thereafter sell the Ouachita Industrial Development Facilities to the Parish for cash, to be paid by the Trustee out of the bond sale proceeds, and will re-purchase said facilities from the Parish on an installment payment basis in the same manner and under the same terms as the Ouachita Facilities. Since the Ouachita Industrial Development Facilities are still to be constructed, there has been no prior financing agreement of this nature with respect to them.

The sinking fund payments under the Ouachita Industrial Development Indenture will be effective during the eleventh through the twenty seventh years of the term of the Ouachita Industrial Development Bonds, and will effect the redemption (without premium) of $250,000 principal amount of said bonds prior to maturity. In order to satisfy legal requirements with respect to such an issue of industrial development bonds, in lieu of the waiver by the Parish of all liens and resolutory conditions in connection with the re-sale to LP&L of the Ouachita Facilities, the Ouachita Industrial Development Agreement will provide for the subordination by the Parish of any such liens, conditions and rights in respect of the Ouachita Industrial Development Facilities to the liens of the LP&L Mortgage and Deed of Trust, as heretofore supplemented and as it may be supplemented in the future, under which LP&L's First Mortgage Bonds are issued.

Each sale agreement provides that the Parish will sell, issue and deliver the bonds as and when but only if requested by LP&L, provided that the issuance date requested by LP&L shall be no later than November 2, 1979. LP&L will not be a party to any of the Indentures nor to the underwriting arrangements for any of the bonds. However, since the amounts of the respective installment payments to be made by LP&L in payment of the respective re-purchase prices will be determined by the interest rates of the respective bond issues, LP&L will request the sale, issuance and delivery of such bonds only if it considers satisfactory the interest rate or rates thereof offered (and the amounts of the underwriters' fees proposed) by the underwriters, and only with the further authorization of the Commission. It is contemplated in the last connection that the proposed interest rate or rates and the underwriters' fees would be reported to the Commission by post-effective amendment to this application-declaration with the request that the Commission permit the same to become effective as promptly as possible.

LP&L presently contemplates that the bonds will be sold to a group of underwriters who will immediately make a public re-offering thereof. However, in the event that, in the opinion of LP&L time, scheduling, costs and expenses, or other factors make it desirable or necessary that the sale of the bonds be effected by private placement, LP&L may, prior to the issuance of the Commission's order hereon, amend this application-declaration to propose such private placement.

It is LP&L's understanding that under Section 103 of the Internal Revenue Code of 1954, as amended, the interest to be paid on the bonds of each of the three issues will be exempt from Federal income taxes. It is LP&L's further understanding that the interest rates on bonds and other debt obligations, the interest on which is exempt from Federal income taxes, have been in the past and can be expected to be when these bonds are sold 1½% to 2½% lower, or perhaps even lower than that at this time, than the interest rates on bonds and other debt obligations of similar tenor and comparable quality the interest on which is not so exempt.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28193 Filed 9-12-79; 8:45 am]
BILLING CODE 8010-01-M

[File No. 81-537]

1225 Maple Corp. (formerly AMT Corp.); Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that 1225 Maple Corporation (the "Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange

Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On August 8, 1978, Applicant's shareholders approved a plan of liquidation of Applicant's assets.

2. The Applicant has filed with the Commission a Form 8-K which reflects the shareholder approval of the plan of liquidation and a subsequent Form 8-K which reflects the progress of the liquidation.

3. Liquidating trustees have been appointed under Delaware law to conduct the final stage of the liquidation.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28487 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-550]

Nationwide Homes, Inc.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Nationwide Homes, Incorporated ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of sections 13 and 15(d) of that Act.

The Application states, in part:

1. On June 4, 1979, the Applicant was merged into HWN Holding Corporation, a wholly-owned subsidiary of Insilco Corporation which is a reporting company under the 1934 Act.

2. As a result of this transaction, the number of public shareholders of the Applicant was reduced to zero and all trading interest in the Applicant's common stock has been eliminated.

In the absence of an exemption, Applicant would be required to file a report on Form 10-K for the period ended March 31, 1979 and a Form 10-Q for the quarter ended June 30, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Section 13 and 15(d) of the 1934 Act is appropriate since it has no public shareholders, and the time, effort and expense involved in preparation of the reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L. St., NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than October 1, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capital Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28494 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16159; SR-PSD-78-3]

Pacific Securities Depository Trust Co., Inc.; Order Approving Rule Change Submitted by the Pacific Securities Depository Trust Co.

September 4, 1979.

On September 12, 1978, Pacific Securities Depository Trust Company, Incorporated ("PSDTC"), 301 Pine Street, San Francisco, California 94104, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change modifying its transfer agent custodian ("TAC") agreement. Specifically, the proposed rule change modifies the reporting requirements for transfer agent custodians, defines the term, "balance certificate," and incorporates the lien prohibition in Commission Rules 8c-1(g) and 15c2-1(g) under the Act. The proposal initially was filed under section 19(b)(3)(A) of the Act which permits certain types of proposed rule changes to be effective on filing subject to the authority of the Commission to abrogate the rule change summarily within 60 days. On October 26, 1978, PSDTC refiled the proposed rule change under Section 19(b)(2) of the Act which provides for public comment and Commission approval prior to the rule change becoming effective. On February 28, 1979, PSDTC submitted Amendment No. 2 to the proposal which substantially expanded the explanatory information contained in the filing.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the Federal Register on April 5, 1979 (44 FR 20525). Notice of the filing also was published in Securities Exchange Act Release No. 15686 (March 30, 1979). No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder appliable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28495 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-590]

Penn Corp.; Notice of Application and Opportunity for Hearing

Notice is hereby given that Penn Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to section 12(g) of the 1934 Act, and was thus subject to the reporting provisions of sections 13 and 15(d) of the 1934 Act.

2. On April 12, 1979, the Applicant offered to purchase any and all shares of its outstanding common stock at $21 per share net to the seller.

3. As a result of the offer to purchase, there were approximately 110 record holders as of May 24, 1979 of the remaining shares of Applicant's outstanding common stock.

4. After expiration of the offer to purchase on May 25, 1979 Applicant remains subject to the reporting requirements of section 15(d) of the 1934 Act.

In the absence of an exemption Applicant will be required to file certain periodic reports with the Commission including its quarterly report for its quarter ending July 31, 1979, its annual report for its fiscal year ending January 31, 1980, and such further reports for periods ending within Applicant's fiscal year pursuant to section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the required periodic reports because of the small number of public investors, and the lack of trading in its securities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28496 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10859; 812-4484]

Postipankki; Notice of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From all Provisions of the Act

September 5, 1979.

Notice is hereby given that Postipankki, c/o H. Rodgin Cohen, Esq., Sullivan & Cromwell, 125 Broad Street, New York, New York 10004 ("Applicant") filed an application on June 4, 1979, and an amendment thereto on August 17, 1979, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a Finnish bank, constituted under the terms of a 1969 act of the Republic of Finland ("Postipankki Act"), as a "financial institution which operates on the responsibility of the Republic of Finland." Applicant represents that it is wholly owned and controlled by the Republic of Finland. According to the application, as of December 31, 1978, Applicant's assets totaled approximately $2.9 billion, and total deposits were approximately $2.0 billion. Applicant states that it has not class of capital stock.

According to the application, Applicant primarily engages in receiving deposits and making loans. Applicant states that the Finnish Parliament has directed it to run banking activities as well as postal giro service and other duties assigned to it by the government. The application indicates that the Postipankki Act defines banking activities to include deposits and loans, payment and collection service, executor and trustee business, stockbroking, currency transactions and bank guarantees. In addition, under permission of the Finnish Ministry of Finance, Applicant may invest in domestic and, with the approval of the Bank of Finland, foreign credit or financial institutions. According to the application, Applicant may not issue obligations payable to bearer except with permission of the Finnish Ministry of Finance.

As of December 31, 1978, loans and advances, other than those made of the Investment Fund of Finland, aggregated $1,862,000,000 and constituted approximately 65% of its total assets. According to the application, Applicant also manages the funds of the Investment Fund of Finland which total approximately $320,000,000 and which are loaned primarily to industry and utilities. The application indicates that 73% of Applicant's revenue is interest income, and that service fees and commissions account for approximately 19%.

Applicant represents that it is under the direct supervision of the Finnish Ministry of Finance because the Republic of Finland is responsible for the activities of the Applicant. The Postipankki Act provides that the Applicant "operates on the responsibility of the Republic of Finland." The application states that in the opinion of Finnish counsel the Republic of Finland is obligated under the Postipankki Act to take all necessary actions that the solvency of Applicant is maintained and its obligations are fulfilled. Applicant also represents that holders of its notes have the Republic of Finland as their ultimate source of repayment.

According to the application, Applicant proposes to issue and sell unsecured prime quality commercial paper notes in bearer form and denominated in United States dollars to a commercial paper dealer in the United States which will reoffer the notes in minimum denominations of $100,000 to institutional investors and other entities and individuals that normally purchase commercial paper. Applicant states that it does not intend to sell the notes in the United States in excess of an aggregate of $70,000,000 at any one time outstanding. Applicant states that its purpose for making this offering is to provide an alternative source of supply of United States dollars to supplement dollars currently obtained in the Eurodollar market. Applicant represents that its notes will rank *pari passu* among themselves and equally with all

other unsecured indebtedness and superior equity stock, if any. Applicant plans to sell the notes without registration under the Securities Act of 1933 (the "1933 Act"), in reliance upon an opinion of its American counsel that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by section 3(a)(3) thereof. Applicant states that it will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant further represents that the presently proposed issue of securities and all future issues of securities shall have received prior to issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and that its United States counsel shall have certified that such rating has been received.

Applicant states that the United States commercial paper dealer selling the notes will provide each offeree of the notes prior to purchase with a memorandum describing Applicant's business and including the most recent publicly available fiscal year-end balance sheet and income statement of Applicant, which shall have been audited in such a manner as is customarily done for Applicant by Finnish auditors. Applicant states that it does not intend to include in such memorandum a presentation of its financial position prepared in accordance with United States generally accepted accounting principles because application of such principles to Applicant's financial statement could not accurately be done. Applicant represents that such memoranda will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States. Such memoranda will be updated annually, as well as periodically, to reflect material changes in Applicant's financial position. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act being expressly conditioned upon its compliance with the foregoing undertakings concerning disclosure documents. Applicant further undertakes that any future offering of its securities in the United States, which may include debt securities other than commercial paper, will be done on the basis of disclosure documents at least as comprehensive as those described above and as those customarily used in United States offerings of such securities. Applicant states that future offerings will not include shares of its capital stock.

Applicant represents that it will appoint a bank in the United States as its authorized agent to accept service of process in any action based on the notes and instituted in any state or federal court by the holder of any note. Applicant further represents that it will expressly accept the jurisdiction of any state or federal court in the City and State of New York with respect to any such action and that both its appointment of an authorized agent and its consent to jurisdiction will be irrevocable until all amounts due and to become due with respect to the notes have been paid by the Applicant. Applicant undertakes that it will similary consent to jurisdiction and will appoint an agent for service of process, which may be the Commission, in suits arising from any other offering of debt securities that it may make in the United States, which offerings Applicant states may include debt securities.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Applicant states that there is uncertainty as to whether it would be considered an investment company as defined under the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to section 6(c) of the Act exempting it from all provision of the Act. Applicant submits that it is extensively regulated by the Finnish Ministry of Finance and the Finnish Cabinet and, therefore, that application of the requirements of the Act to Applicant would be unnecessary and burdensome. Applicant also asserts that its capital structure could not be conformed to the provisions of the Act. As an entity wholly-owned by the Republic of Finland and subject to Finnish governmental control and regulation, Applicant submits that it is significantly different from the type of institution that Congress intended the Act to regulate. Applicant further asserts that an exemption pursuant to section 6(c) of the Act would benefit institutional and other sophisticated investors of the United States, since they would otherwise be precluded from purchasing Applicant's commercial paper. Moreover, the application contends that because of the development of the large Eurodollar market, the major foreign banks which deal in that market need a source of dollars in the event of even a short disruption in the market. Applicant concludes that granting an exemptive order pursuant to section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 1, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28497 Filed 9-12-79 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-564]

The Starr Broadcasting Group, Inc.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Shamrock Broadcasting Company, Inc., on behalf of The Starr Broadcasting Group, Inc. (the "Applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") seeking an exemption from the reporting requirements of sections 13 and 15(d) of the Exchange Act.

The Application states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(b) of the Exchange Act.

2. On July 18, 1977, the Applicant was merged into Shamrock Broadcasting Company, Inc., a privately-held corporation.

3. As a result of that merger, each of the Applicant's shareholders received $15.25 in cash for each share of the Applicant's common stock.

4. In the absence of an exemption, the Applicant will be required to file certain periodic and other reports with the Commission for the period ending June 30, 1980 pursuant to section 15(d) of the Exchange Act.

The Applicant contends that no useful purpose would be served in continuing its obligation to file reports because it has no securities outstanding and, consequently, there is no public investment interest in Applicant.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28498 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-560]

Telenet Corp.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Telenet Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to section 12(g) of the 1934 Act, and was subject to the reporting provisions of sections 13 and 15(d) of the 1934 Act.

2. Pursuant to an Agreement of Merger, dated as of January 31, 1979, a wholly-owned subsidiary of General Telephone & Electronics Corporation ("GTE") was merged into Telenet. Each outstanding share of Telenet common stock was converted into .7652 of a share of GTE common stock, and GTE became the sole stockholder of Telenet.

3. Applicant, after termination of its section 12(g) registration on July 18, 1979, is now subject to the reporting provisions of section 15(d) of the 1934 Act.

In the absence of an exemption, Applicant will be required to file periodic reports with the Commission through December 31, 1979.

The Applicant contends that no useful purpose would be served in filing the required periodic reports because there are no longer public investors or trading interest in its securities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28499 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-549]

Tratec, Inc.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Tratec Incorporated ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

(1) Pursuant to a Plan of Liquidation approved by the Applicant's shareholders on June 5, 1979, each share of the Applicant's common stock received a liquidation distribution of $10.04.

(2) Pursuant to a Purchase Agreement dated April 20, 1979, substantially all of the Applicant's assets and liabilities were assumed by McGraw-Hill, Inc.

(3) As of June 19, 1979, the Applicant had wound up its business and dissolved.

For a more detailed statement of the information presented, all persons are referred to said application which is on

file in the offices of the Commission at 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested persons not later than October 1, 1979 may submit to the Commission in writing his views of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28500 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/223]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Wednesday, October 3, 1979, in Room 3201 of the United States Coast Guard Headquarters Building, 2100 Second Street, S.W., Washington, D.C.

The purpose of this meeting is to finalize preparations for the 41st Session of the Maritime Safety Committee (MSC) of the Intergovernmental Maritime Consultative Organization (IMCO), which is scheduled for October 8-12, 1979, in London. In particular, the Shipping Coordinating Committee will discuss development of U.S. positions dealing with, inter alia, the following topics:

Amendments to the 1974 SOLAS Convention.

Survey and Inspections.

Casualty Statistics.

Report of the Joint IMCO/IAEA Technical Committee on Port Entry Requirements for Nuclear Merchant Ships.

Reports of various Subcommittees.

Requests for further information should be directed to Captain R. A. Biller, USCG, Chief, International Affairs Division, U.S. Coast Guard (G-AIA/TP21), 2100 Second Street, S.W., Washington, D.C. 20590, telephone: (202) 426-2280.

The Chairman will entertain comments from the public as time permits.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

August 31, 1979.

[FR Doc. 79-28410 Filed 9-12-79; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/224]

Secretary of State's Advisory Committee on Private International Law, Study Group on International Child Abduction by One Parent; Meeting

There will be a meeting of the Study Group on International Child Abduction by One Parent, a study group of the subject Advisory Committee, at 10:00 a.m., on Saturday, September 29, 1979, in Room 219, Hastings School of Law, 198 McAllister Street, San Francisco, California.

The purpose of the meeting will be to review the report of the Chairman concerning the first meeting of the Special Commission International Child Abduction by One Parent of the Hague Conference on Private International Law which took place at The Hague on March 12-21, 1979. Moreover, there will be a discussion of the major issues likely to arise at the second meeting of the Hague Conference's Special Commission, which is scheduled to meet at The Hague, November 5 through 16, 1979.

Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman. Those planning to attend should, prior to September 28, notify Mrs. Mary Marshall, Office of the Legal Adviser, Department of State, of their name, affiliation, address and telephone number. The telephone number is (202) 632-8134.

Stephen M. Schwebel,

Vice Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 79-28468 Filed 9-12-79; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Intercity Passenger Docket No. 1; Notice 2]

Nonoperational Portions of Stations and Related Facilities, Northeast Corridor Improvement Project; Final Determination

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Final Determination.

SUMMARY: This notice sets forth the determination by the Federal Railroad Administration (FRA) as to which elements of intercity rail passenger stations along the Northeast Corridor are "nonoperational" portions of stations or "related facilities" within the meaning of section 703(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (the 4R Act). Such station or station-related elements are only eligible for improvement under the FRA's Northeast Corridor Improvement Project (NECIP) if at least 50 percent of the costs of such improvements are borne by a non-Federal party. This notice also lists certain station and station-related elements which are considered "operational", and so eligible for improvement with full funding by the FRA, and certain elements which are considered ineligible for funding under the NECIP.

DATE: This determination is effective as of September 13, 1979

FOR FURTHER INFORMATION CONTACT: Principal Program Official: Hanan A. Kivett, Northeast Corridor Project Office, 202-472-5890. Principal Attorney: Jeff Godwin, Office of Chief Counsel, 202-426-7710.

SUPPLEMENTARY INFORMATION:

1. Purpose

Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended, (the "4R Act") (45 U.S.C. 851 *et. seq.*) established the Northeast Corridor Improvement Project (NECIP) to improve the intercity rail passenger system between Washington, D.C., and Boston, Massachusetts. Section 703(1)(B) of the 4R Act (45 U.S.C. 853(1)(B)) sets as one of the goals of the NECIP:

> The improvement of nonoperational portions of stations (as determined by the Secretary in consultation with the National Railroad Passenger Corporation) used in intercity rail passenger service and of related facilities and fencing. Fifty percent of the cost of such improvements shall be borne by States (or local or regional transportation

authorities) or other responsible parties, except that the Secretary may, in his sole discretion, fund entirely any safety-related improvement.

The Secretary of Transportation has delegated his authority under section 703(1)(B) to the Federal Railroad Administrator (45 U.S.C. 802(8); 49 CFR 1.49(u)).

This notice is issued to state FRA's policy for implementing section 703(1)(B), by defining the two statutory terms "nonoperational portions of stations used in intercity rail passenger service" and "related facilities", and by determining which station and station-related elements would fall into each of these two categories. The significance of this Determination is that, unlike other improvements under the NECIP, no more than 50 percent of the cost of improvements to elements determined to be "nonoperational" or "related facilities" may be borne by the FRA.

As guidance for interpreting this Determination, although not expressly required by statute, two other kinds of station and station-related elements are listed here. One category consists of elements the FRA considers "operational"; that is, directly facilitating intercity rail passenger service, and therefore eligible to be improved with full FRA funding. The other category consists of elements which are considered ineligible for improvement with NECIP funds.

Because of the wide variety of circumstances applying to the several rail stations along the Northeast Corridor, the definitions have been framed broadly and the Determination covers only generic types of station and station-related elements. Particular facilities at particular sites may not fit precisely into any of the generic elements covered by this Determination, and the FRA intends to apply the broad definitions set forth here to make a specific determination in each case if and when it arises.

This Determination is intended solely to aid the FRA and potential cost-sharing parties in determining the eligibility of potential station and station-related improvements for a particular level of funding under the NECIP. This Determination should not be considered as a commitment of any kind by the FRA to make any funding available for any improvement at any station. The extent of NECIP investment at any station will necessarily be based on the desirability of given improvements taking into account the objectives of the 4R Act, budgetary limitations on the FRA, and the availability of local funding participation for those improvements which are required to be cost-shared.

II. Comments

A notice of Proposed Determination was published in the Federal Register on April 28, 1978 (43 FR 18394). Seven written comments were received.

The largest group of comments suggested that certain station and station-related elements be moved to the "operational" category from other categories and thus be eligible for improvement with full FRA funding. The FRA has not adopted these suggestions. It is the FRA's position that the intent of section 703 of the 4R Act was to permit full NECIP funding only of those improvements which primarily facilitate the operation of high-speed intercity rail passenger service. Thus station and station-related elements which primarily facilitate other modes of travel, such as pedestrain sidewalk not immediately adjacent to the station, automobile access and parking facilities, commuter rail facilities, and long-haul (off-Corridor) rail facilities, cannot generally be improved at the exclusive expense of the NECIP. This Final Determination has been redrafted so as to attempt to more clearly reflect the intent of section 703.

Several commenters questioned the exclusion of certain elements from any eligibility for improvement with NECIP funding. The FRA has not adopted these comments for various reasons. Commercial and office space development is held ineligible for funding under the NECIP because it is considered neither directly nor indirectly to facilitate the use of a station for intercity rail passenger service. Certain Amtrak facilities have been excluded from NECIP funding eligibility because the FRA already makes funds available to Amtrak under section 601 of the Rail Passenger Service Act (45 U.S.C. 601) for improvements not directly benefiting high-speed service in the Northeast Corridor. Intercity bus facilities have been excluded from NECIP funding eligibility because the intercity bus mode is not a predominantly local or metropolitan area transport mode, as are commuter rail, light rail, and commuter and local bus systems, and also because other Federal and State programs are available to assist in improving such facilities, such as the discretionary capital grant program administered by the Urban Mass Transportation Administration under section 3 of the Urban Mass Transportation Act.

Finally a comment was made that this rulemaking is a major Federal action significantly affecting the quality of the human environment, and that therefore, under the National Environmental Policy Act (NEPA), an environmental impact statement must be prepared before this Determination can go into effect. This commenter urges that an environmental impact assessment would reveal that adverse impacts would result from the absolute exclusion of intercity bus facilities from improvement under the NECIP. The FRA disagrees that this notice constitutes a major Federal action within the meaning of NEPA and FRA's "Procedures for Considering Environmental Impacts" (44 FR 16062, March 16, 1979), and also disagrees that this Determination will significantly affect the quality of the human environment. Therefore no environmental impact documentation has been prepared in conjunction with this determination. It should be noted, however, that the FRA has already issued a Final Programmatic Environmental Impact Statement covering the entire NECIP which includes discussion of the station program, and that site-specific assessments are being and will continue to be conducted as part of FRA planning for the actual work to be performed at individual stations.

III. Consultation

As required by section 703(1)(B) of the 4R Act, the National Railroad Passenger Corporation (Amtrak) has been consulted about and has concurred in this Determination.

The FRA's Final Determination on nonoperational portions of stations used in intercity rail passenger service and related facilities is therefore issued as set forth below.

Department of Transportation; Federal Railroad Administration; Northeast Corridor Improvement Project; Final Determination, Nonoperational Portions of Stations and Related Facilities

Section 1. Authority.

This Determination is made under the authority of section 703(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended, (the "4R Act") (45 U.S.C. 853(1)(B)).

Section 2. Definitions.

For purposes of this Determination:

(a) An "operational" portion of a station means any facility, system, or component of a station which directly facilitates the use of the station for high-speed intercity rail passenger service or which primarily benefits high-speed intercity rail passengers.

(b) A "nonoperational" portion of a station means any facility, system, or component of a station which indirectly facilities the use of the station for high-speed intercity rail passenger service.

(c) A "related facility" to a station means a facility which is not a portion of a station but

the operation or use of which enhances the use of the station for high-speed intercity rail passenger service.

(d) "Intercity rail passenger service" means rail passenger service provided by the National Railroad Passenger Corporation ("Amtrak") but does not include service provided for State, regional, or local commuter rail authorities.

(e) "High-speed intercity rail passenger service" means the intercity rail passenger service in the Northeast Corridor improved under the authority of section 703(1)(A)(i) of the 4R Act, and does not include intercity rail passenger service serving points located off the Northeast Corridor.

(f) "Northeast Corridor" means the location of the railroad mainline running between Washington, D.C., and Boston, Massachusetts, which is directed to be improved by section 703(1)(A)(i) of the 4R Act.

Section 3. Determination.

(a) "Operational" portions of stations (eligible for improvement with 100 percent NECIP funding) are considered to include those of the following facilities, systems, and components of or adjacent to a station building which directly facilitate high-speed intercity rail passenger service or which primarily benefit high-speed intercity rail passengers:

(1) Infrastructure and utility systems.

(2) Waiting areas, staging areas, general circulation areas, and concourses.

(3) Signing and graphics.

(4) Public services such as restroom facilities.

(5) Stairways, escalators, and elevators.

(6) Boarding platforms and canopies over such platforms.

(7) Station entrances and canopies over such entrances.

(8) Sidewalk areas and curbside drop-off and pick-up facilities immediately adjacent to a station entrance.

(9) Amtrak ticketing.

(10) Communications facilities and systems.

(11) Security facilities and systems.

(12) Amtrak high-speed intercity rail passenger service employee support facilities.

(b) "Nonoperational" portions of stations (eligible for improvement with a maximum 50 percent NECIP funding) are determined to include the following facilities, systems, and components of or adjacent to a station building:

(1) Waiting areas, staging areas, general circulation areas, and public services used primarily by passengers of commuter rail or other transport modes.

(2) Commuter rail ticketing and support facilities.

(3) Commuter rail boarding platforms and canopies over such platforms.

(4) Stairways, escalators, and elevators not used primarily by high-speed intercity rail passengers.

(5) Ticketing and support facilities for operators of local and commuter bus and light rail systems.

(c) "Related facilities" of stations (eligible for improvement with a maximum 50 percent NECIP funding) are determined to include the following:

(1) sidewalks and other pedestrian connections not immediately adjacent to a station entrance.

(2) Curbside drop-off and pick-up facilities which are not immediately adjacent to a station entrance or which are more extensive than required to service high-speed intercity rail passengers.

(3) Vehicular access to the station site.

(4) Short-term parking.

(5) Long-term parking.

(6) Ticketing and support facilities, not located in the station building, for operators of local and commuter bus and light rail systems.

(7) Landscaping and similar site improvement.

(d) "Other" facilities (ineligible for improvement with NECIP funds) are considered to include the following:

(1) Commercial or office facilities.

(2) Concession and concession support facilities, except for facades which form an integral part of an "operational" portion of a station.

(3) Amtrak support facilities not used primarily in support of high-speed passenger service in the Northeast Corridor, such as commissaries and regional offices.

(4) Baggage facilities which are not primarily used by high-speed intercity rail passengers.

(5) Intercity bus facilities.

Issued in Washington, D.C., on September 6, 1979.

John M. Sullivan,

Federal Railroad Administrator.

[FR Doc. 79-28291 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Orientation Sessions; Correction

On September 4 a notice was published in the Federal Register announcing the orientation sessions for the National Highway Safety Advisory Committee. The dates of the meeting were incorrect. The correct dates are September 27 and 28.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on: September 6, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79-28200 Filed 9-12-79; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

Fourth Section Applications for Relief

These Applications for Long- and Short-Haul Relief Have Been Filed With the ICC

September 7, 1979

Protests are due at the Commission, Suspension and Fourth Section Board in Washington, D.C. no later than 1:00 P.M., Eastern Daylight Time, September 20, 1979.

FSA No. 43743, Far Eastern Shipping Company No. 13, intermodal rates on general commodities, in containers, between rail terminals on the United States Atlantic and Gulf Coasts, on the one hand, and, on the other, ports in the Far East, in its Tariff ICC FACU 301, FMC No. 16, and four other tariffs, effective September 23, 1979. Grounds for relief—water competition.

FSA No. 43744, Seaspeed Services No. 7, intermodal rates on general commodities, in containers, from rail terminals at United States Pacific and Gulf Coast ports to ports in the Middle East, in its Tariff ICC SSPU 300, FMC No. 2, effective September 24, 1979. Grounds for relief—water competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28448 Filed 9-12-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 50)]

Illinois Central Gulf Railroad & New Orleans Great Northern Railway Abandonment Between Wanilla and Byram, in Lawrence, Copiah, and Hinds Counties, MS; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided July 11, 1979, a finding, which is administratively final, was made by the Commission, Adminstrative Law Judge, stating that, subject to the (1) conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line Railroad Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979); and (2) to the condition that co-applicants shall give protestants or any other responsible parties an opportunity to purchase the entire line of railroad sought to be abandoned, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of its branch line of railroad extending from mile post 137.6 near Wanilla, MS, to mile-post 174.8 near Byram, MS, a distance of 37.2 miles, in Lawrence, Copiah, and Hinds Counties, MS. A certificate of abandonment will

be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice (October 15, 1979), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail service over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28450 Filed 9-12-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-9 (Sub-No. 9F)]

St. Louis-San Francisco Railway Co.—Abandonment Between East Lynne and Bolivar, in Cass, Johnson, Henry, St. Clair, Hickory and Polk Counties, Mo.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided June 20, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Company of its line of railroad from milepost D-52.0 near East Lynne, MO, to milepost D-153.0 near Bolivar, MO, a distance of 101 miles in Cass, Johnson, Henry, St. Clair, Hickory and Polk Counties, MO, subject (1) to the conditions for the protection of employees as discussed in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), (2) to applicant keeping intact all of the right-of-way underlying to track, including all of the bridges and culverts for a period of 120 days from the issuance of a certificate to permit any state or local government agency or other interested party to negotiate the purchase of the properties for public use and (3) the right of any interested shipper, on or before October 15, 1979, to file a verified petition to reopen this proceeding, with proper service of said petition on all parties. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice (October 15, 1979), unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SERVICES

White House Conference on Library and Information Services

AGENCY: National Commission on Libraries and Information Science.

ACTION: Notice.

SUMMARY: The National Commission on Libraries and Information Science proposes the rules of order for the conduct of the White House Conference on Libraries and Information Services. The intent of these rules is to provide for the orderly conduct of the Conference in accordance with the authority vested in the Commission to organize and to convene the Conference.

EFFECTIVE DATE: These rules, and amendments suggested hereto, are effective upon adoption by delegates.

FOR FURTHER INFORMATION OR COMMENT, CONTACT: Jean-Anne South, Program Coordinator, White House Conference on Library and Information Services, c/o National Commission on Libraries and Information Science, 1717 K Street, N.W., Suite 601, Washington, D.C. 20036, telephone 202-634-1527.

Deadline for comments is September 24, 1979.

Section 1—Definitions of Terms Used

(a) "Commission" means the National Commission on Libraries and Information Science, established by Pub. L. 91-345, July 20, 1970.

(b) "Advisory Committee" means the Advisory Committee of the White House Conference on Library and Information Services which is composed of 28 members: Three designated by the Chairman of the Commission; five designated by the Speaker of the House of Representatives (with no more than three being members of the House of Representatives); five designated by the President Pro Tempore of the Senate (with no more than three being members of the Senate); and not more than fifteen appointed by the President. The Advisory Committee assists and advises the Commission in planning and conducting the White House Conference on Library and Information Services in accordance with Pub. L. 93-568, December 31, 1974.

(c) "Conference" means the White House Conference on Library and Information Services, to be organized and convened by the Commission in accordance with P.L. 93-568.

(d) "Planning committees" means the planning committees in each State and territory designated by the Commission to organize and conduct a pre-White House Conference in each State and territory in preparation for the White House Conference on Library and Information Services.

(e) "State" includes the fifty States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, unless otherwise specified.

(f) "State meetings" means the meeting organized and conducted in each State by the planning committees in preparation for the Conference.

(g) "Act" means P. L. 93-568, December 31, 1974.

(h) "Conference session", or "general session" refer to the meetings which may be held at the following times:

Session I. November 15, evening.
Session II. November 16, morning.
Session III. November 18, afternoon.
Session IV. November 19, morning.

(i) "Delegates" means (a) Individuals selected or elected through a process determined by those planning committees in each state and territory designated by the Commission to conduct the State and territory pre-White House conferences.

(b) Individuals selected as Delegates-at-Large in accordance with Commission policies and procedures.

(j) "Official Observers" means those individuals representing organizations, agencies, or groups, invited to attend the conference. This status does not confer voting and other delegate rights.

Section 2—Words Importing Gender

As used in these rules, unless the context requires a different meaning, all words importing the masculine gender include both masculine and feminine genders.

Section 3—Conference Process. Proposed Rules

Subparts

4.1 Call to Conference.
4.2 Voting body.
4.3 No proxy voting.
4.4 Method of voting.
4.5 Identification.
4.6 Registration for Conference sessions.
4.7 Order of business.
4.8 Designated seating.
4.9 Quorum.
4.10 Adoption of rules.
4.11 Discussion and debate.
4.12 Making motions.
4.13 Credentials committee.
4.14 Timekeepers.
4.15 Floor tellers.
4.16 Recommendations committee.
4.17 Rules committee.
4.18 Parliamentary authority.
4.19 Minutes.
4.20 Conference officials.
4.21 Committee of the Conference.

4.1 Call to Conference.

The Commission shall determine the time, place and the agenda of the Conference and shall issue official notice thereof to the Chair, to the State Library Agency Heads of each State, to all delegates, and to the general public.

4.2 Voting body.

The voting body of the Conference shall consist of the following voting delegates:

(a) State delegates certified as having been duly selected as a part of State or Territorial pre-Conference in accordance with applicable regulations (Reference to *Advisory Memo* Number 1, Delegate Determination).

(b) Additional delegates-at-large designated by the Commission as deemed necessary and appropriate to fill the requirements of Pub. L. 93-568, S.J. Res. 40(a)(2), December 31, 1974.

(c) Alternate State delegates who have been properly certified in one of the following two ways:

(1) If the Commission receives proper notification by November 1, 1979 that a State delegate is unable to attend, the ranking alternate selected at the State pre-White House Conference will be permanently certified by the Commission as a State delegate; or

(2) The Chair of the State delegation shall notify the Credentials Committee if he has been informed by a delegate in his delegation that such a delegate is unable to attend or can no longer continue to participate in one or more sessions. Upon notification by the chair of the State delegation, the Credentials Committee will then certify the appropriate ranking alternate delegate present at the Conference as a delegate for his State for the appropriate session or sessions.

(3) In implementing the aforementioned rules, the following principles shall be controlling:

(i) In no case shall the two-thirds non-library-related to one-third library-related balance of the Conference delegation be abrogated.

(ii) An alternate has no right to participate as a voting delegate unless properly certified pursuant to paragraph (c) (1) or (2) of this section.

(iii) If a delegate has notified the chair of his State delegation that he is unable to participate in any session and if he has been replaced by an alternate for that session according to procedures in this section, he may not return and be recertified as a voting delegate during any such session.

(iv) There shall be no alternate delegates for delegates-at-large to the Conference.

4.3 No proxy voting.

There shall be no proxy voting.

4.4 Method of voting.

No individual shall have more than one vote. The regular method of voting shall be by Standing Vote, Colored Card, Paper Ballot or other individual mechanism. A majority vote of those present and voting shall be required in order to overrule any ruling of the chair. There will be no secret ballots or roll call votes.

4.5 Identification.

All voting delegates and all alternates shall have photo identification badges.

4.6 Registration for Conference sessions.

All persons who attend any Conference sessions (including press) must comply with registration requirements, including registration with name, address, identification, and payment of any required fee. Upon compliance with registration requirements, each registrant shall be issued an identification badge as delegate, alternate delegate-at-large, special guest, official observer, press, staff, moderator, resource person, or recorder. Badges shall not be transferable and they must be visible at all meetings. Badges altered in any fashion shall be deemed illegal.

4.6–1 Appeals to registration.

All appeals to the above-mentioned registration rules shall be adjudged by the Credentials Committee of the Conference.

4.7 Order of business.

The Commission shall establish the order of business for the Conference when it issues the Call to the Conference according to 4.1, which shall be published in the Federal Register as procedurally demanded. New business may be submitted and adopted in accordance with 4.7–1 or 4.10–1.

4.7–1 New business.

Subject matter not embraced within the established order of business in the judgment of the Chair of the Conference may be brought up under the heading of new business at a general voting session of the delegates, either the interim or the final session. Any such new business shall be submitted to the recording secretary in writing at least twenty-four hours prior to the beginning of the last plenary session. A two-thirds vote of those voting delegates present shall be required to consider such new business.

4.8 Designated seating.

Separate seating spaces shall be provided and clearly designated as follows (not in order of preference): (a) Current and past Commission members and Advisory Committee members; (b) State delegates; (c) Delegates-at-large; (d) Alternate State delegates; (e) Special guests; (f) Official observers; (g) Operational committees and Commission and Conference staff; (h) Duly registered press; and (i) Duly registered observers to the capacity of the meeting rooms.

Only persons wearing appropriate badges shall be admitted to any session by the Credentials monitors, and only to those designated areas and at designated times in accordance with procedures established by the Commission and the Credentials Committee. Only voting delegates, authorized media personnel, and authorized Commission, Advisory Committee, and Conference staff shall be admitted to the floor for general Conference sessions.

4.9 Quorum.

Two-thirds of the duly registered voting delegates shall constitute a quorum for all plenary voting sessions.

4.10 Adoption of rules.

In accordance with 4.9, a two-thirds majority of all voting delegates shall be required for adoption of Conference rules.

4.10–1 Amendments to rules.

All suggested amendments to the adoption of the proposed rules shall be presented in writing to the Chair of the Conference five hours prior to the first general session of the Conference. A two-thirds majority of the delegates present (which must constitute a quorum) shall be required for an amendment to the Conference rules. All discussion and debate on the adoption of rules shall be governed by the requirements as stated in 4.11.

4.11 Discussion and debate in theme and general sessions.

(a) In order to address the Conference, a voting delegate must address the moderator, await recognition, give his name and identification and State, and state whether he is speaking in the affirmative or the negative.

(b) Discussion on a motion or agenda topic shall be limited to two minutes for each speaker.

(c) No individual may speak a second time on an issue until all others who wish to speak have had an opportunity to do so.

(d) Debate may be limited or terminated by a simple majority vote of those voting delegates (subject to quorum requirements) present and voting.

(e) By a two-thirds vote of delegates present, a person other than a voting delegate may be permitted to speak in clarification of an issue during Conference debate.

(f) The Chair of the Conference shall have the authority to call an executive session of the Conference when he deems it necessary to insure the orderly conduct of the Conference. In the event the chair exercises this authority, the hall shall be cleared of all observers.

4.12 Making motions.

(a) Only properly certified voting delegates may speak to issues, make motions or vote. All motions, including motions on procedural matters, shall be written and signed by the person who makes the motion. The chair may require such written motions before action is taken.

(b) A majority vote of those authorized voting delegates who are present and voting shall be required to table, or to postpone indefinitely, or to object to consideration.

4.13 Credentials committee.

A Credentials Committee shall be appointed by the Commission for the Conference. The Credentials Committee shall have the authority and responsibility to resolve any questions of registration, voting rights, or admission to the Conference, and to report registration to the Conference upon request of the chair. The list of State delegates and of delegates-at-large shall be provided to the chair of the Credentials Committee prior to the opening of Conference registration. Duplication of such lists shall be prepared to facilitate the registration.

(a) No registrant will be permitted to obstruct the view or hearing of any other registrant by any device. Only persons authorized by the Commission shall be permitted to bring any electronic or sonic device into the Conference. Any person violating these rules may be denied all Conference privileges and removed from the Conference.

(b) Any registrant may be requested at any time by the Credentials Committee to provide additional identification. The Credentials Committee may deny any or all Conference privileges to any registrant who lacks appropriate identification, or abuses any Conference privilege, or obstructs the orderly conduct of the Conference.

(c) The Credentials Committee shall have available sergeants-at-arms and credentials monitors as necessary to assist in the enforcement of the rules of the Conference at any or all of the Conference sessions.

4.14 Timekeepers.

Timekeepers shall serve at all sessions. Their duty shall be to indicate to each speaker an appropriate warning before expiration of the allowed time.

4.15 Floor tellers.

(a) Where deemed appropriate by chair and co-chair of small group sessions, floor tellers shall be appointed to count the votes and tabulate for the working group the votes of all eligible voting delegates.

(b) At theme and plenary sessions, floor tellers shall be appointed by the Rules Committee to count, tabulate, and report standing count votes. The floor tellers shall be assigned to definite sections of the Conference floor. A record of the vote shall be entered in the minutes. During a vote count, only floor tellers shall be permitted to move about. All other persons except voting delegates shall leave the voting area. In the case of the theme sessions, a two-thirds count of all eligible delegates to that session shall be deemed a quorum upon which the majority vote shall be based.

4.16 Recommendations committee.

There shall be Conference Recommendations Committees, whose membership shall consist of a delegate representative elected by each small working group (assisted by the moderator or co-moderator of each small working group, and the recorder from each small working group).

The membership of the Recommendations Committee shall be divided into five theme areas, and each of these five groups shall consist of the elected delegates from small work groups in that theme (assisted by the moderator or co-moderator of each working group for that theme area, and the recorders from each working group for that theme area. In addition, there shall be an overall moderator and co-moderator for each of the five theme area groups of the Conference.

(a) It shall be the duty of the moderator, co-moderator, recorder, and elected delegate from each small working group at the conclusion of each working session of the small working group to meet with the corresponding representatives from other working groups in their theme area to consider and resolve any overlaps which have occurred between each of their groups.

(b) It shall be the duty of the theme chair, with the selected participation of moderator, co-moderator, rapporteurs, and elected delegates from each of the small working groups within his theme area, to resolve all differences and/or questions within his theme area and other theme areas prior to the first theme session of the Conference.

(c) At the theme sessions, which shall be attended by all delegates to the small working groups in the relevant theme area, the top five priority recommendations from among the small working groups' recommendations will be voted on by the delegates.

(d) The results of the theme sessions will be discussed by the moderators of the theme sessions and delegate representatives of the small working groups, (assisted by the moderators in that theme area, and the recorders in that theme area). The results of these deliberations shall be presented to the final general sessions of the Conference delegates for their vote (subject to a quorum) on ratification of the priorities as established in each of the five Conference theme areas.

4.17 Parliamentary authority.

(a) The Commission shall appoint the parliamentarians who shall be advisors to the moderators of working groups, theme sessions, and general sessions. The rules in Roberts' Rules of Order Newly Revised shall govern all sessions of the Conference in all cases when not inconsistent with these rules.

(b) The format, agenda, order of business and seating arrangements of the Conference shall be determined in all cases by the Commission. All discussion groups or other meetings of the Conference shall be governed by Roberts' Rules of Order Newly Revised whenever open debate is scheduled. This includes open hearings.

(c) Any questions regarding the interpretation of these rules shall be resolved by the Moderator of the Conference in consultation with Conference Parliamentarian.

4.18 Minutes.

The recording secretary(s), who shall be appointed by the Commission, shall be responsible for the preparation of the official minutes of all general sessions and open hearings. Tape recordings shall be provided for all general session discussions to aid in the preparation of accurate minutes by the designated recorder or recorders. Minutes shall be approved by the moderators of the Session(s) and by the Chair of the Commission or his designate.

4.20 Conference officials.

At each general session, there shall be in attendance a moderator, co-moderator, Federal officer appointed pursuant to the requirements of the Federal Advisory Committee Act, the chair of the Rules Committee or his designee, the chair and co-chair of the Recommendations Committee, the chair of the Credentials Committee or his designee, an official conference parliamentarian, timekeepers, tellers, recording secretary(s), and credentials monitors. The chair and vice-chair for each plenary (general) session shall be appointed by the Commission.

4.21 Committee of the Conference.

Pursuant to the requirements in P. L. 93-568, the Commission shall establish a Committee of the Conference which will take steps to provide for the accurate reporting of the proceedings and recommendations of the Conference, as well as taking responsibility for any procedures relating to future convening of another White House Conference on Library and Information Services.

Marilyn K. Gell,

Director.

September 12, 1979.

[FR Doc. 79-28718 Filed 9-12-79; 11:54 am]

BILLING CODE 7527-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

1971–1974 and 1976–1978 Capris Manufactured by Ford Motor Co.; Changes in Public Proceeding

On August 16, 1979, the National Highway Traffic Safety Administration issued a notice for publication in the Federal Register (44 FR 48021) that a public proceeding would be held on September 18, 1979, regarding its initial determination of the existence of safety-related defects in the front seat backs on 1971–1974 Capri automobiles; the headlight switches on 1971–1972 Capris; and the floor-mounted manual transmission gearshift levers on 1971–1974 and 1976–1978 Capris. The purpose of the proceeding was to allow the manufacturer of these vehicles, Ford Motor Company, to present data, views and arguments to establish that the alleged defects in the 1971–1974 and 1976–1978 Capris do not exist or are not safety-related. Interested persons were also invited to participate.

The public proceeding announced in the notice of August 16 has been rescheduled and will now take place on Thursday, October 18, 1979, at 10:00 a.m., in Room 2230 of the Department of Transportation Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Because Ford Motor Company announced, following the notice of initial determination, that it intends to conduct a recall of the subject headlight switches in accordance with the provisions of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1413, 1414) and the regulations promulgated thereunder (49 CFR Part 577), the public proceeding will be limited to the alleged defects in the reclining front seat backs in 1971–1974 Capris and the floor-mounted manual transmission gearshift levers in 1971–1974 and 1976–1978 Capris.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify the Office of Defects Investigation, National Highway Traffic Safety Administration, Room 5326, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–426–2850) before close of business on October 10, 1979.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on September 12, 1979.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 79-28735 Filed 9-12-79; 12:15 pm]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 179
Thursday, September 13, 1979

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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[M-244, Amdt. 1; Sept. 10, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the September 13, 1979, meeting.

TIME AND DATE: 9:30 a.m., September 13, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

5a. Docket 36378; Exemption application of Big Sky Airlines to reduce service in the Missoula-Butte market on less than 60-days notice (Memo 9109, BDA).

5b. Docket 35934, TWA's application to amend its certificate to add a new segment to authorize service between the terminal point New York, and the terminal point San Diego under Subpart Q procedures (Memo 9110, BDA).

7a. Docket 32294, U.S.-Bahamas Service Investigator (OGC).

7b. DOckets 32851, 30373, 32161, 33159, and 35732; Staff-initiated review of pricing freedom and the intercarrier agreements affecting marketing via travel agencies (BDA).

STATUS: A-12-Open, 13-Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 5a is being added to the September 13, 1979 agenda because there is an action date of September 14, 1979 and the next Board meeting will not be until after that date. Item 5b did not arrive by September 6 due to the fact that the Board established new and different "automatic procedures", including the issuance of a show cause order and the attachment of a draft final order to it, for handling Subpart Q applications after the memo was in the "pipe line." These were established in the referenced National Airlines Subpart Q Proceeding at an open meeting by the Board on August 31, 1979. The original memo entered the "pipe line" on August 28, 1979. The procedures in the TWA case now conform to those established in the National case. Item 7a is being added so that Members of the Board may have an opportunity to question the staff on the bases of its recommendations on this item. Expeditious action is necessary in order to allow the staff time to prepare an order rescinding Order 79-7-120 which revoked Southeast Airline's outstanding exemption authority, effective September 17, 1979. Item 7b is being added because at the September 6 meeting the Board discussed the procedures to be following in this item, and instructed the staff to prepare final drafts. Thereafter the Board became aware that interested parties had not had the opportunity to respond to a pleading filed in Docket 33159 that had been included in the discussion. In order to provide this opportunity the Board rescinded the instructions and ordered that the matter be reconsidered at the meeting now scheduled for September 13, (Order 79-9-30, September 7, 1979). Accordingly, the following Members have voted that agency business requires the addition of Items 5a, 5b, 7a and 7b to the September 13, 1979 meeting and that no earlier announcement of these additions was possibile:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1775-79 Filed 9-11-79; 3:12 pm]

BILLING CODE 6320-01-M

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FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Thursday, September 13, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Petition for Reconsideration of action in the Report and Order, Docket 20790, providing for a single system of identification for all devices covered under the equipment authorization program. Commission action on Petition for Reconsideration of Docket 20790, filed April 20, 1979, by Electronic Industries Association Consumer Equipment Group.

General—2—Title: Report and Order to make the frequencies 156.050 and 156.175 MHz available to the Maritime Mobile Service in a portion of the New Orleans Vessel Traffic Services (VTS) area. (Gen Docket No. 78-376). Summary: The FCC is amending its rules to permit the use of two frequencies (156.050 and 156.175 MHz) in a band domestically allocated for land mobile communications, for port operations and commercial purposes in a portion of the U.S. Coast Guard designated New Orleans Vessel Traffic Services area. This amendment is considered necessary to reduce the congestion on the commercial and port operations frequencies in the New Orleans VTS area. This congestion in the New Orleans area resulted from the earlier assignment of three maritime mobile frequencies exclusively for VTS purposes.

General—3—Title: Response to TI petition for rulemaking, RM-3288, and petition for waiver. Response to RCA petition RM-2876. Summary: The Commission is considering three actions which together form a response to the two TI petitions and the RCA petition. One action is a Report and Order in Docket 20780 establishing technical specifications and a certification requirement for computing equipment. The second action proposes to institute a rulemaking proceeding to revise the present Class I TV device rules to accommodate TI's stand alone modulator and changes sought by the RCA petition. The third action is an Order responding directly to TI's petition for waiver.

General—4—Title: Application for review of a staff ruling on a Freedom of Information Act request filed by National Association of Broadcasters (FOIA Control No. 9-47). Summary: Application for review of staff ruling which partially granted and otherwise denied Freedom of Information Act request filed by NAB to inspect all Commission records relating to the formulation of *Memorandum of Understanding Between the Federal Communications Commission and the Equal Employment Opportunity Commission.* Staff's decision had granted access to certain records, while denying inspection to internal and inter-agency documents pursuant to Exemption 5 of Freedom of Information Act. 5 U.S.C. § 552(b)(5). On appeal, NAB seeks review of staff's ruling only in so far as it relates to two (2) inter-agency letters.

General—5—Amendment of the Ex parte Rules. Summary: The item involves application of the ex parte rules to contested application proceedings prior to designation for hearing where an opposition pleading is filed but does not qualify as a petition to deny.

General—6—Title: Policy governing action on requests by other federal agencies for disclosure of information submitted to the Commission in confidence under the Freedom of Information Rules.

General—7—Title: Amendment of Parts 2 and 87 of the Commission's rules to make frequencies in the 190–200, 510–525 and 525–535 kHz bands available to the aeronautical radionavigation service. Summary: This action terminates the proceeding and amends the rules to provide additional frequencies for aeronautical radionavigation beacons. In addition it provides for certain portions of the bands used by aeronautical beacons to be shared by maritime beacons: The action was necessary because of frequency congestion in part brought about by use of beacons on off-shore drilling and exploration platforms for the guidance of helicopters and small craft, and in part by the proliferation of navigation beacons at private airports. These rule amendments will provide more frequencies for the installation of these beacons.

General—8—Title: Amendment of Sections 0.281, 1.104, 1.106 and 1.115 of the Commission's Rules of Practices and Procedures. Summary: The Commission is considering the adoption of certain rules with respect to procedures governing petitions for reconsideration and applications for review. The proposed rule changes consider what type showing a petitioner must make when seeking reconsideration of an order denying an application for review.

General—9—Title: Application for review of a staff ruling on a Freedom of Information Act request, filed by Hubbard Broadcasting, Inc., St. Petersburg, Florida (FOIA Control No. 9–91). Summary: Application for review of staff ruling which partially denied a Freedom of Information Act request filed by Hubbard Broadcasting, Inc., licensee of Television Broadcast Station WTOG, Channel 44, St. Petersburg, Florida, to inspect and copy certain annual financial reports (FCC Form 326) filed by Teleprompter Southeast, Inc. and its predecessor corporations. Staff ruling had granted the request for the years 1975–78 and denied the request for the years 1971–73, pursuant to statutory exemption (b)(4) of the Freedom of Information Act, 5 U.S.C. § 552, as amended, and Sections 0.457(d)(1)(iii) and 0.461(f)(4) of the Commission's Rules.

General—10—Title: Proposed Commission Regulations for Probation on Initial Appointment to Supervisory or Managerial Positions. Summary: Memorandum for approval of Subchapter 6 of the FCC Personnel Manual Chapter 315, Probation on Initial Appointment to a Supervisory or Managerial Position. This critical part of the Civil Service Reform Act of 1978 is designed as a screening process for new supervisors and managers.

Private Radio—1—Title: Amendment of Parts 2 and 87 of the rules to provide 25 kHz channel spacing in the Aeronautical Mobile (R) VHF band 117.975–136 MHz. Summary: Order terminating the proceeding which was held open in case further rulemaking was necessary.

Private Radio—2—Title: Notice of Propsed Rule Making to permit a certification on the expired ship station license to be considered a valid attachment to a renewed station license for a short period of time. Summary: With computerization of the ship files, it has become increasingly difficult to transfer the inspector's certification from a recently expired license to the renewal license continuing its authorization. Such a certification is required by the Communications Act. The rule change is being proposed so that the certification on the expired license may be considered part of the renewal license until the first subsequent certification (made by the FCC field engineer upon successful completion of his annual inspection) is accomplished.

Common Carrier—1—Title: General Telephone Company of Pennsylvania, revisions to Tariff F.C.C. No. 3, Transmittal No. 4. Summary: GTE of Pennsylvania provides to the Laurel Cablevision Company a cable television distribution service by which television signals selected by Laurel Cablevision are distributed over GTE's cable facilities to individual subscribers homes. By a tariff revision effective September 15, 1978 GTE substantially raised its rates for this service provided to Laurel. Laurel has filed a petition for reconsideration of a previous Commission decision allowing GTE's rate increase to become effective. The principal issue to be considered is whether Laurel Cablevision has been able to raise any substantial question as to the lawfulness of GTE's rate revision.

Common Carrier—2—Title: Memorandum Opinion and Order, File No. W–P–C–2000, application of DHL Communications, Inc., for authority under Section 214 of the Communications Act of 1934, to acquire and operate channels of communications between various cities within the continental United States (including Alaska) and Hawaii, providing facsimile, data and other non-voice communications services. Summary: DHL Communications, Inc. (DHL Comm) has applied to offer non-voice communications services among twenty-two U.S. cities, DHL Comm proposes to lease facilities from existing carriers. Transmission would be on a store-and-forward basis through computer and concentrator equipment.

Common Carrier—3—Title: A.T. & T. Rate Base Treatment of Claimed Amounts for Investment in Affiliated Companies. (Docket No. 21244). Summary: As an outgrowth of Docket No. 19129, the last major A.T. & T. rate investigation, the FCC issued a Notice of Proposed Rulemaking to examine A.T. & T.'s treatment for ratemaking purposes of its investment in two affiliated companies, Bell Telephone Laboratories and 195 Broadway Corp. The FCC will consider whether A.T. & T.'s method of recovering a return on this investment is fair to ratepayers.

Common Carrier—4—Title: Final Decision and Order in Western Union Telegraph Company, Docket No. 20847. Summary: In 1976, Western Union increased its rates for its Series 1000 tariffs. These tariffs offer the public full-time, dedicated, low speed private line telegraph service. AT&T and the Department of Defense challenged these revisions and an investigation was held on their lawfulness. The Administrative Law Judge (ALJ) issued an Initial Decision, released July 18, 1978, concluding that the rates were not unlawful. Exceptions were filed to the ALJ's decision. The general issues to be considered here are whether Western Union met its initial burden of proof showing its revisions to be just and reasonable and whether the cost studies submitted by Western Union were so deficient as to require reversal of the ALJ's findings.

Common Carrier—5—Title: South Central Bell Telephone Company. Summary: The FCC is considering whether to designate for hearing the two applications of South Central Bell Telephone Company for construction permits to add improved mobile telephone service (IMTS) to Domestic Public Land Mobile Radio Telephone Service facilities in New Orleans and Houma, Louisiana. Any such hearing would examine whether South Central Bell has demonstrated public need for the proposed facilities and whether South Central Bell wrongfully refused to provide selector level interconnection to a competing carrier (anticompetitive practices issue and Communications Act Section 201 issue).

Common Carrier—6—Title: MCI Telecommunications Corporation v. American Telephone and Telegraph Company and Pacific Telephone and Telegraph Company, File No. TS–7–76, and Petition for Reconsideration of MCI Telecommunications. Corporation, 62 FCC 2d 703 (1976). Summary: This item concerns allegations by MCI that AT&T unlawfully refused to provide MCI with Telpak service between Oakland and Los Angeles which MCI needed for meeting General Motors' communications requests. It also concerns allegations by MCI that AT&T unreasonably delayed in offering private line service to MCI between Oakland and Phoenix. MCI thus claims that it was forced to order private line service from Pacific Telephone and Telegraph Company at a higher rate, and that it should pay only the lower Telpak rate because it should have received Telpak service. The Commission will consider the above claims.

Common Carrier—7—Title: Tele-Valuation, Inc. (Tele-Val) v. American Telephone and Telegraph Co. (AT&T; File No. TS 3–77. Summary: The FCC is considering whether or not to grant a petition for reconsideration filed by Tele-Val in order to clarify when causes of action for overcharges accrue under Section 415(c) of the Act but to deny any further substantive relief to Tele-Val. The FCC's original order had dismissed Tele-Val's complaint in its entirety as untimely filed. The issue raised in the proposed item is whether a timely filed complaint can revive portions of a claim that has been extinguished as a matter of law by the running of the statute of limitations.

Common Carrier—8—Title: American Satellite Corp. v. Hawaiian Telephone Co.

(HTC) and GTE Satellite Corp. (GSAT) File No. TS 10-77. Summary: On July 10, 1978 the Chief of the FCC's Common Carrier Bureau issued a Notice of Apparent Liability to HTC and GSAT. Those parties seek Commission review of that Notice of Apparent Liability. The notice found that HTC and GSAT had violated Section 201(a) of the Act and imposed a $500 forfeiture on HTC for a violation of Section 202(a) of the Act. The issues raised include whether a carrier had an obligation to provide access information to a competing carrier and whether the interconnection point between carriers had any bearing on whether two requests for service were alike.

Cable Television—1—United Community Antenna Systems d/b/a Master Cable TV systems (CAC-03722); Community Telecable Inc. (CAC-03723); Tele-Vue Systems, Inc. (CPCLD-164). In response to a previous Commission request, the captioned cable television systems have supplemented an earlier request not to be required to provide station KIRO-TV, Seattle, Washington, with nonduplication protection against programming, prerelesed by Canadian television stations carried by the systems. The systems offer to show that KIRO-TV will suffer an audience loss of less than 2 percent during prime time and a concomitant revenue loss of .5 percent. KIRO-TV has submitted a showing on the amount of program duplication that occurs, but also argues that the opinion of the court in *KIRO, Inc. v. FCC*, 545 F.2d 204 (D.C. Cir. 1976), requires the Commission to find that nonduplication protection must be provided without the necessity for this showing and regardless of the projected impact on the station if it were not provided.

Cable Television—2—Title: Order Amending Part 76, Subpart A of the Commission's Rules and Regulations to Provide Rules of Procedure Governing Petitions to Initiate Forfeiture Action Against Cable Television Systems and Related Pleadings. Summary: The FCC is amending its rules to specify filing periods and other procedural requirements for parties requesting the Commission to fine a cable television system and for parties wishing to submit pleadings in response to such requests. The new rules closely follow existing provisions for petitions for orders to show cause and amend Section 76.9 of the Rules.

Cable Television—3—Cotton Country Communications, Inc. (CSR-1499x). Two owners of the cable television system at Hollandale, Mississippi, request a waiver of Section 76.501(a)(2) of the Commission's Rules to enable them to participate in another company which plans to construct a television broadcast station that will place a predicted Grade B contour over Hollandale.

Cable Television—4—The FCC must decide whether to reconsider its original decision in *Tulsa Cable Television* (Tulsa, Okla.) FCC 78-457, 68 FCC 2d 869 (1978), which denied a request by Tulsa Cable Television [TCT] for a waiver of the Rules to carry the signal of Broadcast Television Station WTGG, Atlanta, Georgia. Since that decision was issued, the FCC has revised its waiver standard and TCT has appealed the FCC's original decision to the U.S. Court of Appeals for the District of Columbia. At the FCC's request the Court has returned the case to it for further consideration. The FCC must now determine whether TCT has successfully proven that carriage by the cable system of an extra independent signal will not adversely affect the local Tulsa television stations' ability to serve the public.

Assignment and Transfer—1—Subject: Response to August 31, 1979 Order of the United States Court of Appeals for the District of Columbia Circuit regarding transfer of WDCA-TV from Improvement Leasing Co. to Taft Broadcasting Co. Summary: In a meeting of August 16, 1979, a majority of the Commission voted to grant the application of transfer of control of Channel 20, Inc., licensee of WDCA-TV, and denied a petition to deny filed by Washington Ass'n for Television and Children (WATCH). On that same day, the applicants consummated the transfer and Taft acquired control of the station. WATCH subsequently filed a motion asking the Commission to direct that the transfer be rescinded on grounds that it was unauthorized because the Commission had not yet issued a written order granting the application. When the Commission did not act upon the motion immediately, WATCH sought an order from the court of appeals directing the Commission to act. On August 31, the court issued an order directing the Commission to act on WATCH's motion by September 13. The question before the Commission is whether the majority vote taken at the August 16 meeting was sufficient to authorize the applicants to consummate the transfer or whether such action is authorized only after the Commission releases a written order.

Assignment and Transfer—2—Title: Request for tax certificate in connection with the sale of station KODA, Houston, Texas from Taft Broadcasting Corporation to Spanish Broadcasting Corporation. Summary: On June 29, 1979, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the application for voluntary assignment of license of station KODA, Houston, Texas. The assignor, Taft Broadcasting Corporation, has requested a tax certificate pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—3—Title: Request to tax certificate in connection with the sale of station WPDQ, Jacksonville, Florida, from MEL-LIN, Inc. to BENI of Jacksonville, Inc. Summary: On August 10, 1979, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the application for voluntary assignment of license of station WPDQ, Jacksonville, Florida. The assignor, MEL-LIN, Inc., has requested a tax certificate pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—4—In re application for assignment of licenses of Stations WRAK and WRAK-FM, Williamsport, Pennsylvania, from Wright Mackey Corporation to Stainless Broadcasting Company (File Nos. BAL-790208HC; BALH-790208HD). Summary: The application is subject to a case-by-case determination under Notes 8 and 11 to the Multiple Ownership Rules, specifically the "three station concentration rule," Sections 73.35(b), 73.240(a)(2), and 73.636(a)(2), due to the prospective assignee's present UHF-TV and aural holdings.

Renewal—1—Title: North Alabama Broadcasters, Inc. application for renewal of license for station WHNT-TV, Huntsville, Alabama. Summary: The proposed order considers standing of a national organization to file a petition to deny a local license renewal and allegations that (i) licensee was in violation of the fairness doctrine in its refusal to accept paid editorial advertising, (ii) corporate conflicts of interest impaired licensee's ability to make a good faith, impartial fairness doctrine judgment; (iii) licensee's possible involvement in past unfair labor practices is evidence of its potential abuse of journalistic discretion in making a fairness doctrine judgment; and (iv) licensee may be in violation of the Commission's cross-interest policy.

Renewal—2—Title: Carolina Radio of Durham, Inc., for renewal of license of Station WSRC, Durham, North Carolina. Summary: The proposed Order considers allegations raised by the Durham Coalition regarding licensee's failure to ascertain properly through its communuty leader survey the needs and interests of Blacks in the community; the lack of responsiveness of licensee's programming, including its psa's, to the Black community; and violation of the Commission's EEO rules; and, Carolina's charge that the Coalition violated the Commission's *ex parte* rules.

Renewal—3—Title: Central Alabama Broadcasters, Inc. application for renewal of license for Station WSLA-TV, Selma, Alabama. Summary: The proposed order considers standing of a national organization to file a petition to deny a local license renewal and allegations that (i) licensee violated the fairness doctrine in its refusal to accept paid editorial advertising; (ii) corporate conflicts of interest impaired licensee's ability to make a good faith, impartial fairness doctrine judgment; and (iii) licensee's possible involvement in past unfair labor practices is evidence of its potential abuse of journalistic discretion in making a fairness doctrine judgment.

Aural—1—Title: Application of Concord-Kannapolis Broadcasting Company, licensee of Station WPEG(FM), Concord, North Carolina, for an increase in effective radiated power from 20 to 50 kW. Summary: The Commission considers a petition for reconsideration of the dismissal of the application. Application was originally dismissed for violation of the multiple ownership rules.

Aural—2—Title: Memorandum Opinion and Order in re applications of Northbanke Corporation (File No. BPH-10,037) and WGAW, Inc. (File No. BPH-10,368).

Summary: The FCC considers whether to designate the subject applications for comparative hearing on proposals for a new FM station at Winchendon, Massachusetts.

Aural—3—Title: Memorandum Opinion and Order in re applications of Amber Productions, Inc. (BPH-10,388) and John K. Major (BPH-10,651) for a new FM station in Oologah and Owasso, Oklahoma, respectively. Summary: The FCC considers the above mutually exclusive applications and a petition to specify issues filed by John K. Major.

Aural—4—Title: Letter by direction of the Commission in re applications of Allegan County Broadcasters, Inc. (File No. BPH-9439), and Charles Hedstrom and Ralph Trieger, A Partnership, d/b/a Pinehurst Broadcasting (File No. BPH-10,728) for new FM stations in Otsego and Plainwell, Michigan, respectively. Summary: The FCC considers the above mutually exclusive applications for new FM stations and an agreement providing for dismissal of one and grant of the other.

Television—1—Title: Reconsideration of action accepting for filing application (BPCT-5113) of K&L Communications, Inc., for authority to construct a commercial television station on channel 26, San Francisco, California. Summary: Lincoln Television, Inc., the licensee of Station KTSF-TV, Channel 26, San Francisco, California, has petitioned for reconsideration of the Commission action accepting for filing a construction permit application which is mutually exclusive with its renewal application. The issue before the Commission is whether the Commission erred in its original determination that the application was substantially complete and not violative of the Rules.

Broadcast—1—The FCC's one-to-a-market rule (which mostly grandfathered existing combinations) restricts a party to one AM-FM combination or one TV station in the same community. The regional concentration rule (also prospective) restricts a party to two stations within a 100-mile radius. Applications involving UHF TV stations are not subject to these rules. The reason for these UHF exceptions was to encourage the building of UHF stations. However, the FCC has found that these exceptions have not helped UHF development significantly and are contrary to the basic purpose of the rules, which is to maximize the possible number of diverse sources of information and opinion available to an audience. (Although there has been a great increase in applications for new UHF stations recently, it found that this appears to be due to existing UHF stations becoming profitable, rather than to the exceptions.) Accordingly, the FCC proposes to eliminate the exceptions and treat UHF stations the same as VHF TV stations for the purpose of the one-to-a-market and regional concentration rules. The FCC noted that it has taken other actions recently to help UHF development directly (such as actions to improve UHF transmission and reception and consumer information to help viewers improve reception).

Complaints and Compliance—1—Title: Results of an investigation into the operation of Radio Stations KDEW-AM/FM, DeWitt, Arkansas. (1) Application for Renewal of License of Stations KDEW-AM/FM, DeWitt, Arkansas. (2) Results of investigation into the operation of Station KDEW-AM/FM, DeWitt, Arkansas. The Commission will consider the results of its field investigation into certain allegations of wrongdoing lodged against Stations KDEW-AM/FM to determine whether a grant of the station's license renewal applications is in the public interest.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: September 7, 1979.

[S-1767-79 Filed 9-11-79; 10:51 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Thursday, September 13, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following items have been deleted and rescheduled for Special Meeting at 9:30 a.m., Tuesday, September 18, 1979:

Agenda, Item No., and Subject

General—3—Title: Response to TI petition for rulemaking, RM-3288, and petition for waiver. Response to RCA petition RM-2876. Summary: The Commission is considering three actions which together form a response to the two TI petitions and the RCA petition. One action is a Report and Order in Docket 20780 establishing technical specifications and a certification requirement for computing equipment. The second action proposes to institute a rulemaking proceeding to revise the present Class I TV device rules to accommodate TI's stand alone modulator and changes sought by the RCA petition. The third action is an Order responding directly to TI's petition for waiver.

Common Carrier—3—Title: AT&T Rate Base Treatment of Claimed Amounts for Investment in Affiliated Companies. (Docket No. 21244). Summary: As an outgrowth of Docket No. 19129, the last major AT&T rate investigation, the FCC issued a Notice of Proposed Rulemaking to examine AT&T's treatment for ratemaking purposes of its investment in the two affiliated companies, Bell Telephone Laboratories and 195 Broadway Corp. The FCC will consider whether AT&T's method of recovering a return on this investment is fair to ratepayers.

Common Carrier—4—Title: Final Decision and Order in Western Union Telegraph Company, Docket No. 20847. Summary: In 1976, Western Union increased its rates for its Series 1000 tariffs. These tariffs offer the public full-time, dedicated, low speed private line telegraph service. AT&T and the Department of Defense challenged these revisions and an investigation was held on their lawfulness. The Administrative Law Judge (ALJ) issued an Initial Decision, released July 18, 1978, concluding that the rates were not unlawful. Exceptions were filed to the ALJ's decision. The general issues to be considered here are whether Western Union met its initial burden of proof showing its revisions to be just and reasonable and whether the cost studies submitted by Western Union were so deficient as to require reversal of the ALJ's findings.

Common Carrier—5—Title: South Central Bell Telephone Company. Summary: The FCC is considering whether to designate for hearing the two applications of South Central Bell Telephone Company for construction permits to add improved mobile telephone service (IMTS) to Domestic Public Land Mobile Radio Telephone Service facilities in New Orleans and Houma, Louisiana. Any such hearing would examine whether South Central Bell has demonstrated public need for the proposed facilities and whether South Central Bell wrongfully refused to provised selector level interconnection to a competing carrier (anticompetitive practices issue and Communications Act Section 201 isued).

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (2) 632-7260.

Issued: September 10, 1979.

[S-1772-79 Filed 9-11-79; 3:12 pm]

BILLING CODE 6712-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m., September 17, 1979.

PLACE: Board Room, 6th Floor, FDC Building, 550—17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of The First National Bank of Bryan, Bryan, Ohio, under its charter with The Farmers State Bank of Stryker, Stryker, Ohio.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Strasburger & Price, Dallas, Texas, in connection with the liquidation of International City Bank and Trust Company, New Orleans, Louisiana.

Memorandum and resolution proposing adoption of an amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," exempting certain nondeposit obligations of mutual savings banks in minimum denominations of $100,000 or more from certain restrictions regarding interest.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Investment Management Report of the Controller for the period ending July 31, 1979.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389-4425.

[S-1769-79 Filed 9-11-79; 2:43 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., September 17, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

State Bank of Oliver County, a proposed new bank to be located at the corner of Main Street and Center Avenue, Center, North Dakota, for Federal deposit insurance.

Application for consent to change a main office location:

Summit County Bank, Frisco, Colorado, for consent to relocate its main office from 120 South Fourth Street to 1000 North Main Street, both locations within Frisco, Colorado.

Application for consent to establish a branch:

Arlington Trust Company, Lawrence, Massachusetts, for consent to establish a branch on the northerly side of Andover Street at its intersection with River Road, Tewksbury, Massachusetts.

Application for consent to move a branch:

Orange Savings Bank, Livingston, New Jersey, for consent to relocate its branch office from 66 N. Delsea Drive to 3569 E. Lannolia Avenue, both addresses within Vineland, New Jersey.

Application for consent to merge, establish branches and to redesignate the main office location:

BayBank Newton-Waltham Trust Company, Waltham, Massachusetts, for consent to merge with BayBank Middlesex, N.A., Burlington, Massachusetts, under the charter of BayBank Newton-Waltham Trust Company and with the title "BayBank Middlesex," to establish the 33 offices of BayBank Middlesex, N.A., as branches of the resultant bank, and to redesignate the main office location to the present main office location of BayBank Middlesex, N.A.

Application for consent to acquire assets and assume deposit liabilities and establish a branch:

American Pacific State Bank, Los Angles (Sun Valley), California, for consent to acquire a portion of the assets and assume the liability to pay a portion of the deposits made in the Sherman Oaks Branch of Manufacturers Bank, Los Angeles, California, and to establish the Sherman Oaks Branch of Manufacturers Bank as a branch of American Pacific State 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. 43,921-L—Franklin National Bank, New York, New York. The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee. American Bank & Trust Company, New York, New York, and Farmers Bank of the State of Delaware, dover, Delaware.

Case No. 44,032-L—Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico.

Case No. 44,038-L—Franklin National Bank, New York, New York.

Case No. 44,040-L—Southern National Bank, Birmingham, Alabama.

Case No. 44,044-L—Franklin National Bank, New York, New York.

Case No. 44,049-L—Franklin National Bank, New York, New York.

Memorandum Re: The Bank of Bloomfield, Bloomfield, New Jersey.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions 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)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389-4425.

[S-1779-79 Filed 9-11-79; 2:43 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change 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, September 10, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (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:

Submission of a report by Dr. Leonard Lapidus, Special Assistant to the Chairman, entitled "Study of State and Federal Regulation of Commercial Banks."

The Board further determined, by the same majority vote, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger between Southern National Bank of North Carolina, Lumberton, North Carolina, and Carolina State Bank, Gastonia, North Carolina.

Memorandum and resolution proposing adoption of an amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," exempting certain nondeposit obligations of mutual savings banks in minimum denominations of $100,000 or more from certain restrictions regarding interest.

The Board further determined, by the same majority vote, that no earlier

notice of these changes in the subject matter of the meeting was practicable.

Dated: September 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1773-79 Filed 9-11-79; 3:12 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Time 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 the closed meeting of the Corporation's Board of Directors scheduled for 2:30 p.m. on Monday, September 10, 1979, was held instead at 1:40 p.m. on Monday, September 10, 1979, in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C. No earlier notice of the change in the time of this meeting was practicable.

Dated: September 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1774-79 Filed 9-11-79; 3:12 pm]

BILLING CODE 6714-01-M

8

FEDERAL RESERVE SYSTEM: Committee on Employee Benefits of the Board of Governors.

TIME AND DATE: 3:45 p.m., Monday, September 10, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal relating to the internal personnel procedures of the System and dealing with the Federal Reserve Banks' employee benefits program regarding further consideration of which of several actuarial firms should be named Actuary of the Retirement Plan. (This matter was originally announced for a meeting on August 15, 1979.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Theodore E. Allison, Secretary of the Board; (202) 452-3257.

Dated: September 10, 1979.

Theodore E. Allison,

Secretary of the Board.

[S-1768-79 Filed 9-11-79; 12:38 pm]

BILLING CODE 6210-01-M

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NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, September 20, 1979. [NM-79-31]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report*—Cross Median Multiple Vehicle Collision and Fire, State Route 2, near Cleveland, Ohio, May 6, 1979.
2. *Aircraft Accident Report*—Champion Home Builders Company, Gates Learjet 25B, N999HG, Sanford, North Carolina, September 8, 1977.
3. *Marine Accident Report*—Tankship M/V RIBAFORADA Collision with Barge MB-5, Three Wharves, and Cargo Ship, M/V TIARET near New Orleans, Louisiana, December 4, 1977.
4. *Safety Report to the Congress*—Marine Steering Reliability.
5. *Discussion*—Board policy on allowing Members to vote on agenda items after Board meetings.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

September 11, 1979.

[S-1776-79 Filed 9-11-79; 3:56 pm]

BILLING CODE 4910-58-M

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POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, September 14, 1979.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Detailed status report on Docket MC78-1 (Parcel Post).
2. Staffing of personnel.

Closed pursuant to 5 U.S.C. 552b(c)(2), (6), (10).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1771-79 Filed 9-11-79; 2:43 pm]

BILLING CODE 7715-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 17, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, September 19, 1979, at 10 a.m. An open meeting will be held on Wednesday, September 19, 1979 at 3 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and reporting secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 19, 1979, at 10 a.m., will be:

Formal orders of investigation.

Access to investigative files by Federal, State, or Self-Regulatory Authorities.

Litigation matter.

Settlement of injunctive action.

Institution and settlement of administrative proceeding of an enforcement nature.

Institution of injunctive actions.

Freedom of Information Act appeal.

The subject matter of the open meeting scheduled for Wednesday, September 19, 1979, at 3:00 p.m., will be:

1. Consideration of whether the Commission should amend Regulation S-X [17 CFR 210.3-18(k)] to require oil and gas producers to include in their financial statements a supplemental summary of oil and gas producing activities prepared on the basis of reserve recognition accounting. The proposed summary would present current year additions and revisions to proved oil and gas reserves as well as costs associated with the discovery, development and produciton of those reserves and all nonproductive costs. For further information, please contact James L. Russell or James D. Hall at (202) 272-2133.

2. Consideration of whether the Commission should amend Regulation S-X [17 CFR 210.3-18(k)] to permit oil and gas reserve information and the proposed supplemental summary of oil and gas producing activities prepared on the basis of reserve recognition accounting to be designated "unaudited" for fiscal years ending before December 26, 1980. For further information, please contact James L. Russell or James D. Hall at (202) 272-2133.

3. Consideration of whether to publish for public comment a rule proposed by American Telephone and Telegraph Company in a petition filed with the Commission pursuant

to Rule 4(a) of the Commission's Rules of Practice. The proposed rule, Rule 16a-11 under the Exchange Act, would exempt from the reporting and liability provisions of Section 16 of that Act, acquisitions of equity securities made pursuant to a dividend reinvestment plan. The Rule would require that any such plan provide for the regular reinvestment of dividends on such securities, and that the plan be available on the same terms to all holders of securities of the class involved. For further information, please contact Peter J. Sarkesian at (202) 272-3318.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 272-2178.

September 10, 1979.

[S-1766-79 Filed 9-10-79; 4:27 pm]

BILLING CODE 8010-01-M

Thursday
September 13, 1979

Part II

Department of Transportation

Coast Guard

Engineering Equipment; Design and Approval Requirements for Oil Pollution Prevention Equipment

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 162

[CGD 76-088a]

Engineering Equipment; Design and Approval Requirements for Oil Pollution Prevention Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations set out specifications and procedures for approving oil-water separators, cargo monitors, bilge monitors, and bilge alarms for use on merchant vessels. The regulations are based upon international design and test specifications that have been recently adopted by the Inter-Governmental Maritime Consultative Organization. The purpose of the regulations is to provide standards for pollution prevention equipment that are representative of the best technology presently available. Additional regulations that require U.S. vessels, and foreign vessels calling at U.S. ports, to use approved pollution prevention equipment are currently being prepared in separate proceedings.

EFFECTIVE DATE: These amendments become effective on: October 10, 1979.

ADDRESSES: 1. As explained more fully below, comments on these rules may be submitted to Commandant (G-CMC/81), (CGD 76-088a), U.S. Coast Guard, Washington, D.C. 20590.

2. The Final Evaluation for these regulations, comments received on the regulations, and a copy of the U.S. Navy study referenced in the Discussion of Comments and Changes Made are available for examination and copying at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Steven McCall, Office of Merchant Marine Safety, (G-MMT-3/83), Room 8301, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-1444).

SUPPLEMENTARY INFORMATION: 1. On June 27, 1977, the Coast Guard published a notice of proposed rule making in the Federal Register for these regulations (42 FR 32686). Interested persons were requested to submit comments on the proposed regulations and twenty-eight comments were received.

2. The proposed regulations were published on the same day as two other sets of proposed pollution prevention regulations. The other two regulatory dockets are:

(a) CGD 75-124 Pollution Prevention—Vessel and Oil Transfer Facilities (33 CFR Parts 154, 155, and 156).

(b) CGD 76-088b Tank Vessels Carrying Oil in Bulk—Miscellaneous Rules Providing for Protection of the Marine Environment (33 CFR Part 157).

Docket number CGD 75-124 contains a requirement to use approved bilge alarms, bilge monitors, and oil-water separators when discharging oily mixtures overboard from a machinery space bilge or a fuel oil tank that carries ballast. (These requirements have since been transferred to docket number CGD 75-124a.) Docket number CGD 76-088b contains a requirement to use approved cargo monitors on most seagoing tank vessels. These requirements apply to U.S. vessels and to foreign vessels that call at U.S ports. Both dockets also prescribe dates on and after which approved equipment must be used (compliance dates). Some of the comments received on the proposed regulations address proposed requirements in CGD 75-124a and CGD 76-088b and are being analyzed with the comments received on those dockets.

3. The Coast Guard has proposed general approval procedures, production inspection and test procedures, and standards for accepting independent laboratories for testing certain equipment requiring Coast Guard approval. These proposed procedures were published in the Federal Register of October 23, 1978 (43 FR 49440-45). When these procedures are adopted as final rules, the procedures for approving separators, monitors, and alarms will be reviewed and modifications made, as appropriate, to eliminate any redundancies or inconsistencies.

4. The final rules contain various changes that have been made in response to comments on the proposed rules and on the basis of further analysis of the proposed rules within the Coast Guard. Commenters who recommended changes generally provided sufficient supporting rationale for the Coast Guard to reach informed decisions on whether the changes are needed and workable. Also, most of the changes made will not significantly increase the cost of equipment or approval testing, and they will ultimately increase, rather than reduce, the level of environmental protection afforded by the regulations. The only changes that have notable economic consequences are the additional test procedures in § 162.050-27(b)(12) and related sections that provide for taking and analyzing samples of the test mixture used in approval testing of monitors and alarms. As explained in the Final Evaluation, these additional procedures will increase the average maximum cost to approve a monitor or alarm from $5,000 to $7,000.

5. Although a public comment period has already been provided in this rule making, an additional opportunity for comment, principally on the changes made, is nevertheless desirable to assure that the rules as revised represent workable and reasonable procedures and requirements. Accordingly, persons wishing to comment may do so by submitting comments to the address listed in the ADDRESSES section of this preamble. Commenters should include their names and addresses, identify the docket number of rule making (CGD 76-088a) and give reasons for the comments. Comments should be submitted before November 12, 1979, in order to receive timely consideration. Based upon comments received, the regulations may be further revised or additional regulations may be issued.

6. The submissions of several commenters on the proposed regulations are extensive in scope and provide detailed recommendations. As a result, it has not been possible to discuss in detail all of the comments received. Comments that have not been specifically addressed generally fall into one of the following categories:

(a) Comments that resulted in minor revisions or clarifications to the final rules.

(b) Comments that were not relevant to the proposed regulations.

(c) Comments that apply to CGD 75-124a or CGD 76-088b and that are being analyzed with comments received on those dockets.

(d) Comments making recommendations that, if adopted, would result in overregulation. (For example, some commenters recommended that certain commonly accepted lab practices be adopted as regulation where in fact regulations are not needed to ensure that the practices will be followed. Others recommended clarifications to particular regulations that are considered to be sufficiently clear as originally proposed. Some commenters also recommended changes without providing supporting reasons, and no sound reasons could otherwise be established for making the changes.)

7. Several commenters asked questions concerning the meaning of specific provisions of the proposed regulations and concerning courses of

action that would be acceptable under the regulations. For the most part, these questions can be answered by referring to other sections of the regulations. For example, one commenter recommended that the second sentence in proposed § 162.050-27(n)(1) be revised by adding the words "allowed to warm up for the period of time prescribed in the monitor's instructions manual" after the word "started". As revised, the sentence would have read, "After one week the monitor is started, allowed to warm up for the period of time prescribed in the monitor's instructions manual, zeroed, and calibrated." The additional words are unnecessary. Section 162.050-27(b)(10) of both the proposed and final rules includes the same procedure recommended by the commenter. (Section 162.050-27(b)(10) provides that "[i]n each test the monitor must be operated in accordance with the procedures described in its instructions manual".)

8. The subject matter of the regulations is both detailed and lengthy and has necessitated extensive use of the technical language to describe the various specifications and testing procedures. However, every attempt has been made to draft each provision in clear and concise language and to minimize the complexity of its technical content. Nevertheless, if readers of the final regulations find that certain regulations are still unclear, they may address questions concerning them to Lieutenant Commander Steven McCall, whose address is listed above. It a significant number of inquiries are received, clarifications will be provided in subsequent rule making.

9. The Coast Guard has consulted with the Environmental Protection Agency on the revisions made in § 162.050-39 and with respect to other determinations made in this rule making. Specific instances of consultation with EPA are referenced in the Discussion of Comments and Changes Made.

Final Evaluation

1. These regulations are considered to be "nonsignificant" and, accordingly, a final evaluation has been prepared and placed in the public docket as required by the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040-11045). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations.

2. As explained in the Final Evaluation, it is estimated that approximately sixty devices will be approved at an average maximum cost per approval of $7000. Total industry costs to obtain approvals are expected to be approximately $440,000. The impact of administering the approval program will be absorbed with existing Coast Guard resources. The approval program will provide for the availability of pollution prevention equipment that has been developed using the best technology presently available. The ultimate benefits and impact of the program will be a substantial reduction in oil pollution damage to the marine environment and a reduction in economic losses resulting from pollution damage.

3. The expected costs to purchase and install approved equipment on vessels within the timetables prescribed in CGD 75-124a and CGD 76-088b will be summarized in those projects when they are published as final rules. The specification provides for approval of equipment in different sizes and capabilities and, as a result, the exact costs will depend principally upon the type of equipment selected for vessel use.

Drafting Information

The principal persons involved in drafting these regulations are: Lowell F. Martin, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Background Information

1. In November 1973, the International Conference on Marine Pollution convened by the Intergovernmental Maritime Consultative Organization (IMCO) adopted the International Convention for the Prevention of Pollution from Ships, 1973. In February 1978, the Convention was incorporated into and modified by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter MARPOL Protocol). The Protocol was submitted on January 19, 1979, to the U.S. Senate for its advice and consent to ratification. Annex I to the MARPOL Protocol sets forth several requirements applicable to vessels including requirements concerning the use of oil-water separators, oil content monitors, and oil content alarms on vessels when discharging oily mixtures from cargo tanks, cargo pumproom bilges, machinery space bilges, and fuel oil tanks that carry ballast. Regulations 15 and 16 of the Annex require that each oil-water separator, monitor, and alarm used on a vessel be of a design approved by the government of the State under whose authority the vessel is operating.

2. To assist governments in developing the necessary approval requirements, the IMCO Marine Environment Protection Committee (MEPC) formed a working group to develop model design and testing specifications for the equipment. The Coast Guard actively participated in these deliberations. In May 1976, this working group completed drafting the specifications and they were subsequently adopted by the IMCO Assembly in 1977 as recommended international design and testing specifications. The specifications are in the IMCO Resolution A.393(X), and they form the basis for the design and testing specifications in these final rules.

3. Current Coast Guard regulations in §§ 155.400, 157.37, and 157.39 of Title 33, Code of Federal Regulations, provide for the use of Coast Guard approved pollution prevention equipment. The regulations in this document contain the procedures for obtaining Coast Guard approval of the equipment and the design and testing specifications applicable to the equipment. As explained under SUPPLEMENTARY INFORMATION, the Coast Guard is preparing regulations in CGD 75-124a and CGD 76-088b which require the use of approved separators, monitors, and bilge alarms on and after the compliance dates prescribed in those rules.

4. The technology pertaining to shipboard oil-water separation and to monitoring of overboard discharges of oily mixtures is in a state of continuing development. Accordingly, technological advancements occurring after adoption of the design and testing specifications in these final rules will be reviewed on an ongoing basis to determine the need for revisions to the specifications.

Description of the Regulations

1. Sections 162.050-1, 162.050-3, and 162.050-4 contain introductory provisions which define the scope of the regulations, explain the meaning of terms used in specific provisions, and list documents incorporated by reference into the regulations.

2. Section 162.050-5 lists the information that must be contained in an application for approval of an item of equipment. Paragraph 162.050-5(b) provides that an application may reference information contained in a previously submitted application so that excess paperwork can be avoided.

3. Section 162.050-7 describes the procedures for obtaining approval of pollution prevention equipment. Paragraphs 162.050-7 (b) and (c) of these

procedures describes the initial processing of an application. Essentially, when an application is received, it is examined to determine whether the item described in the application complies with the design requirements in these final rules and to determine what probability the item has of passing the approval tests. Paragraphs 162.050–7 (d) through (g) prescribe the procedures for submitting an item for testing, conducting the tests, submitting test reports, and issuing approval certificates. Paragraphs (h), (i), (j), and (k) of § 162.050–7 contain the approval criteria for each item of equipment.

The approval criterion in paragraph 162.050–7(h) for a 15 p.p.m. oil-water separator adopts the IMCO standard which prescribes a concentration limit of 15 parts per million (p.p.m.) of oil in water for overboard discharges through a 15 p.p.m. separator that has an alarm to indicate when this concentration is exceeded. This standard is contained in Annex I to the MARPOL Protocol.

4. Section 162.050–9 prescribes the contents of the test report to be submitted by a designated testing facility after completion of approval testing. The test report is evaluated with the application to determine whether the equipment should be approved.

5. Section 162.050–11 requires that approved equipment be plainly marked with certain descriptive information and information concerning its use. This information is necessary as an aid in proper selection and use of separators, monitors, and bilge alarms on vessels.

6. Section 162.050–13 contains provisions concerning factory production and inspection of approved equipment. The principal purposes for conducting an inspection will be to determine whether the manufacturing procedures described in an application for approval are being followed and whether equipment built under Coast Guard approval meets the design specifications in these regulations.

7. Section 162.050–14 contains requirements for sample collection and preservation during approval testing. One liter samples must be collected, preserved with hydrochloric acid, and refrigerated until analyzed.

8. Section 162.050–15 contains procedures for obtaining designation as a facility authorized to perform approval tests. The procedures allow designated facilities to use their own test rigs, if previously approved by the Coast Guard, or to use a test rig of the manufacturer for whom approval testing is being performed.

9. Sections 162.050–17 and 162.050–19 contain requirements for test rigs used in approval testing. These sections include diagrams of typical test rigs that can be used.

10. Sections 162.050–21, 162.050–25, 162.050–29, and 162.050–33 contain design requirements for oil-water separators, cargo monitors, bilge monitors, and bilge alarms. The requirements are based upon those contained in the IMCO specifications. They also incorporate the applicable safety requirements in the Coast Guard Marine and Electrical Engineering Regulations published in Subchapters F and J of Title 46, Code of Federal Regulations. The requirements in §§ 162.050–25(j) and 162.050–29(d) for each cargo monitor and each bilge monitor to have a recording device are also contained in Annex I to the MARPOL Protocol.

11. Section 162.050–23 contains approval tests for separators. The tests assess the performance capability of a separator using both low and high concentrations of oil in the influent to the separator as well as with a pure oil influent. The tests also evaluate performance when influent suction is lost and when the separator is operated for an extended period in the automatic mode.

12. Section 162.050–27 contains approval tests for cargo monitors. The tests assess the performance capability of a cargo monitor using a variety of crude oils or refined products, or both, depending upon which oils the monitor is designed to use. The tests also determine cargo monitor response time and assess performance under variable operating conditions and after an extended shutdown period.

13. Section 162.050–31 contains approval tests for bilge monitors. These tests are similar to the tests for cargo monitors, except that the oils specified for separator tests are used in lieu of the cargo oils specified for cargo monitor tests. Section 162.050–31 contains, in addition, tests that assess the capability of the devices required by paragraphs 162.050–29(c)(1) and (c)(2) to produce the signals prescribed by those paragraphs.

14. Section 162.050–35 contains approval tests for bilge alarms. These tests assess the capability of an alarm to actuate at an oil concentration of 15 parts per million of oil in water under variable operating conditions. The tests also determine the alarm's response time and its capability to operate properly after an extended shutdown period.

15. Section 162.050–37 requires that a vibration test be conducted for each monitor and bilge alarm and each separator control component submitted for approval. This test must be performed for an applicant by an independent laboratory. A laboratory report describing the results of the testing must be submitted with the application for approval.

16. Section 162.050–39 prescribes the method for measuring oil content of samples taken during approval testing. The method consists of solvent extraction and infrared spectrophotometry. Carbon tetrachloride, Freon, or other fluorocarbon solvent may be used as the solvent in the extraction process, except that carbon tetrachloride must be used with samples taken during testing of a cargo monitor.

Discussion of Comments and Changes Made

The following paragraphs contain an analysis of comments received on the notice of proposed rule making and an explanation of changes made in the final rules.

Section 162.050–3(a). Five commenters questioned whether the term "parts per million" (p.p.m.) as defined in § 162.050–3(a) is a volume to volume ratio or a weight to volume ratio of oil in water. "Parts per million" typically means a volume to volume ratio and this is what was intended in the proposal. Section 162.050–3(a) has been revised in the final rules to emphasize this intent.

Section 162.050–3(d), (e), and (f). Three commenters recommended that definitions of "cargo monitor", "bilge monitor", and "bilge alarm" be added to explain more fully what equipment will be approved under these specifications. Definitions have been added as new §§ 162.050–3(d), (e), and (f).

Section 162.050–3(g). A definition of "independent laboratory" has been added as a new § 162.050–3(g). Sections 162.050–21(b), 162.050–25(c), and 162.050–37(a) in both the proposed and final rules contain provisions requiring the use of "independent laboratories" in approving components of equipment to be installed in an explosive atmosphere and in conducting vibration testing of a monitor or bilge alarm or of the controls on a separator. The purpose of the definition is to explain what type of laboratory is considered to be "independent" and capable of performing the tests and approvals described in §§ 162.050–21(b), 162.050–25(c), and 162.050–37(a). Though comments were not received concerning the meaning of "independent laboratory", the definition will more fully explain the term.

Sections 162.050–7(h)(3). One commenter stated that the approval criterion in § 162.050–7(h)(3) is too stringent because a separator cannot continually produce a 15 p.p.m. effluent

under true operating conditions. He recommended that the criterion be changed to require that each sample, when analyzed, have an oil content of less than 50 p.p.m. and to require that at least 90% of the samples have an oil content of less than 15 p.p.m. The purpose of the 15 p.p.m. approval criterion in § 162.050-7(h)(3) is to minimize as much as possible the number of instances in which a separator will fail to operate properly after it is installed on a vessel. Though the criterion is rigorous, it represents an international consensus on what constitutes a reasonable and practicable test standard, and its use should assure availability of the best technology presently available. Also, use of the criterion suggested by the commenter would necessitate taking a substantial number of samples at each flow condition and oil content specified in the approval tests in order for the results to be meaningful. The increased number of samples to be collected and analyzed would significantly increase the cost of approval. Accordingly, § 162.050-7(h)(3) has not been changed in the final rules.

As previously explained, the approval criterion in § 162.050-7(h)(3) has the effect of setting a standard of 15 parts per million of oil in water for overboard discharges through a 15 p.p.m. separator. Regulations of the Environmental Protection Agency in §§ 110.3 and 110.4 of Part 110, Title 40, Code of Federal Regulations, essentially prohibit the discharge of oil into the navigable waters and contiguous zone if the discharge would (1) violate applicable water quality standards or (2) create a sludge or emulsion or produce visible traces of oil in or on the surface of water or along adjoining shorelines. Discharges of 15 p.p.m. or less normally do not exceed this criteria. Accordingly, vessels which are equipped with approved separators that are in proper operating condition should normally be in compliance with these regulations. The possibility of noncompliance with §§ 110.3 and 110.4 when using Coast Guard approved separators is the subject of continuing discussion with EPA. The results of this discussion will be summarized in CGD 75-124a and CGD 76-088b when the regulations in those projects are published as Final Rules.

Section 162.050-11(b)(7). One commenter noted that the requirement in proposed § 162.050-11(b)(7) to list each restriction on the use of substances that could impair operation of approved equipment could result in a volumious listing. Section 162.050-11(b)(7) has been revised to require a listing of bilge cleaners, solvents, and other chemical compounds that do not impair operation of the equipment.

Section 162.050-11(b)(9). The Coast Guard has determined, though not in response to any particular comment, that the part numbers of the filter or coalescer elements of a separator should be marked on the equipment. Numerous items of shipboard equipment have replacable filter elements and the marking is necessary as an aid in proper selection of elements to be used in a separator. Accordingly, a new § 162.050-11(b)(9) has been added to require that the marking on a separator list the part numbers of its filter or coalescer elements.

Section 162.050-14. One commenter recommended that sample bottles used in approval testing be required to have caps that will not absorb oil fractions and that will not leak plasticizers of a type that would appear in an infrared spectrum. In accordance with this recommendation, a requirement that the cap be lined with a material that will not affect the oil content of a sample has been added to the final rules in § 162.050-14(a).

The requirements contained in §§ 162.050-23(a)(8) and 162.050-39(d) of the proposed regulations have been transferred to § 162.050-14 of the final rules.

Sections 162.050-14(b) and (c). One commenter recommended that samples taken during approval testing be acidified at the time of collection. A second commenter recommended that each sample be refrigerated or that both acid and solvent be added to each sample at the time of collection. The U.S. Environmental Protection Agency Handbook entitled "Methods For Chemical Analysis of Water and Wastes" (EPA-625/6-74-003) recommends that samples be acidified at the time of collection and that they also be refrigerated at or below 4°C until the sample is analyzed. The commenters' recommendations, as modified by the EPA recommendation, have been adopted in §§ 162.050-14(b) and (c) of the final rules.

Sections 162.050-15(b)(3)(iv) and 162.050-5(a)(11). Proposed § 162.050-15(b)(3)(iv) required that each request for designation as a facility authorized to perform approval testing include information describing each test rig to be used. Three commenters recommended that approval testing be allowed using the test rig of an applicant-manufacturer in lieu of a test rig belonging to the facility. If a manufacturer's test rig is available, its use will, in most instances, be the most economical method for conducting approval testing. Accordingly, §§ 162.050-5(a)(11) and 162.050-15(b)(3)(iv) have been revised to allow use of a manufacturer's test rig.

Sections 162.050-15(d), (e), and (f) and 162.050-39. Several commenters made recommendations for improving the procedures in § 162.050-39 for measuring the oil content of samples taken during approval testing. The Coast Guard adopted most of these recommendations in the final rules and an explanation is provided in subsequent paragraphs. However, based upon the concern in these comments for accuracy in sample analysis, the Coast Guard has determined that additional procedures are needed to verify whether a testing facility has the capability to perform sample analysis accurately. Accordingly, additional procedures have been added to the final rules at paragraphs (d), (e), and (f) of § 162.050-15. (Section 162.050-15 contains procedures for obtaining designation as a facility authorized to conduct approval tests.) The additional provisions require a prospective facility to analyze a set of twelve oil-in-water samples provided by the Coast Guard. The analysis must be conducted in accordance with the procedures in § 162.050-39 for measuring oil content of samples, and the results of the analysis must be submitted to the Coast Guard. The results of analysis will in turn be analyzed to determine the accuracy of the facility's procedures for analyzing samples.

Section 162.050-15(f) prescribes the degree of accuracy required of a facility in analyzing samples. The analysis methods incorporated by reference into § 162.050-15(f) were developed by independent experts in the field of statistical analysis and are readily available to the public. These methods are contained in the following documents:

(a) "Standard Practice For Determination of Precision and Bias of Methods of Committee D-19 on Water, D 2777-77", American Society for Testing and Materials (ASTM).

(b) "Experimental Statistics", National Bureau of Standards Handbook No. 91 (October 1966).

The selection of significance levels used in these methods is based upon a study entitled "Determining the Concentration of Oil in Water Samples by Infrared Spectrophotometry", Phase II, Volume I (Report NSRDC 4536). This study was conducted by the U.S. Navy and a copy of the study is available for public inspection at the location listed under ADDRESSES. Section 162.050-15(f)(2) provides for discarding one measurement under circumstances prescribed in that section. The purposes

for discarding the measurement is to account for the possibility that a sample provided by the Coast Guard may deteriorate in shipment or be improperly prepared for shipment.

Figures 162.050–17(a) and 162.050–19. One commenter asked whether the test rig diagrams described in Figures 162.050–17(a) and 162.050–19 are rigid design specifications or whether they are descriptions of typical test rigs to be used in approval testing. Another commenter asked whether the monitor and bilge alarm test rig, as shown in Figure 162.050–19, is intended for use only with full flow monitors and alarms. The diagrams show typical test rigs and are not intended to be rigid design specifications. For example, substitutions of another valve arrangement that performs the same function will be acceptable. The monitor and alarm test rig shown in Figure 162.050–19 is suitable for use in testing both full flow and bypass flow monitors and alarms. Sections 162.050–17 and 162.050–19 have been clarified in the final rules by listing in those sections the specific requirements applicable to test rigs and by emphasizing that the associated figures depict typical test rigs.

Three commenters noted that the air cocks needed for Tests No. 1S, No. 2S, and No. 3S were not shown on the separator test rig diagram in Figure 162.050–17(a). This omission has been corrected in the final rules.

Sections 162.050–17(b) and 162.050–23(a)(4). Five comments were received concerning the provisions in proposed §§ 162.050–17(b) and 162.050–23(a)(4) that relate to mixture pumps used on separator test rigs. The recommendations included the following:

(a) Specify the size distribution of oil droplets in the pump discharge.

(b) Require a separator manufacturer to specify the supply pump for shipboard use with his separator and require use of that pump for approval testing in lieu of the mixture pump on the test rig.

(c) Modify the Reynolds Number and flow velocity criteria.

(d) Require heating of influent mixtures.

The purpose for using mixture pumps is to impose conditions that represent actual shipboard conditions. The additional provisions recommended by the commenters are not necessary to simulate shipboard conditions; and, accordingly, they have not been adopted in the final rules. The provisions for mixture pumps in proposed § 162.050–23(a)(4) have been transferred to § 162.050–17(b) in the final rules.

Section 162.050–19(c), Figure 162.050–19, and § 162.050–27(b)(11). One commenter recommended that the centrifugal pump shown in Figure 162.050–19 be used for approval testing of monitors and alarms in all cases whether or not the equipment under test has its own pump. Another commenter suggested that the centrifugal pump be operated at a speed of 1,000 revolutions per minute or more during testing to provide a reasonably homogeneous mixture for use during testing. These test conditions are representative of shipboard conditions and have been adopted in §§ 162.050–19(c) and 162.050–27(b)(11) of the final rules.

Sections 162.050–21(a), 162.050–23(f), 162.050–27(n), 162.050–31(l), and 162.050–35(i). Two commenters noted that the proposed regulations did not contain a test to verify compliance with § 162.050–21(a). This section requires that a separator be designed to operate in each plane that forms an angle of 22.5° with the plane of its normal operating position. The Coast Guard has modified § 162.050–23(f) to require that a separator be inclined at an angle of 22.5° during the final hour of Test No. 5S. This additional test procedure is sufficient to show compliance with § 162.050–21(a). Similar changes have been made in Tests No. 12CM, No. 10BM, and No. 7A in §§ 162.050–27(n), 162.050–31(l), and 162.050–35(i).

Section 162.050–21(a). One commenter recommended that § 162.050–21(a) be revised to require that each separator be designed to operate under shipboard conditions of 22.5° roll and 10° pitch. Another commenter recommended a 10° roll and a 5° pitch. The rationale for these recommendations was that designing a separator to operate in all planes up to 22.5° from its normal operating position was both difficult and expensive. These comments have not been adopted. The IMCO resolution requires the 22.5° angle for both roll and pitch. The purpose of the requirement is to determine the extent of a separator's capability to operate properly under relatively severe conditions regardless of the postion in which the equipment is installed on the vessel.

Sections 162.050–21(d) and 162.050–25(f). Sections 162.050–21(d) and 162.050–25(f) require that approved equipment be designed in accordance with the applicable requirements in Subchapters F and J of Title 46, Code of Federal Regulations. One commenter asked that the applicable regulations be specified. A determination of what regulations apply will have to be made on a case by case basis. The determination is dependent upon the physical characteristics of the components in a particular piece of equipment. Prospective applicants, if they are not sure which regulations apply to their equipment, can obtain assistance by contacting the Coast Guard and providing a detailed set of plans and an equipment list for the components of their equipment.

Sections 162.050–21(h) and 162.050–23, Figure 162.050–17(a), and 162.050–3(b) and (c). One commenter questioned whether an oily mixture fed as influent into a separator could be diluted with sea water to assist in reducing the oil concentration in the mixture to a level that could be lawfully discharged overboard. A separator that relies on diluting an influent mixture to perform its function properly will not be approved under thes regulations. The function of a separator is to separate and remove oil from an overboard discharge, not to dilute it. Before diluting type devices could be approved, specifications and tests would have to be developed that would include provisions for limiting the total permissible amount of oil that could be discharged overboard through the device within a given period. Maximum discharge limits have already been prescribed for overboard discharges of oil through cargo monitors (see 33 CFR 157.37(a)(4)). However, to prescribe discharge limits for diluting type devices to be used in lieu of separators would necessitate a lengthy, complex proceeding to formulate appropriate limits. The proceeding would have to take into account various considerations such as vessel size, type, and area of vessel operation, and types of machinery used on board vessels. Such a proceeding is not currently contemplated because of the expected availability of separators.

Figure 162.050–17(a) in both the proposed and final regulations shows a test rig and separator arrangement that does not contain an additional water pipe for use in diluting the influent to the separator. Also, the approval tests for separators in § 162.050–23, as drafted, do not contain tests for devices that use sea water to dilute influent mixtures. However, to prevent confusion in interpreting the regulations, additional rules have been added to explain clearly that a separator which relies on dilution of influent mixtures to perform its function will not be approved. Accordingly, the definitions of "100 p.p.m. separator" and "15 p.p.m. separator" in §§ 162.050–3 (b) and (c) have been clarified to emphasize that separators are equipment designed to remove oil from an oil-water mixture.

Also, a new paragraph 162.050–21(h) has been added to emphasize that a separator must be designed so that it does not rely on dilution of influent mixtures, in whole or part, as a means to perform its function.

Section 162.050–23. Two commenters recommended that § 162.050–23 be revised to allow approval of separators that have been designed for use with only certain weights of oil. Machinery space bilges contain varying mixtures of both heavy and light oils. If a limited use separator were installed, the bilge monitor or alarm could actuate frequently when varying mixtures of oil were encountered. Multi-purpose separators are necessary to avoid frequent monitor or alarm actuation. Accordingly, the recommendation has not been adopted.

One commenter requested that the final rules include a procedure for sampling separated oil effluent from a separator. Since separated oil cannot be lawfully discharged overboard there is no environmental purpose for the requirement.

Section 162.050–23(a)(11). One commenter recommended that maintenance be prohibited during approval testing of separators. This recommendation has been adopted. Section 162.050–21(e) requires that separators installed in unattended machinery spaces be designed for 24 hours of unattended operation, and this capability can be sufficiently verified by requiring that a separator be able to pass approval testing without having to be serviced during or between any of the individual tests. Accordingly, a new § 162.050–23(a)(11) has been added to prohibit maintenance (including replacement of parts) during and between approval tests. Currently available equipment should have little difficulty in complying with this prohibition.

Section 162.050–23(b). Three commenters recommended that a test of the reliability of filter and coalescer elements in separators be added to Test No. 1S in § 162.050–23(b). The prohibition against maintenance in § 162.050–23(a)(11) will require elements to have sufficient capability to perform their function without replacement during or between any of the approval tests. Thus, the no maintenance prohibition has the effect of providing a minimum reliability criterion for filter and coalescer elements.

Another commenter recommended that filter and coalescer elements be tested using 100 parts per million of particulate contaminant in the influent. Use of a contaminant in the influent as a check on reliability of elements is not necessary. The presence of contaminant in the influent, though it may slightly shorten the effective life of an element, would tend to enhance the oil separation process rather than detract from it.

Sections 162.050–23(d) through (g). Two commenters stated that performing Test No. 3S with light distillate fuel oil between two series of steps that call for using a heavy residual oil could foul the test rig with the light or heavy oil and prevent reliable results in sample analysis. The commenters also recommended that the step calling for light oil be placed first in the testing sequence. The use of light oil between steps that call for heavy oil does pose a potential for fouling the test rig and, accordingly, the final rules have been modified to avoid mixing of oils. However, the recommendation that the light oil step be first in the testing sequence has not been adopted. IMCO Resolution A.393(X) requires that a heavy oil be used first since this order of testing provides for a more rigorous testing procedure. Accordingly, proposed Test No. 3S has been moved to the end of the separator test sequence and redesignated as Test No. 6S in the final rules. Proposed Tests No. 4S, No. 5S, and No. 6S have been redesignated as Tests No. 3S, No. 4S, and No. 5S, respectively in the final rules.

Section 162.050–23(f). One commenter recommended that Test No. 5S in § 162.050–23(f) be revised to allow the oil content of influent to be held constant at a concentration of 25% oil in water for fifteen minutes followed by a fifteen minute interval with pure water influent. Variable concentrations of influent are used in this test in order to simulate shipboard conditions. Accordingly, the recommendation has not been adopted.

Section 162.050–25. One commenter recommended that § 162.050–25 be amended to require that a cargo monitor be capable of measuring oil content in all concentrations between 0 and 1200 p.p.m. Test No. 5CM is conducted with a 500 p.p.m. mixture and in effect defines the minimum concentration range as 0–500 p.p.m. A determination of whether a cargo monitor should be designed to read greater concentrations has been left to the discretion of the equipment manufacturer. Whatever range is selected, Tests Nos. 1CM, 2CM, and 4CM check for operation of the monitor at various concentrations throughout that range. Accordingly, the commenter's suggestion has not been adopted.

Section 162.050–25(b). One commenter requested that the requirement in § 162.050–25(b) for a cargo monitor to have an automatic means of calibration be deleted from the final rules. He reasoned that manual calibration can be accomplished rapidly and therefore should be accepted as equivalent to automatic calibration. Though manual calibration can be accomplished rapidly, it can also introduce errors in a monitor's accuracy during actual operation and, thus, could result in discharges of oil in excess of allowable limits. Accordingly, the commenter's suggestion has not been adopted.

Sections 162.050–25(j) and 162.050–29(d). One commenter asked whether recording the date and time of overboard discharges could be done manually in lieu of using the recording devices required by §§ 162.050–25(j) and 162.050–29(d). As mentioned earlier in this preamble, Annex I of the MARPOL Protocol contains a requirement for monitors to have these recording devices.

Accordingly, §§ 162.050–25(j) and 162.050–29(d) have been retained in the final regulations so that approved monitors will also comply with the requirements of the PROTOCOL when it enters into force.

Sections 162.050–27(b)(12), 162.050–31(b)(1), 162.050–35(b)(3), 162.050–39(a), 162.050–7(i), 162.050–7(j), and 162.050–7(k). Several commenters stated that mixing a known quantity of oil with a known quantity of water might not always be an effective method of measuring the concentration of a mixture used in monitor and alarm testing since oil could easily plate out on the test rig piping before reaching the inlet to the monitor or alarm. The commenters recommended that the monitor and alarm tests in §§ 162.050–27, 162.050–31, and 162.050–35 be revised to require that a sample of the test mixture be taken each time a monitor reading is recorded and each time the bilge alarm actuates, and that the oil content of each sample be determined following the procedures in § 162.050–39. These recommendations have been adopted in the final rules and appropriate revisions have been made in §§ 162.050–7(i), 162.050–7(j), 162.050–162.050–7(k), 162.050–27(b)(12), 162.050–31(b)(1), 162.050–35(b)(3), and 162.050–39(a). Analyzing the oil content of samples of the test mixture, as opposed to determining the oil content of the mixture by premixing known quantities of oil and water, is a more accurate test method. It is also important to note that if samples of the test mixture were not taken, and if a significant amount of plating out were to occur, the oil content values determined by premixing could be significantly greater than the values

actually measured by the monitor or alarm. Thus, the device could easily fail testing even though it was, in fact, a perfectly acceptable device.

One commenter suggested the use of Teflon coated piping in the test rig as a possible means of avoiding plating out of oil. Although there is no prohibition against the use of Teflon coated piping, some amount of plating out may still occur in this type of piping.

Section 162.050–27(c). One commenter recommended that the calibration check points specified in Test No. 1CM of § 162.050–27(c) be changed to 0, 25%, 50%, 75%, and 100% of the scale of oil concentrations measured by the cargo monitor. His reasoning was that the increments between check points in Test No. 1CM are too small to have meaning on a 0–6000 p.p.m. cargo monitor or other large scale monitor. A cargo monitor must be accurate throughout its entire scale because its readings are combined with measurements of overboard discharge flow rate and vessel speed to determine the liters of oil discharged per nautical mile of vessel travel. (The liters of oil discharged per nautical mile are limited to sixty liters or less by § 157.37(a)(3) of Title 33, Code of Federal Regulations.) The calibration check points proposed by the commenter are too widely spaced to be a sufficient check on cargo monitor accuracy; and, accordingly, the commenter's recommendation has not been adopted in the final rules.

Sections 162.050–27(d), 162.050–27(g), 162.050–31(g). One commenter suggested that Tests No. 2CM, No. 5CM, and No. 5BM in §§ 162.050–27(d), 162.050–27(g), and 162.050–31(g) be run last to avoid fouling the test rig with the various oils and contaminants used in those tests. Since the total quantity of oil and contaminants used in these tests is small, the possibility of test rig fouling is minimal and reversing the order of the tests would result in a less rigorous test procedure. Accordingly, the commenter's suggestion has not been adopted.

Sections 162.050–27(e)(1), and (f)(1) and 162.050–31(e)(1) and (f)(1). Three commenters objected to proposed § 162.050–27(e)(1), which included a provision for recording the time of turning on the metering pump in Test No. 3CM. The basis for the objection was that the time interval between turning the pump on and first detecting oil depends upon the length of test rig piping between the metering pump on the rig and the monitor under test. This length is determined by the configuration of the test rig. If the test rig piping is too long, the time interval will exceed 20 seconds and the monitor will not be able to meet the approval criteria in §§ 162.050–7(i)(3) and 162.050–7(i)(4) even though, in fact, it may be a perfectly acceptable device. Accordingly, the procedural step of recording the time of turning on the metering pump results in an unreasonable approval requirement and the step has been deleted from Test No. 3CM. Similar deletions have been made in Tests No. 4CM, No. 3BM, and No. 4BM of §§ 162.050–27(f)(1) and 162.050–31(e)(1) and (f)(1)..

Sections 162.050–25(g), 162.050–29(b), and 162.050–33(b). Four commenters said that the 20 second response time requirements in §§ 162.050–25(g), 162.050–29(b), and 162.050–33(b) are impractical. Several instruments are available that can meet these requirements. The purpose of the requirements is to allow sufficient time for actuation of valves in a vessel's piping system so that none of the oily mixture causing actuation of the monitor or alarm is discharged overboard. Accordingly, these requirements have been retained in the final rules.

Table 162.050–27(g). One commenter recommended that the particulate contaminant specified in Table 162.050–27(g) be wetted with oil rather than water during the cargo monitor tests. Coast Guard experience with these tests has shown that controlled introduction of the contaminant is more readily accomplished if it is wetted with water. Accordingly, the commenter's recommendation has not been adopted in the final rules.

Section 162.050–35. One commenter noted that the proposed test procedures for bilge alarms did not contain a test to verify compliance with the 20 second response time requirement in § 162.050–33(b). The IMCO Resolution contains a performance test, and it has been added to § 162.050–35(d) of the final rules as a new Test No. 2A. Proposed tests No. 2A, No. 3A, No. 4A, No. 5A, and No. 6A have been redesignated as Tests No. 3A, No. 4A, No. 5A, No. 6A, and No. 7A respectively in the final rules.

Sections 162.050–37(b). One commenter requested that the requirement in § 162.050–37(b) to conduct vibration testing at the resonant frequency of the equipment be deleted because no one would operate equipment at its resonant frequency. If the Coast Guard were to approve equipment for a vessel on the condition that it not be operated at its resonant frequency, then a vibration survey of the vessel would be necessary to ensure that vibration at the resonant frequency of the equipment would not occur. This survey would be unduly expensive and burdensome for vessel operators. Accordingly, the commenter's suggestion has not been adopted in the final rules.

Section 162.050–39. One commenter recommended that the extraction solvent specified in proposed § 162.050–39 be changed from carbon tetrachloride to a fluorocarbon solvent. The difference in results between a fluorocarbon solvent and carbon tetrachloride is insignificant in the range of 10 p.p.m. to 100 p.p.m. Accordingly, § 162.050–39(d)(3) of the final rules allows use of Freon 113, Ucon 113, Genetron 113 (or equivalent fluorocarbon solvent), or carbon tetrachloride in analysis of samples obtained in approval testing of separators, bilge monitors, and bilge alarms. Cargo monitors, however, must accurately determine oil content at concentrations of up to 500 p.p.m., and higher if the equipment is designed to measure higher concentrations. Therefore, the requirement to use carbon tetrachloride as the extraction solvent in analysis of samples obtained in cargo monitor testing has been retained.

One commenter recommended that the extraction solvent be petroleum ether. This recommendation has not been adopted due to the flammability hazard of petroleum ether.

Section 162.050–39(f). One commenter proposed that § 162.050–39(f) be revised to require four extractions instead of the two extractions specified in the proposal. Another commenter proposed three extractions. Increasing the number of extractions may increase the amount of oil recovered; however, it also increases the probability of experimental error which can mask the benefit of increased oil recovery. Since the proposed method with two extractions has been agreed to internationally in IMCO Resolution A.393(X), it is retained in the final regulations.

In accordance with the foregoing, Part 162 of Title 46, Code of Federal Regulations, is amended by adding a new Subpart 162.050 to read as follows:

Subpart 162.050—Pollution Prevention Equipment

Sec.
162.050–1 Scope.
162.050–3 Definitions.
162.050–4 Documents incorporated by reference.
162.050–5 Contents of application.
162.050–7 Approval procedures.
162.050–9 Test report.
162.050–11 Marking.
162.050–13 Factory production and inspection.
162.050–14 Sample collection and preservation.
162.050–15 Designation of facilities.

Sec.
162.050-17 Separator test rig.
162.050-19 Monitor and bilge alarm test rig.
162.050-21 Separator: design specification.
162.050-23 Separator: approval tests.
162.050-25 Cargo monitor: design specification.
162.050-27 Cargo monitor: approval tests.
162.050-29 Bilge monitor: design specification.
162.050-31 Bilge monitor: approval tests.
162.050-33 Bilge alarm: design specification.
162.050-35 Bilge alarm: approval tests.
162.050-37 Vibration test.
162.050-39 Measurement of oil content.

Authority: This subpart is issued under the authority of 33 U.S.C. 1321(j), 46 U.S.C. 391a, 49 U.S.C. 1655(b)(1), and 49 CFR 1.4(b) and 1.46.

Subpart 162.050—Pollution Prevention Equipment

§ 162.050-1 Scope.

(a) This subpart contains—

(1) Procedures for approval of 100 p.p.m. separators, 15 p.p.m. separators, cargo monitors, bilge monitors, and bilge alarms;

(2) Design specifications for this equipment;

(3) Tests required for approval;

(4) Procedures for obtaining designation as a facility authorized to conduct approval tests;

(5) Marking requirements; and

(6) Factory inspection procedures.

§ 162.050-3 Definitions.

(a) "p.p.m." means parts per million by volume of oil in water;

(b) "100 p.p.m. separator" means a separator that is designed to remove enough oil from an oil-water mixture to provide a resulting mixture that has an oil concentration of 100 p.p.m. or less;

(c) "15 p.p.m. separator" means a separator that is designed to remove enough oil from an oil-water mixture to provide a resulting mixture that has an oil concentration of 15 p.p.m. or less;

(d) "Cargo monitor" means an instrument that is designed to measure and record the oil content of cargo residues from cargo tanks and oily mixtures combined with these residues;

(e) "Bilge monitor" means an instrument that is designed to measure and record the oil content of oily mixtures from machinery space bilges and fuel oil tanks that carry ballast;

(f) "Bilge alarm" means an instrument that is designed to measure the oil content of oily mixtures from machinery space bilges and fuel oil tanks that carry ballast and activate an alarm at a set concentration limit; and

(g) "Independent laboratory" means a laboratory that—

(1) Has the equipment and procedures necessary to approve the electrical components described in §§ 162.050-21(b) and 162.050-25(c), or to conduct the test described in § 162.050-37(a); and

(2) Is not owned or controlled by a manufacturer, supplier, or vendor of separators, monitors, or bilge alarms.

§ 162.050-4 Documents incorporated by reference.

(a) The following documents are incorporated by reference into this subpart:

(1) Underwriters Laboratories Standard 913 (as revised April 8, 1976).

(2) "Experimental Statistics", National Bureau of Standards Handbook No. 91 (October 1966).

(3) "Standard Practice for Determination of Precision and Bias of Methods of Committee D-19 on Water, D-2777-77", American Society for Testing and Materials.

(b) The documents listed in this section may be obtained as follows:

(1) The UL standard may be obtained from Underwriters Laboratories, Inc., Publications Stock, 333 Pfingsten Road, Northbrook, Illinois 60062.

(2) The ASTM standard may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

(3) The NBS handbook may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) The documents listed in this section are also on file in the Federal Register library.

(d) Approval to incorporate by reference the materials listed in this section was obtained from the Director of the Federal Register on August 21, 1979.

§ 162.050-5 Contents of application.

(a) An application for approval of a 15 p.p.m. or 100 p.p.m. separator, a cargo or bilge monitor, or a bilge alarm must contain the following information:

(1) A brief description of the item submitted for approval.

(2) The name and address of the applicant and its manufacturing facility.

(3) A detailed description of quality control procedures, in-process and final inspections and tests followed in manufacturing the item, and construction and sales record keeping systems maintained.

(4) Arrangement drawings and piping diagrams of the item that give the information prescribed by § 56.01-10(d) of this chapter.

(5) Detailed electrical plans of the type described in § 111.05-5(d) of this chapter.

(6) An instructions manual containing detailed instructions on installation, operation, calibration and zeroing, and maintenance of the item.

(7) For each monitor and bilge alarm and each control on a separator, the vibration test report described in § 162.050-37.

(8) For each cargo monitor, a statement of whether it is to be used with crude oils, refined products, or both.

(9) A list of the substances used in operating the item that require certification under Part 147 of this chapter as articles of ships' stores and supplies.

(10) The name of the facility to conduct approval testing.

(11) If the applicant intends to use a test rig other than a test rig of the facility, a detailed description of the rig.

(b) An applicant may incorporate by reference in his application information that he has submitted in a previous application.

§ 162.050-7 Approval procedures.

(a) An application for approval of equipment under this subpart must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) The application is examined by the Coast Guard to determine whether the item complies with the design requirements and vibration standard prescribed in this subpart and to determine what probability the item has of passing the approval tests. The applicant is notified of the results of the examination.

(c) If examination of the application reveals that it is incomplete, it is returned to the applicant with a statement of reasons why it is incomplete.

(d) The applicant must make arrangements for approval testing directly with a testing facility and must provide the facility with a copy of the instructions manual for the equipment to be tested.

(e) If applications for approval of a separator have been made for more than one size, the applicant, in lieu of submitting each size for approval testing, may submit each size that has a capacity exceeding fifty (50) cubic meters per hour throughput, if any, and two additional sizes that have a capacity of fifty (50) cubic meters per hour throughput or less. One of the additional sizes must have a capacity that is in the highest quartile of capacities manufactured in the 0-50 cubic meters per hour throughput range and the other must be from the lowest quartile.

(f) Each approval test must be performed by a facility designated under

§ 162.050–15. The facility must perform each test in accordance with the test conditions prescribed in this subpart for the test, prepare a test report for the item if it completes all of the tests, and send the report with four copies to the Commandant (G–MMT). The applicant may observe the tests. (If an item does not complete testing, a new application must be made before retesting.)

(g) The Commandant (G–MMT), sends a copy of the test report to the applicant and advises him whether the item is approved. If the item is approved, an approval certificate is sent to the applicant. The approval certificate lists conditions of approval applicable to the item.

(h) A separator is approved under this subpart if—

(1) It meets the design requirements in § 162.050–21 and is tested in accordance with this subpart;

(2) In the case of a 100 p.p.m. separator, the oil content of each sample of separated water effluent taken during approval testing is 100 p.p.m. or less;

(3) In the case of a 15 p.p.m. separator, the oil content of each sample of separated water effluent taken during approval testing is 15 p.p.m. or less;

(4) During Test No. 3S an oily mixture is not observed at the separated water outlet of the separator;

(5) During Test No. 5S its operation is continuous; and

(6) Any substance used in operating the separator that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

(i) A cargo monitor is approved under this subpart if—

(1) It meets the design requirements in § 162.050–25 and is tested in accordance with this subpart;

(2) Each oil content reading recorded during approval testing is within ±10 p.p.m. or ±20 percent of the oil content of the sample of influent mixture taken at the time of the reading;

(3) Its response time is twenty (20) seconds or less in Test No. 3CM;

(4) The time intervals between successive readings recorded in Test No. 4CM are twenty (20) seconds or less; and

(5) Any substance used in operating the monitor that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

(j) A bilge monitor is approved under this subpart if—

(1) It meets the design requirements in § 162.050–29 and is tested in accordance with this subpart;

(2) Except as provided in paragraph (j)(5) of this section, each oil content reading recorded during approval testing is within ±10 p.p.m. or ±20 percent of the oil content of the sample of influent mixture taken at the time of the reading;

(3) The time intervals between successive readings recorded in Test No. 3BM are twenty (20) seconds or less;

(4) The time intervals between successive readings recorded in Test No. 4BM are twenty (20) seconds or less;

(5) The oil content of the sample taken each time the device required by § 162.050–29(c)(1) actuates is 15 p.p.m. ±5 p.p.m.;

(6) The oil content of the sample taken each time the device required by § 162.050–29(c)(2) actuates is 100 p.p.m. ±20 p.p.m.; and

(7) Any substance used in operating the monitor that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

(k) A bilge alarm is approved under this subpart if—

(1) It meets the design requirements in § 162.050–33 and is tested in accordance with this subpart;

(2) The oil content of each sample taken during approval testing is 15 p.p.m. ±5 p.p.m.;

(3) Its response time is twenty seconds or less in Test No. 2A; and

(4) Any substance used in operating the alarm that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

§ 162.050–9 Test report.

(a) A report of approval testing must contain the following:

(1) Name of the testing facility.

(2) Name of the applicant.

(3) Date of receiving the item for testing and the dates of the tests conducted.

(4) Trade name and brief description of the item.

(5) A listing of the following properties of the test oils used:

(i) Relative density at 15°C.

(ii) Viscosity in centistokes at 37.8°C.

(iii) Flashpoint.

(iv) Weight of ash content.

(v) Weight of water content.

(vi) Relative density at 15°C. the of water used during testing and the weight of solid content in the water.

(vii) The data recorded during each test.

§ 162.050–11 Marking.

(a) Each separator, monitor, and bilge alarm manufactured under Coast Guard approval must be plainly marked by the manufacturer with the information listed in paragraph (b) of this section. The marking must be securely fastened to the item.

(b) Each marking must include the following information:

(1) Name of the manufacturer.

(2) Name or model number of the item.

(3) If the item is a separator, the maximum throughput and the maximum influent pressure at which the separator is designed to operate.

(4) The month and year of completion of manufacture.

(5) The manufacturer's serial number for the item.

(6) The Coast Guard approval number assigned to the item in the certificate of approval.

(7) A list of bilge cleaners, solvents, and other chemical compounds that do not impair operation of the item.

(8) If the item is a cargo monitor, the oils for which use has been approved.

(9) If the item is a separator that uses replaceable filter or coalescer elements, the part numbers of the elements.

§ 162.050–13 Factory production and inspection.

(a) Equipment manufactured under Coast Guard approval must be of the type described in the current certificate of approval issued for the equipment.

(b) Equipment manufactured under Coast Guard approval is not inspected on a regular schedule at the place of manufacture. However, the Commandant may detail Coast Guard personnel at any time to visit a factory where the equipment is manufactured to conduct an inspection of the manufacturing process.

§ 162.050–14 Sample collection and preservation.

(a) Each sample obtained in approval testing must be approximately one (1) liter in volume and must be collected in a narrow-necked glass bottle that has a pressure sealing cap. The cap must be lined with a material that will not affect the oil content of the sample.

(b) Each sample must be preserved by the addition of 5 ml. of hydrochloric acid at the time of collection. The hydrochloric acid must consist of equal amounts of concentrated reagent grade hydrochloric acid and distilled water.

(c) Each sample must be refrigerated at or below 4°C until analyzed. However, refrigeration is not necessary if there is no time delay between sample collection and analysis.

§ 162.050–15 Designation of facilities.

(a) Each request for designation as a facility authorized to perform approval tests must be submitted to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590

(b) Each request must include the following:

(1) Name and address of the facility.

(2) Each type of equipment the facility proposes to test.

(3) A description of the facility's capability to perform approval tests including detailed information on the following:

(i) Management organization including personnel qualifications.

(ii) Equipment available for conducting sample analysis.

(iii) Materials available for approval testing.

(iv) Each of the facility's test rigs, if any.

(c) The Coast Guard reviews each request submitted to determine whether the facility meets the requirements of paragraphs (g)(1) through (g)(4) of this section.

(d) If the facility meets the requirements in paragraphs (g)(1) through (g)(4) of this section, it is then supplied with twelve samples containing mixtures of oil in water that are within a 10 to 30 p.p.m. range.

(e) The facility must measure the oil content of each sample using the method described in § 162.050–39 and report the value of each of the 12 measurements to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

(f) The measurements must meet the following criteria:

(1) Except as provided in paragraph (f)(2) of this section, the absolute value of Tn for each measurement, as determined by the method described in paragraph 10.3.2 of the American Society for Testing and Materials, "Standard Practice for Determination of Precision and Bias of Methods of Committee D–19 on Water", D–2777–77, must be less than or equal to 2.29 at a confidence level of 0.05.

(2) The absolute value of Tn for one measurement may exceed 2.29 if the Tn values for the other eleven measurements are less than or equal to 2.23 at a confidence level of 0.05. If the Tn value for one measurement exceeds 2.29, that measurement is not used in the method described in paragraph (f)(3) of this section.

(3) The value of $\bar{X}$ for the 12 measurements described in paragraph (e) of this section, or for 11 measurements if paragraph (f)(2) of this section applies, must be within the range of $-1\ \bar{X}d\ +1$ at a minimum confidence level of 0.01 when $\bar{X}d$ is determined by the method described in paragraph 3–3.1.4 of "Experimental Statistics", National Bureau of Standards Handbook No. 91 (October 1966).

(g) To obtain authorization to conduct approval tests—

(1) A facility must have the management organization, equipment for conducting sample analysis, and the materials necessary to perform the tests;

(2) Each facility test rig must be of a type described in § 162.050–17 or § 162.050–19;

(3) The loss or award of a specific contract to test equipment must not be a substantial factor in the facility's financial well being;

(4) The facility must be free of influence and control of the manufacturers, suppliers, and vendors of the equipment; and

(5) The oil content measurements submitted to the Commandant must meet the criteria in paragraph (f) of this section.

(h) A facility may not subcontract for approval testing unless previously authorized by the Coast Guard. A request for authorization to subcontract must be sent to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

§ 162.050–17 Separator test rig.

(a) This section contains requirements for test rigs used in approval testing of separators. A diagram of a typical test rig is shown in Figure 162.050–17(a).

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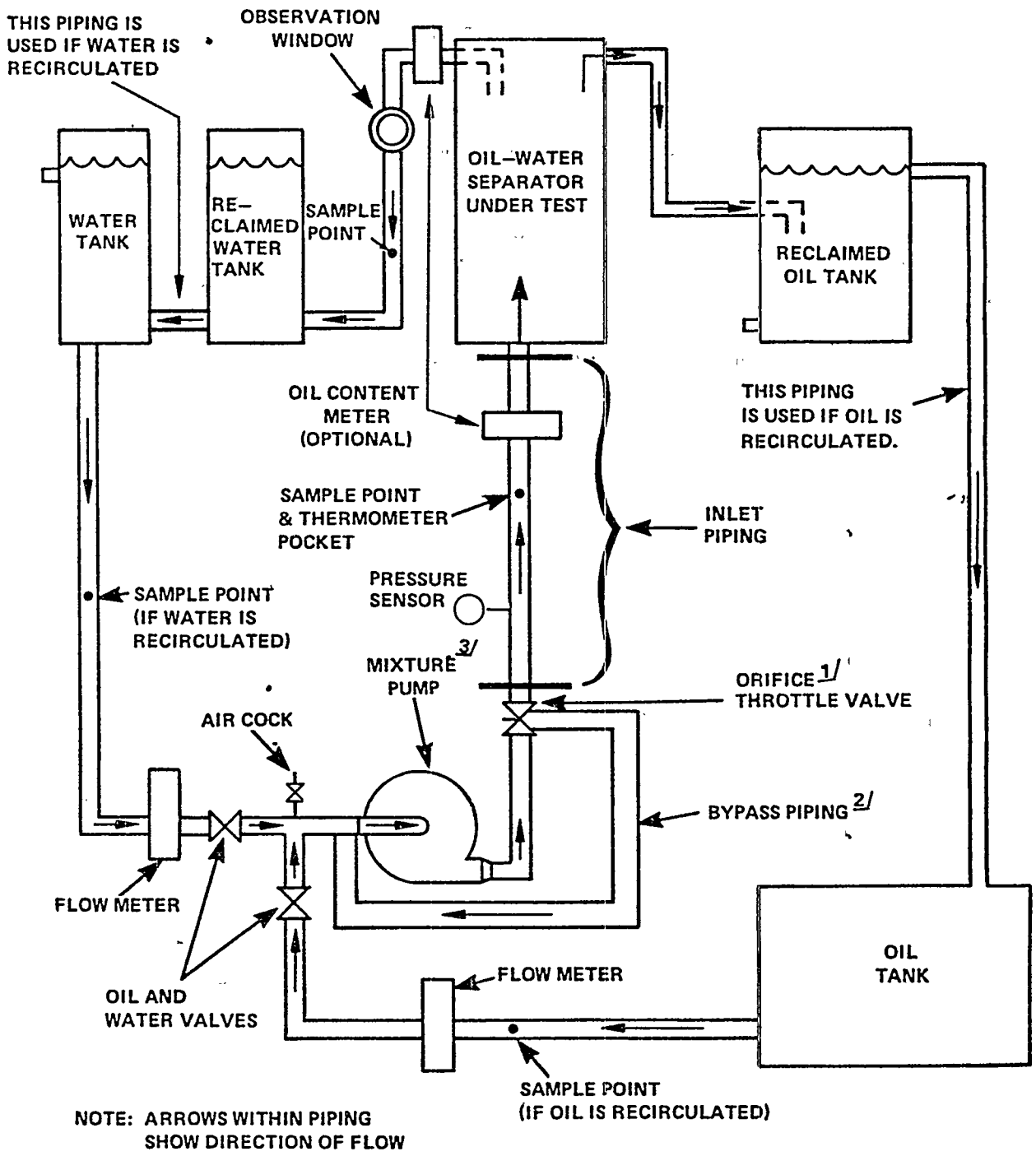
FIGURE 162,050—17(a) - SEPARATOR TEST RIG



NOTE: ARROWS WITHIN PIPING SHOW DIRECTION OF FLOW

1/ NOT REQUIRED IF MIXTURE PUMP HAS BYPASS PIPING. SEE § 162.050–17(b) (4)

2/ NOT REQUIRED IF MIXTURE PUMP PIPING HAS ORIFICE. SEE § 162.050–17 (b)(4)

3/ NOT REQUIRED IF SEPARATOR HAS SUPPLY PUMP SEE § 162.050–17(b)

BILLING CODE 4910-14-C

(b) Each mixture pump on a test rig must—

(1) Be a centrifugal pump capable of operating at one thousand (1,000) revolutions per minute or more;

(2) Have a delivery capacity of at least one and one half (1.5) times the maximum throughput at which the separator being tested is designed to operate;

(3) Have a maximum delivery pressure that is equal to or greater than the maximum influent pressure at which the separator is designed to operate; and

(4) Have either bypass piping to its suction side or a throttle valve or orifice on its discharge side.

(c) The inlet piping of the test rig must be sized so that—

(1) Influent water flows at a Reynolds Number of at least ten thousand;

(2) The influent flow rate is between one and three meters per second; and

(3) Its length is at least twenty (20) times its inside diameter.

(d) Each sample point on a test rig must meet the design requirements described in Figure 162.050–17(e) and must be in a vertical portion of the test rig piping.

§ 162.050–19 Monitor and bilge alarm test rig.

(a) This section contains requirements for test rigs used in approval testing of monitors and bilge alarms. A typical test rig is described in Figure 162.050–19. The mixture pipe shown in Figure 162.050–19 is the portion of test rig piping between the oil injection point and the monitor or bilge alarm piping.

(b) Each sample point on a test rig must be of the type described in Figure 162.050–17(e) and must be in a vertical portion of the test rig piping.

(c) Each test rig must have a centrifugal pump that is designed to operate at one thousand (1,000) revolutions per minute or more.

(d) The mixture pipe on a test rig must have a uniform inside diameter.

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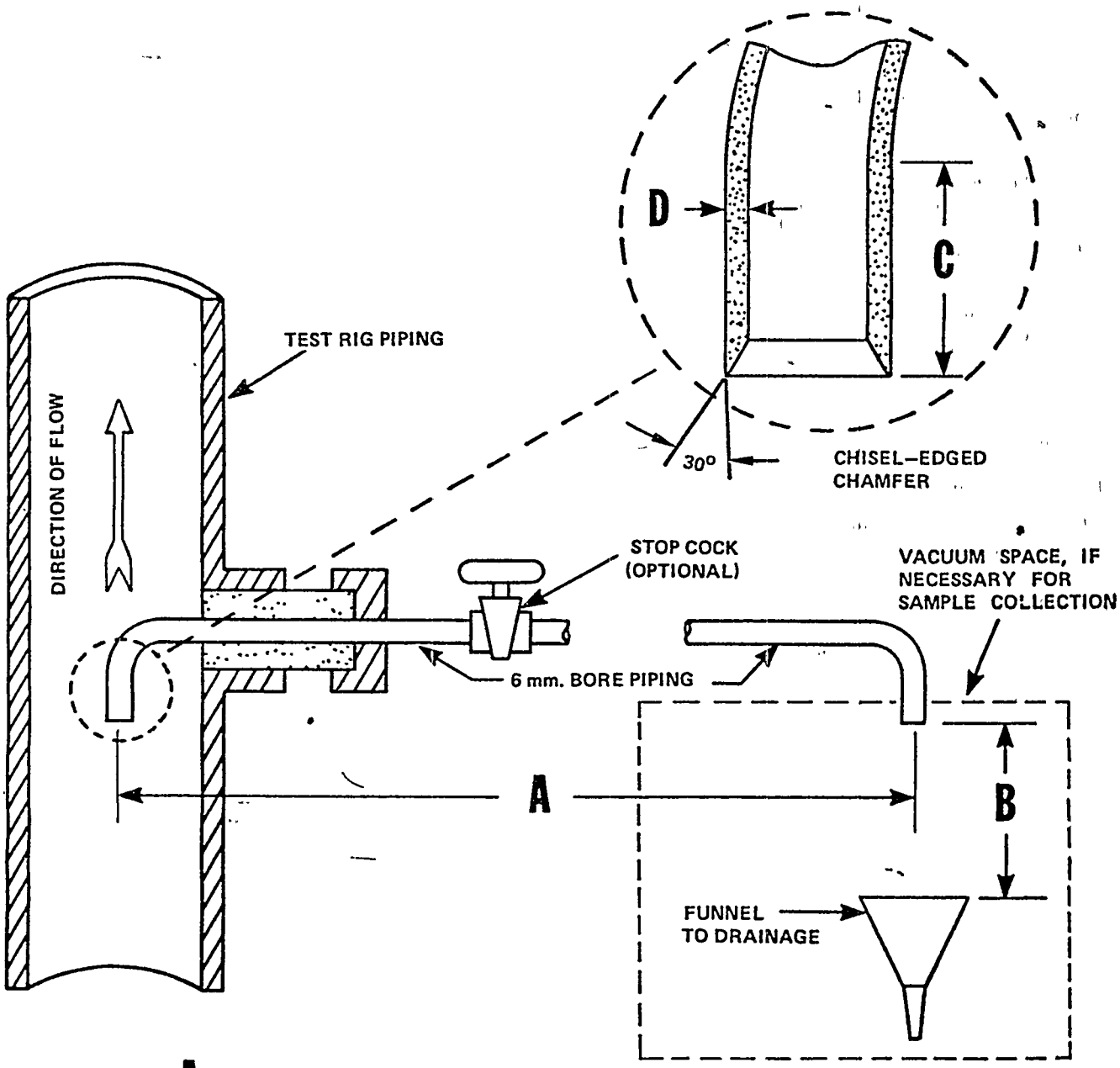
FIGURE 162,050—17(e) - SAMPLE POINT



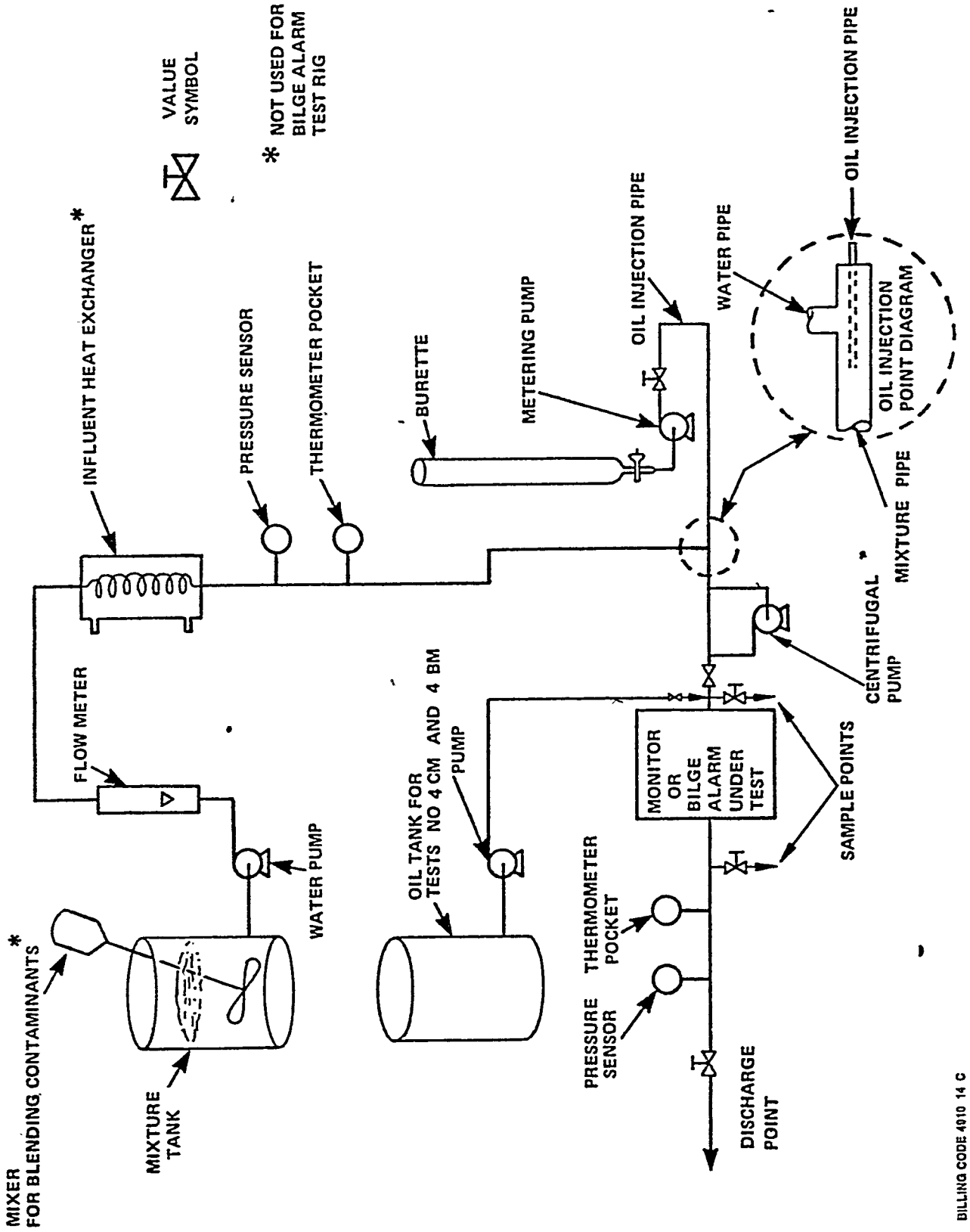
A dimension A is not greater than 400 mm.

B height B is large enough to insert a sample bottle.

C distance C is a straight line of not less than 60 mm.

D width D is not greater than 2 mm.

FIGURE 162,050—19 - MONITOR AND BILGE ALARM TEST RIG



BILLING CODE 4910 14 C

§ 162.050-21 Separator: Design specification.

(a) A separator must be designed to operate in each plane that forms an angle of 22.5° with the plane of its normal operating position.

(b) The electrical components of a separator that are to be installed in an explosive atmosphere must be approved by an independent laboratory as components that Underwriters Laboratories Standard 913 (dated April 8, 1976) defines as intrinsically safe for use in a Class I, Group D hazardous location.

(c) Each separator component that is a moving part must be designed so that its movement during operation of the separator does not cause formation of static electricity.

(d) Each separator must be designed in accordance with the applicable requirements in Subchapters F and J of this chapter.

(e) Each separator must be designed to be operated both automatically and manually. Each separator to be installed in an unattended machinery space must be capable of operating automatically for at least twenty-four (24) hours.

(f) Each separator must be designed so that adjustments to valves or other equipment are not necessary to start it.

(g) Each part of a separator that is susceptible to wear and tear must be readily accessible for maintenance in its installed position.

(h) A separator must be designed so that it does not rely in whole or in part on dilution of influent mixtures as a means of performing its function.

§ 162.050-23 Separator: Approval tests.

(a) *Test Conditions.* (1) Each test described in this section must be performed at a throughput and influent pressure equal to the maximum throughput and pressure at which the separator being tested is designed to operate. The tests and each of the steps in the tests must be carried out in the order described in this section. Each test must be performed without time delay between steps in the test.

(2) Except as provided in Test No. 6S, the influent oil used in each test must be a heavy fuel oil that has a relative density of approximately 0.94 at 15°C and a viscosity of at least 220 centistokes (approximately 900 seconds Redwood No. 1) at 37.8°C.

(3) A test rig of the type described in § 162.050-17 must be used in performing each test.

(4) If a separator has a supply pump, it must be tested using that pump. If a separator does not have a supply pump, it must be tested using the mixture pump on the test rig.

(5) The influent water used in each test must be clean fresh water or clean fresh water in solution with sodium chloride. The water or solution must have a relative density at 15°C that is equal to or less than 0.085 plus the relative density of the heavy fuel oil used in the tests.

(6) Each test must be conducted at an ambient temperature of between 10°C and 30°C.

(7) The oil content of each sample must be measured using the method described in § 162.050-39.

(8) Influent oil content must be determined during testing by measuring the flow rates of the oil and water that are mixed to form the influent or by use of an oil content meter on the inlet piping of the test rig. If an oil content meter is used, a sample of influent and a meter reading must be taken at the beginning of each test. If the meter reading is not within ±10 percent of the oil content of the sample, the meter readings subsequently taken during the test are unacceptable test results.

(9) When collecting a sample at a sample point that has a stop cock, the first minute of fluid flow through the stop cock must not be included in the sample collected.

(10) In each test, the separator must be operated in accordance with the procedures described in its instruction manual.

(11) No maintenance, including replacement of parts, may be performed on a separator during or between the tests described in this section.

(12) A one (1) liter sample of each oil to be used in testing must be taken and provided for use in the sample analysis required by § 162.050-39.

(13) The separator may not be operated manually in Test No. 5S.

(b) *Test No. 1S.* The separator is filled with water and started. It is fed with oil for at least five (5) minutes and then with an oil-water influent containing an oil content of between 5,000 and 10,000 p.p.m. until a steady flow rate occurs. After the flow rate is steady, the influent is fed to the separator for thirty (30) minutes. Samples of separated water effluent are taken after the first ten (10) and twenty (20) minutes. At the end of the thirty (30) minute period, the air cock on the test rig is opened and, if necessary, the oil and water supply valves are closed to stop the flow of influent. A sample is then taken of the separated water effluent as the effluent flow ceases.

(c) *Test No. 2S.* Test No. 1S is repeated using an influent containing approximately 25 percent oil and 75 percent water.

(d) *Test No. 3S.* The separator is fed with oil until oil is discharged at the oil discharge outlet of the separator at essentially the same rate that oil is being fed to the separator. The separator is then fed with oil for five (5) additional minutes. If any oily mixture is discharged from the separated water outlet on the separator during the test, that observation is recorded.

(e) *Test No. 4S.* The separator is fed with water for fifteen (15) minutes. Samples of the separated water effluent are taken at the beginning of the test and after the first ten (10) minutes.

(f) *Test No. 5S.* The separator is operated automatically for three (3) hours. During the test, the separator is continuously fed with an influent varying from water to a mixture of 25 percent oil in water and back to water every fifteen (15) minutes. The oil concentration in the influent is varied in at least five (5) equal increments during each fifteen (15) minute period and the time intervals between the incremental changes are equal. During the last hour, the separator must be inclined at an angle of 22.5° with the plane of its normal operating position. During the last time increment in which the unit is fed a 25 percent oil mixture, a sample of the separated water effluent is taken. If the separator stops at any time during this test, that observation is recorded.

(g) *Test No. 6S.* Tests No. 1S and No. 2S are repeated using, in lieu of a heavy fuel oil in the influent, a light distillate fuel oil having a relative density of approximately 0.83 at 15°C.

§ 162.050-25 Cargo monitor: Design specification.

(a) This section contains requirements that apply to cargo monitors.

(b) Each monitor must be designed so that it is calibrated by a means that does not involve manually mixing a known quantity of oil and a known quantity of water to form a mixture and manually feeding the mixture into the monitor.

(c) The electrical components of a monitor that are to be installed in an explosive atmosphere must be approved by an independent laboratory as components that Underwriters Laboratories Standard 913 (dated April 8, 1976) defines as intrinsically safe for use in a Class I, Group D hazardous location.

(d) Each monitor component that is a moving part must be designed so that its movement during operation of the monitor does not cause formation of static electricity.

(e) A monitor must be designed to operate in each plane that forms an

angle of 22.5° with the plane of its normal operating position.

(f) Each monitor must be designed in accordance with the applicable requirements contained in Subchapters F and J of this chapter.

(g) Each monitor must be designed so that it records each change in oil content of the mixture it is measuring within twenty (20) seconds after the change occurs.

(h) Each monitor must have a device that produces a warning signal and a signal that can be used to actuate valves in a vessel's fixed piping system, when—

(1) The oil content of the mixture being measured exceeds the concentration limit set by the operator of the monitor; and

(2) Malfunction, breakdown, or other failure of the monitor occurs.

(i) Each monitor must have a means to determine whether it is accurately calibrated.

(j) Each monitor must have a device that is designed to record continuously the amount of oil (in liters) in any cargo residue, and any other oily mixture combined with a cargo residue, discharged overboard from the vessel on which the monitor is installed. The device must also have a means to record the amount of oil in the discharge per nautical mile of vessel travel and the date and time of discharge. The record must be durable enough to be kept for three (3) years. If the device has more than one scale, it must have a means to show on the record the scale in use at the time of the reading.

§ 162.050-27 Cargo monitor: Approval tests.

(a) This section contains requirements that apply to cargo monitors.

(b) *Test conditions.* (1) The tests and each step in the tests must be carried out in the order described in this section. Each test must be performed without time delay between steps in the test.

(2) A test rig of the type described in § 162.050-19 must be used in performing each test.

(3) Each mixture used during the tests must be prepared by combining oil supplied from the oil injection pipe of the test rig and water supplied from the mixture tank of the test rig. However, if the flow of oil through the oil injection pipe becomes intermittent, oil and water may be combined in the mixture tank to form the mixture.

(4) A mixture may be circulated through a monitor only once during testing.

(5) Unless otherwise provided in a specific test, the water used in each test must be clean, fresh water.

(6) The oil used in each test, except Test No. 2CM, must be Arabian light crude oil.

(7) Each test must be performed at an ambient temperature of between 10° C and 30° C.

(8) Unless otherwise provided in a specific test, each test must be performed at the maximum mixture pressure, the maximum flow rate, and the power supply ratings at which the monitor is designed to operate.

(9) The particulate contaminant described in Table 162.050-27(g) must be of a type that does not lose more than three (3) percent of its weight after ignition and must be insoluble in a 500 p.p.m. mixture.

(10) In each test the monitor must be operated in accordance with the procedures described in its instructions manual.

(11) Unless otherwise provided in a specific test, the centrifugal pump shown in Figure 162.050-19 must be operated at one thousand (1,000) revolutions per minute or more in each test.

(12) Whenever the oil content of a mixture is recorded, a sample of the mixture must also be taken. The oil content of the sample must be measured using the method described in § 162.050-39.

(13) A one (1) liter sample of each oil to be used in testing must be taken and provided for use in the sample analysis required by § 162.050-39.

(c) *Test No. 1CM.* The cargo monitor is calibrated and zeroed. It is then fed with water for 15 minutes and then with mixtures in the following concentrations: 15 p.p.m., 50 p.p.m., 100 p.p.m., and each additional concentration, in increments of 50 p.p.m. up to the highest oil concentration that can be read on the monitor. Each mixture is fed to the monitor in the order listed for fifteen (15) minutes. Water is fed to the monitor for a (15) minute period between each mixture. At the end of each (15) minute period, an oil content reading is obtained and recorded.

(d) *Test No. 2CM.* (1) If the cargo monitor is designed for use with crude oils, it is fed with a mixture of water and the first oil listed in Table 162.050-27(d) at the following concentrations: 15 p.p.m., 100 p.p.m., and a concentration that is ninety (90) percent of the highest oil concentration in water that can be read on the monitor. Each concentration is fed to the monitor in the order listed until a steady reading occurs and is recorded. After each steady reading is recorded, the monitor is fed with water for fifteen (15) minutes. At the end of each fifteen (15) minute period of feeding the monitor with water, an oil content reading is again obtained and recorded.

(2) The steps described in paragraph (d)(1) of this section are repeating using each of the other oils listed in Table 162.050-27(d).

Table 162.050-27(d).—*Oil Type and Characteristics*

Oil type	Characteristics
1. Sahara blend crude oil	Density—low. Viscosity—low. Pour point—very low. Producing country—Algeria. General description—mixed base.
2. Arabian light crude oil	Density—medium. Viscosity—medium. Pour point—low. Producing country—Saudi Arabia. General description—mixed base.
3. Nigerian medium crude oil	Density—high. Viscosity—medium. Pour point—low. Producing country—Nigeria. General description—naphthenic base.
4. Bachaquero 17 crude oil	Density—very high. Viscosity—very high. Pour point—low. Producing country—Venezuela. General description—asphaltic base.
5. Minas crude oil	Density—medium. Viscosity—high. Pour point—very high. Producing country—Indonesia. General description—paraffinic base.
6. Residual fuel oil	Bunker C or No. 6 Fuel Oil.

(3) If any oil listed in Table 162.050-27(d) is unavailable, an oil with similar properties may be substituted in testing.

(4) If the monitor is to be used with refined oil products, the steps described in paragraph (d)(1) of this section are performed using each of the following:

(i) Leaded regular grade automotive gasoline.

(ii) Unleaded automotive gasoline.

(iii) Kerosene.

(iv) Light diesel or No. 2 fuel oil.

(e) *Test No. 3CM.* (1) The cargo monitor is fed with water, zeroed, and then fed with a 100 p.p.m. mixture. The time at which the monitor first detects oil in the mixture, the times of reading 63 p.p.m. and 90 p.p.m., and the time of reaching the highest steady reading of oil content are recorded. The oil content of the mixture at the highest steady reading is also recorded.

(2) The metering pump is turned off and the time at which the highest reading starts to decrease, the times of reading 37 p.p.m. and 10 p.p.m., and the time of returning to the lowest steady oil content reading are recorded. The oil content of the mixture at the lowest steady reading is also recorded.

(3) The time interval between first detecting oil in the mixture and reading 63 p.p.m., and the time interval between the first decrease in the highest reading and reading 37 p.p.m., are averaged and recorded as the response time for the monitor.

(f) *Test No. 4CM.* (1) The cargo monitor is fed with water, zeroed, and then fed with a mixture containing ten (10) percent oil for one (1) minute. The following times occurring during this procedure are recorded:

(i) Time at which the monitor first detects oil.

(ii) Time of reading 100 p.p.m.

(iii) Time of exceeding the highest oil concentration that can be read on the monitor.

(iv) Time of returning to the highest oil concentration that can be read on the monitor.

(v) Time of returning to a reading of 100 p.p.m.

(vi) Time of returning to the lowest steady oil content reading.

(2) The oil content of the mixture at the lowest steady reading described in paragraph (f)(1)(vi) of this section is recorded.

(3) The monitor is fed with water, zeroed, and then fed with oil for one (1) minute after which the flow of water is resumed. The times described in paragraph (f)(1) of this section are recorded.

(4) The monitor is fed with a 100 p.p.m. mixutre until a steady oil content reading is obtained and recorded.

(g) *Test No. 5CM.* (1) The cargo monitor is fed with a 500 p.p.m. mixture until a steady reading is obtained and recorded.

(2) The monitor is fed with a 500 p.p.m. mixture to which enough sodium chloride has been added to provide a concentration of 60,000 parts per million of sodium chloride in water. The oil content reading, when steady, is recorded.

(3) The monitor is fed with a 500 p.p.m. mixture to which enough of the contaminant described in Table 162.050-27(g) has been added to provide a concentration of 100 parts per million of particulate contaminant in water. The oil content reading, when steady, is recorded.

Table 162.050-27(g).—*Insoluble Particulate Contaminant; Physical Description*

Particle sizes, microns:	*Percentage* [1]
0-5	39±2
5-10	18±3
10-20	16±3
20-40	18±3
40-80	9±3

[1] By weight of particle size in contaminant.

(h) *Test No. 6CM.* (1) The cargo monitor is fed with a 100 p.p.m. mixture until a steady oil content reading is obtained and recorded.

(2) The monitor is fed with a 100 p.p.m. mixture that has first passed through the centrifugal pump of the test rig. The pump is run at one fourth (¼) of its design speed. The oil content reading, when steady, is recorded.

(3) The steps described in paragraph (h)(2) of this section are repeated with the pump running at one-half (½) of its design speed and then repeated at its design speed.

(i) *Test No. 7CM.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) The temperature of the mixture is adjusted to 10°C and the flow continued until a steady oil content reading is obtained and recorded.

(3) The steps described in paragraph (i)(2) of this section are repeated with the temperature of the mixture at 65°C or the highest mixture temperature at which the cargo monitor is designed to operate, whichever is lower.

(j) *Test No. 8CM.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) If the monitor has a positive displacement mixture pump, the mixture pressure is lowered to one half of the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump, or is not equipped with a mixture pump, the mixture flow rate is reduced to one-half of the monitor's design flow rate. The reduced flow rate or mixture pressure is maintained until a steady oil content reading is obtained and recorded.

(3) If the monitor has a positive displacement mixture pump, the mixture pressure is increased to twice the monitor's design pressure. If the monitor has a centrifugal mixture pump or does not have a mixture pump, the mixture flow rate is increased to twice the monitor's maximum design flow rate. The increased flow rate or mixture pressure is maintained until a steady oil content reading is obtained and recorded.

(k) *Test No. 9CM.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) The water and metering pumps on the test rig are stopped for eight (8) hours after which the steps described in paragraph (h)(1) of this section are repeated.

(l) *Test No. 10CM.* (1) The supply voltage to the cargo monitor is increased to one hundred and ten (110) percent of its design supply voltage. The monitor is then fed a 100 p.p.m. mixture for one (1) hour. At the end of the one (1) hour period, an oil content reading is obtained and recorded.

(2) The steps described in paragraph (l)(1) of this section are repeated with the supply voltage to the monitor lowered to ninety (90) percent of its design supply voltage.

(3) Upon completing the steps described in paragraph (l)(2) of this section, the supply voltage to the monitor is returned to the design rating.

(4) The steps described in paragraph (l)(1), (l)(2), and (l)(3) of this section are repeated varying each other power supply to the monitor in the manner prescribed in those steps for supply voltage.

(m) *Test No. 11CM.* (1) The monitor is calibrated and zeroed.

(2) The steps described in paragraph (h)(1) of this section are repeated.

(3) A 100 p.p.m. mixture is fed to the monitor for eight (8) hours. At the end of the eight (8) hour period, an oil content reading is obtained and recorded.

(4) The monitor is fed with water until a steady oil content reading is obtained and recorded.

(n) *Test No. 12CM.* (1) All power to the monitor is shut off for one (1) week. After one week the monitor is started, zeroed, and calibrated.

(2) The monitor is fed with a 100 p.p.m. mixture for one (1) hour. An oil content reading is then obtained and recorded.

(3) The monitor is fed with water for one (1) hour. An oil content reading is then obtained and recorded.

(4) The steps described in paragraphs (n)(2) and (n)(3) of this section are repeated three (3) additional times. During the last hour in which the monitor is fed with a 100 p.p.m. mixture, the monitor is inclined at an angle of 22.5° with the plane of its normal operating position.

§ 162.050-29 Bilge monitor: Design specification.

(a) This section contains requirements that apply to bilge monitors.

(b) Each bilge monitor must be designed to meet the requirements of this section and the requirements for a cargo monitor in §§ 162.050-25 (b) through (g) and § 162.050-25(i).

(c) Each bilge monitor must have—

(1) A device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when the oil content of the mixture being measured exceeds 15 p.p.m. ±5 p.p.m.;

(2) A device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when the oil content of the mixture being measured exceeds 100 p.p.m. ±20 p.p.m.; and

(3) A device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when malfunction, breakdown, or other failure of the bilge monitor occurs.

(d) Each bilge monitor must have a device that is designed to record continuously the concentration of oil in p.p.m. that the monitor measures and to record the date and time of the measurements. The record must be durable enough to be kept for three (3) years. If the device has more than one scale, it must have a means to show on the record the scale in use at the time of the reading.

§ 162.050-31 Bilge monitor: Approval tests.

(a) This section contains requirements that apply to bilge monitors.

(b) *Test conditions.* (1) Each test must be conducted under the conditions prescribed in this section and under the conditions prescribed for cargo monitors in §§ 162.050-27 (b)(1) through (b)(4) and §§ 162.050-27 (b)(7) through (b)(13).

(2) Except as provided in Test No. 2BM, the oil used in each test must be a heavy fuel oil that has a relative density of approximately 0.94 at 15°C and a viscosity of at least 220 centistokes (approximately 900 seconds Redwood No. 1) at 37.8°C.

(3) The water used in each test must be clean fresh water or clean fresh water in solution with sodium chloride. The water must have a relative density at 15°C that is equal to or less than 0.085 plus the relative density of the heavy fuel oil used in the tests.

(c) *Test No. 1BM.* (1) The bilge monitor is calibrated and zeroed. It is then fed with water for 15 minutes and then with mixtures in the following concentrations: 15 p.p.m., 50 p.p.m., 75 p.p.m., 100 p.p.m., and each additional concentration, in increments of 25 p.p.m. up to the highest oil concentration that can be read on the monitor. Each concentration is fed to the monitor in the order listed for fifteen (15) minutes. Water is fed to the monitor for fifteen (15) minutes between each mixture. At the end of each fifteen (15) minute period an oil content reading is obtained and recorded.

(2) The metering and water pumps of the test rig are started and the oil content of the mixture is increased until the device required by § 162.050-29(c)(1) actuates. The oil content of the mixture causing actuation is recorded.

(3) The oil content of the mixture is then increased until the device required by § 162.050-29(c)(2) actuates. The oil content of the mixture causing actuation is recorded.

(d) *Test No. 2BM.* Test No. 1BM is repeated using, in lieu of a heavy fuel oil in the mixture, a light distillate fuel oil having a relative density of approximately 0.83 at 15°C.

(e) *Test No. 3BM.* (1) The bilge monitor is fed with water, zeroed, and then fed with a 15 p.p.m. mixture until a steady reading is obtained and recorded. The time of first detecting oil in the mixture and the time of reaching the highest steady reading of oil content are also recorded. The metering pump is turned off after the highest steady reading is obtained. The time at which the highest steady reading starts to decrease and the time of returning to the lowest steady oil content reading are recorded. The oil content of the lowest steady reading is also recorded.

(2) The steps in paragraph (1) of this section are repeated using a 100 p.p.m. mixture.

(f) *Test No. 4BM.* (1) The bilge monitor is fed with water, zeroed, and then fed with a mixture containing (10) percent oil for one (1) minute. The following times occurring during this procedure are recorded:

(i) Time at which the monitor first detects oil.

(ii) Time of actuation of the device required by § 162.050-29(c)(1).

(iii) Time of actuation of the device required by § 162.050-29(c)(2).

(iv) Time of exceeding the highest oil concentration that can be read on the monitor.

(v) Time of returning to the highest oil concentration that can be read on the monitor.

(vi) Time of returning to the lowest steady oil content reading.

(2) The oil content of the mixture at the lowest steady reading described in paragraph (f)(1)(vi) of this section is recorded.

(3) The monitor is fed with water, zeroed, and then fed with oil for one (1) minute after which the flow of water is resumed. The times described in paragraph (f)(1) of this section are recorded.

(4) The monitor is fed with a 15 p.p.m. mixture until a steady oil content reading is obtained and recorded.

(5) The monitor is fed with a 100 p.p.m. mixture until a steady oil content reading is obtained and recorded.

(g) *Test No. 5BM.* (1) The bilge monitor is fed with an 80 p.p.m. mixture until a steady reading is obtained and recorded.

(2) The monitor is fed with an 80 p.p.m. mixture to which enough sodium chloride has been added to provide a concentration of 60,000 parts per million of sodium chloride in water. The oil content reading, when steady, is recorded.

(3) The monitor is fed with an 80 p.p.m. mixture to which enough of the contaminant described in Table 162.050-27(g) has been added to provide a concentration of 20 parts per million of particulate contaiminant in water. The oil content reading, when steady, is recorded.

(h) *Test No. 6BM.* (1) The bilge monitor is fed with a 5-10 p.p.m. mixture until a steady reading is obtained and recorded.

(2) If the monitor has a positive displacement mixture pump, the mixture pressure is lowered to one half of the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump or is not equipped with a mixture pump, the mixture flow rate is reduced to one half of the monitor's maximum design flow rate. After reduction of the pressure or flow rate, the oil content of the mixture is increased until the device required by § 162.050-29(c)(1) actuates. The oil content causing actuation is recorded.

(3) The monitor is fed with an 80 p.p.m. mixture until a steady reading is obtained and recorded. The oil content of the mixture is then increased until the device required by § 162.050-29(c)(2) actuates. The oil content causing actuation is recorded.

(4) If the monitor has a positive displacement mixture pump, the mixture pressure is increased to twice the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump or if the monitor is not equipped with a mixture pump, the mixture flow rate is increased to twice the monitor's maximum design flow rate. After increasing the pressure or flow rate, the oil content of the mixture is increased until the device required by § 162.050-29(c)(1) actuates. The oil content causing actuation is recorded.

(5) The steps described in paragraph (h)(3) of this section are repeated.

(i) *Test No. 7BM.* (1) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(2) The water and metering pumps on the test rig are stopped for eight (8) hours after which the steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(j) *Test No. 8BM.* (1) The supply voltage to the bilge monitor is increased to one hundred and ten (110) percent of its design supply voltage. The monitor is then fed a 10 p.p.m. mixture for one (1) hour. At the end of the one (1) hour period, the oil content reading is recorded.

(2) The oil content of the mixture is increased until the device required by

§ 162.050–29(c)(1) actuates. The oil content causing actuation is recorded.

(3) The bilge monitor is fed with an 80 p.p.m. mixture for one (1) hour. At the end of the one (1) hour period, an oil content reading is obtained and recorded.

(4) The oil content of the mixture is increased until the device required by § 162.050–29(c)(2) actuates. The oil content causing actuation is recorded.

(5) The steps described in paragraphs (j)(1) through (j)(4) of this section are repeated with the supply voltage to the bilge monitor lowered to ninety (90) percent of its design voltage.

(6) Upon completing the steps described in paragraph (j)(5) of this section, the supply voltage to the monitor is returned to the design rating.

(7) The steps described in paragraphs (j)(1) through (j)(4) of this section are repeated varying each other power supply to the monitor in the manner prescribed in those steps for supply voltage.

(k) *Test No. 9BM.* (1) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(2) An 80 p.p.m. mixture is fed to the bilge monitor for eight (8) hours. At the end of the eight (8) hour period, an oil content reading is obtained and recorded.

(3) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(4) The monitor is fed with water until a steady reading is obtained and recorded.

(l) *Test No. 10BM.* (1) All power to the bilge monitor is shut off for one (1) week. After one week the monitor is started, zeroed, and calibrated.

(2) The monitor is fed with an 80 p.p.m. mixture for one (1) hour. An oil content reading is then obtained and recorded.

(3) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(4) The monitor is fed with water for one (1) hour. An oil content reading is then obtained and recorded.

(5) The steps described in paragraphs (1)(2), (1)(3), and (1)(4) of this section are repeated three (3) additional times. During the last time that the step described in paragraph (1)(2) of this section is repeated, the monitor is inclined at an angle of 22.5° with the plane of its normal operating position.

§ 162.050–33 Bilge alarm: Design specification.

(a) This section contains requirements that apply to bilge alarms.

(b) Each bilge alarm must be designed to meet the requirements for a cargo monitor in §§ 162.050–25(b) through (g), § 162.050–25(i), and the requirements in this section.

(c) Each bilge alarm must have a device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when—

(1) the oil content of the mixture being measured by the bilge alarm exceeds 15 p.p.m. ±5 p.p.m., and

(2) malfunction, breakdown, or other failure of the bilge alarm occurs.

§ 162.050–35 Bilge alarm: Approval tests.

(a) This section contains requirements that apply to bilge alarms.

(b) *Test Conditions.* (1) Each test must be conducted under the conditions prescribed for cargo monitors in §§ 162.050–27 (b)(1) through (b)(5), §§ 162.050–27 (b)(7), (b)(8), (b)(10), (b)(11), and (b)(13).

(2) Each test must be performed using a light distillate fuel oil having a relative density of approximately 0.83 at 15°C.

(3) The oil content of each sample must be measured using the method described in § 162.050–39.

(c) *Test No. 1A.* The bilge alarm is calibrated and zeroed. The metering and water pumps of the test rig are started and the oil content of the mixture is increased until the alarm actuates. A sample of the mixture causing actuation of the alarm is taken. The alarm is then fed with water for fifteen (15) minutes.

(d) *Test No. 2A.* (1) The bilge alarm is fed with a 40 p.p.m mixture until the bilge alarm actuates. The time of turning on the metering pump of the test rig and the time of alarm actuation are recorded. The flow rate on the flow meter of the test rig is also recorded.

(2) The response time of the alarm is calculated as follows:

$$\text{response time} = T_2 - \left[T_1 + \frac{(\pi)\ (D^2)\ (L)}{4Q}\right]$$

T_2=time of alarm actuation
T_1=time of turning on the metering pump of the test rig
D=inside diameter of the mixture pipe (cm)
L=length of the mixture pipe (cm)
Q=flow rate (cm^3/sec)

(e) *Test No. 3A.* (1) The metering and water pumps of the test rig are started and the oil content of the mixture is increased until the bilge alarm actuates. A sample of the mixture causing actuation of the alarm is taken.

(2) If the alarm has a positive displacement mixture pump, the mixture pressure is reduced to one-half (½) of the alarm's maximum design pressure. If the alarm has a centrifugal mixture pump or is not equipped with a mixture pump, the mixture flow rate is reduced to one-half (½) of the alarm's maximum design flow rate. After reduction of pressure or flow rate, the oil content in the mixture is increased until the alarm actuates. A sample of the mixture causing actuation of the alarm is taken.

(3) If the alarm has a positive displacement mixture pump, the influent pressure is increased to twice the alarm's minimum design pressure. If the alarm has a centrifugal mixture pump or if the alarm is not equipped with a mixture pump, the influent flow rate is increased to twice the alarm's maximum design flow rate. After increasing the pressure or flow rate, the oil content in the mixture is increased until the alarm actuates. A sample of the mixture causing actuation is taken.

(f) *Test No. 4A.* (1) The steps described in paragraph (e)(1) of this section are repeated.

(2) The metering and water pumps of the test rig are stopped for eight (8) hours.

(3) The metering and water pumps are started and the oil content of the mixture is increased until the bilge alarm actuates. A sample of the mixture causing actuation is taken.

(g) *Test No. 5A.* (1) The supply voltage to the bilge alarm is raised to one-hundred ten (110) percent of its design supply voltage. The oil content of the mixture is then increased until the alarm actuates. A sample of the mixture causing actuation is taken.

(2) The supply voltage to the alarm is lowered to ninety (90) percent of its design suppy voltage. The oil content of the mixture is then increased until the alarm actuates. A sample of the mixture causing actuation is taken.

(3) Upon completion of the steps described in paragraph (g)(2) of this section, the supply voltage to the alarm is returned to its design value.

(4) The steps described in paragraphs (g)(1), (g)(2), and (g)(3) of this section are repeated varying each other power supply to the alarm in the manner prescribed in those steps for supply voltage.

(h) *Test No. 6A.* (1) The steps described in paragraph (e)(1) of this section are repeated.

(2) The bilge alarm is fed with a 5 to 10 p.p.m. mixture for eight (8) hours. After eight (8) hours the oil content of the mixture is then increased until the alarm actuates. A sample of the mixture causing actuation is taken.

(i) *Test No. 7A.* (1) All power to the bilge alarm is shut off for one (1) week.

After one (1) week the alarm is then started, zeroed, and calibrated.

(2) The steps described in paragraph (e)(1) of this section are repeated. Water is then fed to the monitor for one (1) hour.

(3) The steps described in paragraph (i)(2) are repeated seven (7) additional times. During the last hour, the alarm must be inclined at an angle of 22.5° with the plane of its normal operating position.

§ 162.050-37 Vibration test.

(a) Equipment submitted for Coast Guard approval must first be tested under the conditions prescribed in paragraph (b) of this section. The test must be performed at an independent laboratory that has the equipment to subject the item under test to the vibrating frequencies and amplitudes prescribed in paragraph (b) of this section. The test report submitted with the application for Coast Guard approval must be prepared by the laboratory and must contain the test results.

(b) Each monitor and bilge alarm and each control of a separator must be subjected to continuous sinusoidal vibration in each of the following directions for a 4 hour period in each direction:

(1) Vertically up and down.

(2) Horizontally from side to side.

(3) Horizontally from end to end.

The vibrating frequency must be 80Hz, except that the vibrating frequency of equipment that has a resonant frequency between 2Hz and 80Hz must be the resonant frequency. If the vibrating frequency is between 2Hz and 13.2Hz, the displacement amplitude must be ± 1mm. If the vibrating frequency is between 13.2Hz and 80 Hz, the acceleration amplitude must be ± [(.7)(gravity)].

§ 162.050-39 Measurement of oil content.

(a) *Scope.* This section describes the method and apparatus to be used in measuring the oil content of a sample taken in approval testing of each separator, monitor, or alarm. Light oil fractions in the sample, with the exception of volatile components lost during extractions, are included in each measurement.

(b) *Summary of method.* Each sample is acidified to a low pH and extracted with two volumes of solvent. The oil content of the sample is determined by comparison of the infrared absorbance of the sample extract against the absorbance of known concentrations of a reference oil in solvent.

(c) *Apparatus.* The following apparatus is used in each measurement:

(1) Separatory funnel that is 1000 ml. or more in volume and that has a Teflon stopcock.

(2) Infrared spectrophotometer.

(3) A cell of 5 mm. pathlength that has sodium chloride or infrared grade quartz with a minimum of 80 percent transmittance at 2930 cm^{-1}. (This cell should be used if the oil content of the sample to be measured is expected to have a concentration of between 2 p.p.m. and 80 p.p.m.)

(4) A cell of pathlength longer than 5 mm. that has sodium chloride or infrared grade quartz with a minimum of 80 percent transmittance at 2930 cm^{-1}. (This cell should be used if the oil content of the sample to be measured is expected to have a concentration of between 0.1 p.p.m. and 2 p.p.m.)

(5) Medium grade filter paper.

(6) 100 ml. glass stoppered volumetric flasks.

(d) *Reagents.* The following regaents are used in each measurement:

(1) Hydrochloric acid prepared by mixing equal amounts of concentrated, reagent grade hydrochloric acid and distilled water.

(2) Reagent grade sodium chloride.

(3) One of the following solvents:

(i) Spectrographic grade carbon tetrachloride.

(ii) Reagent grade Freon 113, except that this solvent may not be used to analyze samples in approval testing of cargo monitors. (Ucon 113, Genatron 113, or an equivalent fluorocarbon solvent are also acceptable.)

(4) Reference oil, which is the oil used in the portion of the test during which the sample is collected.

(5) Stock reference standard prepared by weighing 0.30 g. of reference oil in a tared 100 ml. volumetric flask and diluting to 100 ml. volume with solvent.

(e) *Preparation of calibration standards.* A series of dilutions is prepared by pipetting volumes of stock reference standard into 100 ml. volumetric flasks and diluting to volume with solvent. A convenient series of volumes of the stock reference standard is 5, 10, 15, 20, and 25 ml. The exact concentrations of the dilutions in milligrams of oil per 100 milliliters of diluted stock reference standard are calculated. The calibration standards are the dilutions.

(f) *Extraction.* (1) A reagent blank is carried through each step described in this paragraph and paragraph (g) of this section.

(2) The pH of each sample is checked by dipping a glass rod into the sample and touching the rod with pH-sensitive paper to ensure that the pH is 2 or lower. More acid is added if necessary until the pH is 2 or lower. The glass rod is then rinsed in the sample bottle with solvent.

(3) The sample is poured into a separatory funnel and 5 g. of sodium chloride are added.

(4) Fifty (50) ml. of solvent are added to the sample bottle. The bottle is capped tightly and shaken thoroughly to rinse its inside. The contents of the bottle are then transferred to the separatory funnel containing the sample and extracted by shaking vigorously for 2 minutes. The layers are allowed to separate.

(5) The solvent layer is drained through a funnel containing solvent moistened filter paper into a 100 ml. volumetric flask.

(6) Fifty (50) ml. of solvent are added to the sample bottle. The bottle is capped tightly and shaken thoroughly to rinse its inside surface. The contents of the bottle are then transferred to the separatory funnel containing the water layer of the sample. The contents of the separatory funnel are then extracted by shaking vigorously for 2 minutes. The layers are allowed to separate. The solvent layer is then drained through a funnel containing solvent moistened filter paper into the volumetric flask containing the solvent layer of the sample.

(7) The tips of the separatory funnel, filter paper, and funnel are rinsed with small portions of solvent and the rinsings are collected in the volumetric flask containing the solvent layer of the sample. The volume is adjusted with solvent up to 100 ml. The flask is then stoppered and its contents are thoroughly mixed.

(8) The water layer remaining in the separatory funnel is drained into a 1000 ml. graduated cylinder and the water volume estimated to the nearest 5 ml.

(g) *Infrared spectroscopy.* (1) The infrared spectrophotometer is prepared according to manufacturer instructions.

(2) A cell is rinsed with two volumes of the solvent layer contained in the volumetric flask. The cell is then completely filled with the solvent layer. A matched cell containing solvent is placed in the reference beam.

(3) If a scanning spectrophotometer is used, the solvent layer in the cell and the calibration standards are scanned from 3200 cm^{-1} to 2700 cm^{-1}. If a single beam or non-scanning spectrophotometer is used, the manufacturer's instructions are followed and the absorbance is measured at or near 2930 cm^{-1}.

(4) If the scan is recorded on absorbance paper, a straight baseline of the type described in Figure 162.050-39(g) is constructed. To obtain the net absorbance, the absorbance of the

baseline at 2930 cm^{-1} is subtracted from the absorbance of the maximum peak on the curve at 2930 cm^{-1}.

(5) If the scan is recorded on transmittance paper, a straight baseline is constructed on the hydrocarbon band plotted on the paper. The net absorbance is:

$$\log_{10} \frac{\%T \text{ (baseline)}}{\%T \text{ (peak maximum)}}$$

(6) A plot is prepared for net absorbance vs. oil content of the calibration standards or of the percentages of stock reference standard contained in the calibration standards.

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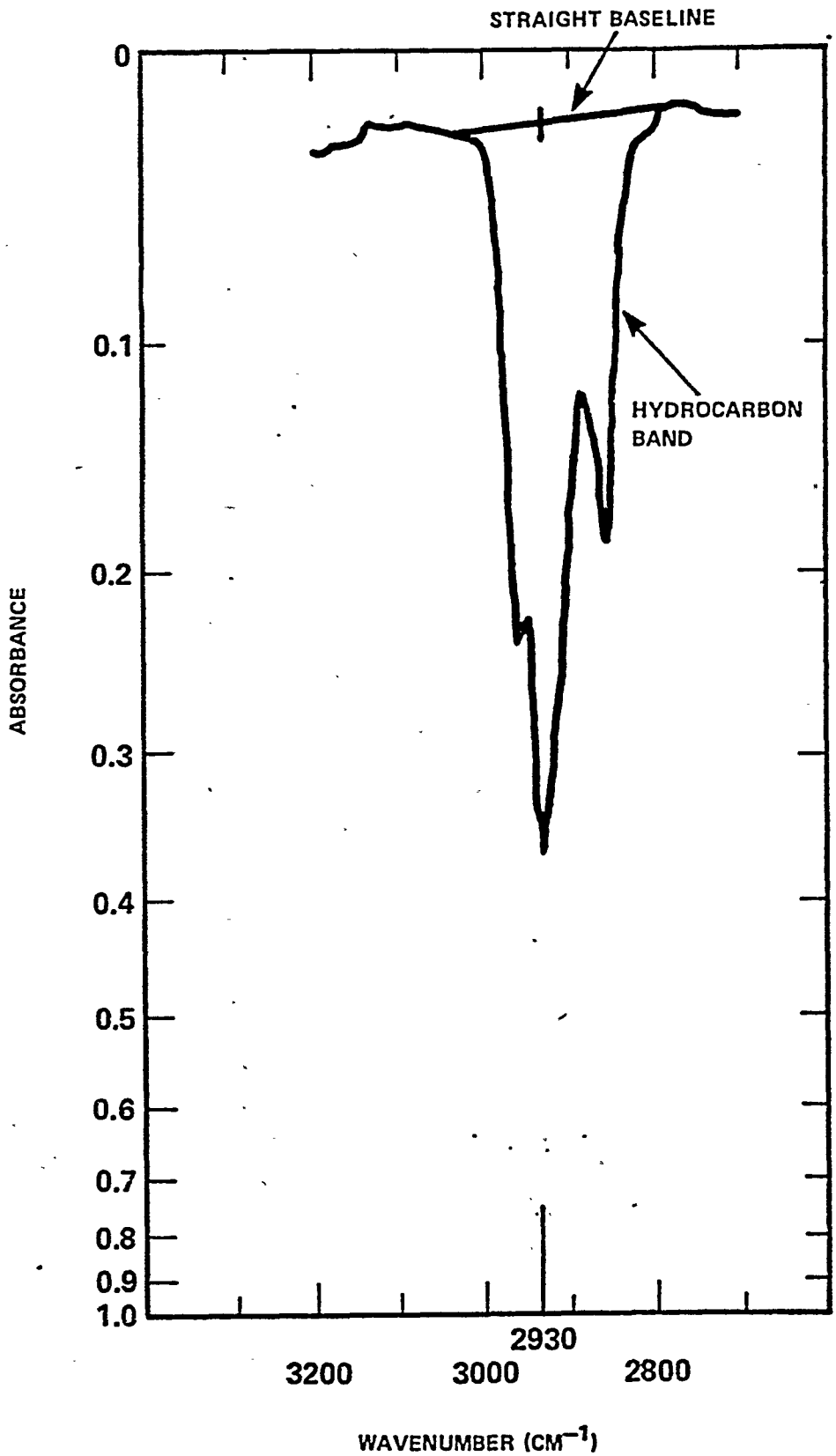
FIGURE 162,050—39(g) - SPECTRUM ILLUSTRATING BASELINE CONSTRUCTION



BILLING CODE 4910-14-C

(7) If the net absorbance of a sample determined by the calibration plot exceeds 0.8 or the linear range of the spectrophotometer, a dilution of the solvent layer contained in the volumetric flask after completing the step described in paragraph (f)(7) of this section is prepared by the pipetting an appropriate volume of the solvent layer into a second volumetric flask and diluting to volume with solvent. If the net absorbance is less than 0.1 when determined in accordance with the procedures in this paragraph, it is recalculated using a longer pathlength cell.

(h) *Calculations.*

(1) The plot described in paragraph (g)(6) of this section is used to determine the milligrams of oil in each 100 ml. of solvent layer contained in the volumetric flask after completing the steps described in paragraph (f) or paragraph (g)(7) of this section.

(2) The oil content of the sample is calculated using the following formula:

oil content of sample$=R\times D\times 1000/V$

R=mg. of oil in 100 ml. of solvent layer determined from plot.

D=1 or, if the step described in paragraph (g)(7) of this section is performed, the ratio of the volume of the second volumetric flask described in that paragraph to the volume of solvent layer pipetted into the second volumetric flask.

V=The volume of water in milliliters drained into the graduated cylinder at the step described in paragraph (f)(8) of this section.

(3) The results are reported to two significant figures for oil contents below 100 mg/l and to three significant figures for oil contents above 100 mg/l. The results are converted to p.p.m.

(33 U.S.C. 1321(j); 46 U.S.C. 391a; 49 U.S.C. 1655(b)(1); and 49 CFR 1.46).

Incorporation by reference provisions approved by the Acting Director of the Federal Register August 21, 1979.

Dated August 30, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant

[FR Doc. 79-28129 Filed 9-12-79; 8:45 am]

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Part III

Environmental Protection Agency

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Consolidated Decision; Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 and 1982 Model Year Light-Duty Vehicles

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1316-2]

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Consolidated Decision of the Administrator.

I. Introduction

Section 202(b)(1)(A) of the Clean Air Act as amended (Act), 42 U.S.C. 7521(b)(1)(A), establishes the standards applicable to carbon monoxide (CO) emissions for 1977 and later model year light-duty motor vehicles and engines. This section, included in the 1977 amendments to the Act, requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations providing that CO emissions for 1977 through 1979 vehicles may not exceed 15.0 grams per vehicle mile. For 1980 model year vehicles, this section requires a standard which does not permit CO emissions to exceed 7.0 grams per mile (gpm). Beginning in model year 1981, this section mandates standards which require a reduction in CO emissions of at least 90 percent from the CO standard applicable to 1970 model year vehicles. As Administrator, I promulgated regulations which set the CO standard for 1981 and later year vehicles at 3.4 gpm.[1]

The 1977 amendments to the Act, however, also include a provision allowing the Administrator, under certain limited conditions, to delay implementation of the 3.4 gpm CO standard. Specifically, section 202(b)(5) of the Act provides that any light-duty motor vehicle or engine manufacturer may apply for waiver of the 3.4 gpm CO standard for any of its 1981 or 1982 model year vehicle or engine models. This section directs the Administrator to make a determination on each application within 60 days from receipt of the application. Should the Administrator decide to grant a waiver for a model, he simultaneously must promulgate standards which do not allow CO emissions over 7.0 gpm for those models covered by the granted waiver application.

Section 202(b)(5)(C) of the Act provides in pertinent part the following:

> The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—
>
> (i) Such waiver is essential to the public interest or the public health and welfare of the United States,
>
> (ii) All good faith efforts have been made to meet the standards established by this subsection;
>
> (iii) The applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and
>
> (iv) Studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

Congress first set statutory emission standards for hydrocarbon (HC) and CO emissions from light-duty motor vehicles and engines in the 1970 amendments to the Act.[2] Section 202(b)(1) of that version of the Act required that HC and CO emission standards for 1975 and later model year vehicles represent at least a 90% reduction from HC and CO standards in effect in model year 1970. Section 202(b)(5) of that version of the Act, however, authorized the Administrator, upon application of a manufacturer, to suspend for one year the effective date of those emission standards with respect to that applicant.[3]

The criteria for granting a suspension request were essentially the same as those provided in the current section 202(b)(5)(C) waiver provision, with two exceptions. The 1970 version of the Act did not explicitly require the Administrator to assess the effect of the suspension on public health or to take into consideration costs, driveability, and fuel economy in evaluating available technology.

In early 1972, the Administrator received suspension applications from five automobile manufacturers. The Administrator initially denied all five applications in a decision issued on May 12, 1972.[4] In that decision, he determined that no applicant had demonstrated that requisite technology was not available to enable compliance with the statutory HC and CO standards. On appeal, the reviewing court ultimately decided to remand the record to the Aministrator to reconsider his determination regarding available technology.[5] On remand, the Administrator reversed his decision and granted to all manufacturers a one-year suspension of the statutory HC and CO standards until the 1976 model year.[6] He based his reversal on the conclusion that the risk of an errant denial of the suspension requests (severe economic disruption) outweighted the risk of an errant grant (environmental benefits not achieved). The Administrator was particularly concerned about the economic impact of any unanticipated production problems that could occur when manufacturers first began using catalytic converters in production in order to meet the statutory HC and CO standards.

In the 1974 amendments to the Act, Congress further postponed the effective date of these statutory standards until the 1977 model year, and authorized the Administrator to suspend that effective date until the 1978 model year under the same criteria set forth in the 1970 version of the Act.[7] After receiving supension applications from five manufacturers in early 1975, the Administrator issued a decision granting the applications.[8]

In that decision, the Administrator concluded that the requisite technology for meeting the statutory emission standards was generally available to the industry. He further determined, however, that unregulated sulfuric acid emissions resulting from use of the requisite technology presented a significant risk to public health. The Administrator concluded that this risk outweighed any environmental savings achieved by denying the applications, and therefore justified suspension of the statutory standards for HC and CO until the 1978 model year. Before the beginning of that model year, Congress enacted the 1977 amendments to the Act, which set forth the current schedule for implementng (or waiving) the CO emission standards.

Congress intended that any waivers granted under the 1977 amendments be narrow in scope and not apply to the entire industry. While the Act previously directed the Administrator to consider applications for delay of the effective date of statutory emission

[1] 40 CFR 86.081-8(a)(1)(ii), 44 FR 47884 (August 15, 1979) (revising 43 FR 37972 (August 24, 1978)).

[2] Clean Air Amendments of 1970, Pub. L. 91-604, section 6, 81 Stat. 499 (1970) (current version at 42 U.S.C. 7521(b)(1)).

[3] This contrasts with the current section 202(b)(5), which requires the Administrator to make a separate waiver determination for each model covered by an application.

[4] In re: Applications for Suspension of 1975 Motor Vehicle Exhaust Emission Standards, Decision of the Administrator (May 12, 1972).

[5] International Harvester Co. v. Ruckelshaus, 478 F. 2d 615 (D.C. Cir. (1973)).

[6] 38 FR 1017 (April 26, 1973).

[7] Energy Supply and Environmental Coordination Act of 1974, Pub. L. No. 93-319, 88 Stat. 246 (1974) (current version at 42 U.S.C. § 7521).

[8] 40 FR 1190 (March 14, 1975).

standards on a manufacturer-by-manufacturer basis, section 202(b)(5) requires the Administrator to consider separate waiver applications for each vehicle model at issue.

Requiring the Administrator to make individual determinations for small portions of the total vehicle population indicates that Congress wanted any relaxation of the statutory 90 percent reduction requirement for CO to be applied, where appropriate, as narrowly and precisely as practicable. Indeed, discussions in Congress on the Act's current CO waiver provision include the explicit statement that "[t]he waiver is not a general waiver for all manufacturers, not is it a general waiver for all models of vehicles produced by a single manufacturer."[9] Instead, the waiver provision is to be available for a particular model line of a manufacturer which cannot meet the 3.4 gpm standard across the board in the 1981 model year.[10]

On October 13, 1978, EPA published "Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard".[11] These guidelines outlined the information which EPA sought from waiver applicants and direced applicants to submit a separate application for each vehicle model for which a waiver is sought. For purposes of these proceedings, the guidelines defined "model" as synonymous with the term "engine family" as defined in 40 CFR 86.077–2 and 86.078–24(a)(2) through (a)(4) (1977).

On June 25, 1979, General Motors Corporation (GM) filed the first waiver application under this provision of the Act, GM's application requested a waiver for each engine family it plans to market during the 1981 and 1982 model years. Volkswagen AG filed a waiver application on July 3, 1979, covering one of its engine families. EPA also received completed waiver applications, each covering all engine families scheduled for production, from Chrysler Corporation, American Motors Corporation, BL Cars, Ltd., and Toyota Motor Co., Ltd., on July 5, 1979.[12]

From July 9 to July 12, 1979, EPA held a public hearing to consider these applications. EPA received testimony from the waiver applicants, from other automobile manufacturers which had not filed for a waiver, and from suppliers and developers of emission control systems and components. Consistent with the language of section 202(b)(5)(A), I am making a separate determination for each engine family for which a manufacturer has requested a waiver. For the sake of efficiency, however, I am consolidating each of these separate determinations into this decision.[13] After evaluating the applications, testimony, and other information available to me, I have made my determinations regarding the respective waiver applications according to the criteria stated in the Act.

II. Summary of Decision

I have decided to deny most of the waiver applications under consideration in this consolidated decision and to grant the others as specified below. A more detailed discussion of the basis for my decision follows this summary.

In order to grant a waiver for an engine family, I must determine that an applicant has met each criterion specified by the Act. Regarding those engine families by waiver applications which I have denied, I have based those decisions on either of two determinations. For some of those engine families, I have determined that those families can incorporate effective control technology, processes, operating methods, or other alternatives [14] for meeting the statutory 3.4 gpm CO standard for 1981 model year vehicles of those engine families, considering costs, driveability, and fuel economy. For the remainder of those engine families not receiving waivers, I have determined that the applicant has failed to provide sufficient information to establish that such technology is not available.

For the other engine families covered by a waiver application, I have determined that the waiver applicants have met each of the statutory criteria for receiving the waiver.

A. Waiver Applications Granted

The waiver applications which I have decided to grant cover the following engine families:

Manufacturer	Engine family
American Motors Corp.	258 CID.
BL Cars, Ltd.	TR 8.
	XJ12.
Chrysler	1.7 liter.
	3.7 liter.
	5.2 liter/4V.
General Motors Corp.	2.8 liter/173 CID-2V
	3.8 liter/231 CID-2V
Toyota Motor Co., Ltd.	88.6 CID

As discussed more fully below, I have concluded that technology will not be available for incorporation into 1981 model year vehicles of these particular engine families to enable these families to meet a 3.4 gpm CO standard. I am prescribing interim CO emission standards of 7.0 gpm for each of the engine families receiving waivers.

Some of these engine families would be capable of meeting the 3.4 gpm CO standard by replacing their catalysts once during their useful life. Such replacement, however, depends on vehicle owners taking affirmative action for which significant disincentives exist. Because many owners are unlikely to replace their vehicles' catalysts, I have determined that effective CO control technology within the meaning of the Act is not available for these engine families.

Protection of the public health does not require attainment of the 3.4 gpm CO standard in model years 1981 and 1982 by any or all of the engine families for which I have granted waivers. The effect on ambient air quality which would result from allowing any or all of the engine families receiving waivers to meet a CO standard of 7.0 gpm for the 1981 and 1982 model years is insignificant. As a result, the impact these waivers would have on any state's ability to meet the National Ambient Air Quality Standards (NAAQS) for CO (in other words, the state's ability to achieve CO levels recognized as protective of public health) also would be insignificant.

I have determined the waives which I have granted to be essential to the public interest. By granting these waivers, I will permit the applicant manufacturers to market one or more engine families which they otherwise may not have been allowed to market, or may only have been allowed to

[9] 123 CONG. REC. S13703 (daily ed. Aug. 4, 1977) (remarks of Sen. Muskie).

[10] id. at S13702–13703.

[11] 43 FR 47272 (1978).

[12] This decision uses the following abbreviated citation:

AMC App.—American Motors Corporation Application For Waiver of the 1981 and 1982 Carbon Monoxide Emission Standard, dated July 3, 1979.

BL App.—BL Cars Ltd. Application For A Waiver of 1981 and 1982 Carbon Monoxide Emission Standards, dated June 1979.

C App.—Chrysler Corporation CO Waiver Application (3 volumes), dated July 3, 1979.

GM App.—General Motors Application for Waiver of 1981 and 1982 Carbon Monoxide Emission Standard, dated June 1979.

T App.—Toyota Motor Co. Ltd. Request For Waiver [of the] Carbon Monoxide Emission Standard Applicable to 1981 and 1982 Light-Duty Vehicles, dated June, 1979.

VW App.—Volkswagen AG Application For Waiver of the 1981 and 1982 CO Emission Standard for Light-Duty Vehicles, dated July 1979.

Tr.—The transcript of the public hearings held on July 9–12, 1979, on these waiver applications.

Other submissions are cited by the name or initials of the submitting company and the date on the submission, e.g. GM 7/20/79 p.1.

[13] I will review waiver applications which I did not receive in time for consideration in this consolidated decision in subsequent decisions.

[14] For the sake of simplicity, the term "technology" is used in this decision to encompass each of these items (i.e. "technology, processes, operating methods, or other alternatives") listed in section 202(b)(5)(C)(iii) of the Act.

market with the requirement of an expensive catalyst change. These waivers are essential to the public's interest in maintaining a diversified and competitive domestic automotive industry.

Specifically, these waivers enable applicants which have made unsuccessful efforts to meet the 1981 statutory CO standard to continue selling most, or perhaps all, of their respective engine families without requiring catalyst changes. Granting waivers to ensure the viability of these companies serves the public interest both by helping to preserve the level of competition that currently exists in the domestic automotive industry and by avoiding any potential unemployment problems which strict application of the 3.4 gpm standard could have created for their numerous employees.

Each of the waiver applicants contended that it has acted in good faith in trying to meet the 3.4 gpm standard. In general, information in the record supplies support for determining that the applicants have met the Act's good faith criterion. In some limited instances, though, the applicants' respective showings in this regard are at best marginal. Nevertheless, in the absence at this time of any evidence supporting a contrary conclusion (even for the marginal showings), I have determined that the applicants indeed have met the good faith criterion for those engine families for which I have granted a waiver.

Review of studies and investigations of the National Academy of Sciences (NAS) and other information available to me has not indicated that the requisite technology, considering costs, driveability, and fuel economy, is available for these engine families. Available NAS studies only address the issue of whether technology is available in general without considering the issue of availability in the context of the details associated with a particular engine family. The NAS is in the process of preparing a new study on the availability of effective CO control technology. Other available information, obtained from non-applicant manufacturers or part suppliers and developers by subpoena, or from sources not directly associated with proceedings on these waiver applications and included in the record for the determinations on these applications, does not indicate that the requisite technology, considering costs, driveability, and fuel economy, will be available for the engine families receiving a waiver for the 1981 and 1982 model years.

Therefore, concurrently with this consolidated decision I am promulgating regulations establishing a 7.0 gpm CO emission standards for 1981 and 1982 model year vehicles of the engine families in question.

B. Waiver Applications Denied

As stated earlier, I am denying those waiver applications which apply to engine families not included in the above list because I cannot conclude that effective control technology, considering costs, driveability, and fuel economy, is not available to enable those engine families to meet the statutory CO standard in the 1981 model year.

Several applicants submitted emission test data which indicated that some of the engine families covered by their respective waiver applications can meet the 3.4 gpm standard as those engine families currently are designed. Other engine families covered by waiver applications which I have denied will be capable of attaining the 3.4 gpm CO standard in the 1981 model year by adding one or more available features to the design of the engine family. For the remaining engine families covered by waiver applications which I have denied, the applicants have failed to establish that effective CO control technology will not be available to them because they failed to submit emission test results which provide an adequate basis for me to determine whether a given engine family is capable of attaining the 3.4 gpm CO standard.

Considerations of costs, driveability, or fuel economy, whether viewed separately or cumulatively, do not give me a basis for altering my determinations regarding the availability of technology for these engine families which have been denied waivers. The extra costs associated with implementing technology capable of meeting the 3.4 gpm standard for those engine families, while not necessarily insignificant, are not substantial enough compared to the costs of meeting a standard no higher than 7.0 gpm to justify a conclusion that use of that technology is not feasible. The higher prices which manufacturers will need to charge to cover these extra costs will not be so large as to threaten the capabilities of these engine families to achieve or maintain a competitive position in the marketplace by making vehicles of the engine families in question unacceptable to consumers. I have determined, therefore, that these costs do not prevent the requisite control technology from being reasonably available to enable these engine families to achieve the 90% reduction in CO emissions which the Act establishes as an ultimate target for light-duty motor vehicles.

Furthermore, no waiver applicant has presented information which indicates that implementing technology capable of achieving the 3.4 gpm standard would have a sufficient adverse effect on driveability, relative to the driveability levels which an applicant reasonably could attain in conjunction with a standard not exceeding 7.0 gpm, to make the vehicles in question unacceptable to consumers. Nor has any waiver applicant demonstrated that implementation of that technology either will prevent the engine families in question from meeting Federal fuel economy requirements or will cause an unreasonable fuel economy penalty relative to fuel economy levels achievable in conjunction with a standard not exceeding 7.0 gpm.

Thus, while these engine families may meet some, or all, of the remaining statutory criteria for receiving waivers, my determinations regarding available technology, considering costs, driveability, and fuel economy, preclude me from granting the waivers covering these engine families.

III. Discussion

A. Methodology for Assessing Available Technology

A key question I must face in reviewing the waiver applications which I have received is whether technology is available to enable an engine family covered by a waiver application to meet the 3.4 gpm CO standard in the 1981 model year. Sections 202(b)(5)(C)(iii) and (iv) of the Act indicate that Congress intended all vehicles to comply with the Act's 90 percent CO emission reduction requirement were practicable. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into consideration costs, driveability, and fuel economy.

1. *Applicants' Positions Summarized.* Each automobile manufacturer has reached a state in its development of CO emission controls at which it has narrowed the range of strategies it contemplates employing to meet the 3.4 gpm standard to, at most, a few alternative systems. To support contentions that effective control technology is not available within the meaning of the Act, each waiver applicant has provided descriptions of the systems it has been considering in its efforts to attain the 3.4 gpm CO emission standard and the emission test results it has measured from vehicles

incorporating those systems. each application proposed that I grant the requested waivers to cover engine families produced in both the 1981 and 1982 model years [15] and that a 7.0 gpm CO standard apply to those families.

a. *American Motors Corporation.* American Motors Corporation (AMC) stated in its application that it currently does not have technology available to it which is capable of meeting the 3.4 gpm CO standard.[16] Moreover, AMC explained that because it lacks the resources to conduct its own basic emission control research it must purchase emission control systems and compotents from other sources.[17] AMC claimed, therefore, that it need two years' additional lead time to adapt and incorporate purchased technology into production before it can comply with all aspects of the 3.4 gpm CO standard.[18] Thus, AMC asserted that effective control technology is not available with sufficient time to permit its two 1981 and 1982 model year engine families to meet the 3.4 gpm standards.[19]

AMC also contended that because of its small share (1.3%) of the U.S. market, granting waivers for its two engine families would lead to no measurable effects on ambient air quality.[20]

b. *BL Cars, Ltd.* BL Cars, Ltd. (BL) generally asserted that technology is not reasonably available to it to enable any of its five engine families to meet the 3.4 gpm CO standard by the 1981 model year.[21] The applicant stated that its emission tests on the engine family designs it has been developing produced results which either exceeded that 3.4 standard or exceeded the design target levels BL believed to be necessary to ensure that production vehicles of an engine family could meet the 3.4 standard during their useful life.[22] BL suggested that because its U.S. market share was so small (0.32 percent of 1978 model year sales), its vehicles' contribution to ambient CO levels is "correspondingly insignificant."[23]

c. *Chrysler Corporation.* Chrysler Corporation (Chrysler) stated that none of its engine families is capable of attaining the 3.4 gpm CO standard with a sufficient degree of certainty to conclude that any of those families could meet certification testing requirements.[24] Chrysler conceded that it could increase its chances of meeting the standards by prescribing a catalyst change during the useful life of the vehicles in question, but claimed that the cost for that procedure (at least $250 per vehicle) made that alternative unfeasible.[25]

Chrysler further stated that granting waivers for all eight of its 1981 and 1982 model year engine families would create only a slight difference in air quality.[26] Chrysler claimed that if it did not receive the requested waivers, it would be unable to market vehicles in 1981 and 1982 and that this would irreparably harm its employees, dealers, stockholders, suppliers, and the communities in which its major operations are located.[27]

d. *General Motor Corporation.* While asserting that it faced some risk of failure to comply with some regulatory emission requirements, General Motor Corporation (GM) stated that the engine families covered by its waiver application probably would meet the requirements of certification testing.[28] GM explained that this projection presumed the addition of an oxidation catalyst downstream from a three-way catalyst, because the three-way catalyst by itself only would have been sufficient to permit most of its vehicles to meet a 7.0 gpm standard.[29]

GM projected that adding the oxidation catalyst (and perhaps a different air switching system) would add $30–$40 dollars to the cost of the vehicles covered by its waiver application.[30] GM claimed that this extra cost of the oxidation catalyst (amounting to an additional $300–$400 million annually if applied industry-wide) would greatly exceed the benefits it produced in reduced ambient CO levels.[31]

Specifically, GM asserted that air quality projections employed by EPA over-estimate future ambient CO concentrations because the projections use unrealistic methodology and differ from recently-measured ambient CO levels.[32] GM concluded that a two-year waiver would have an unmeasurable effect on ambient CO levels and therefore would have no effect on protection of public health.[33]

e. *Toyota Motor Co., Ltd.* The Toyota Motor Co., Ltd. (Toyota) waiver application covered five 1981 and 1982 model year engine families. Toyota stated that its emission test results generally failed to meet its emission design targets for a 3.4 gpm CO standard and therefore produced no assurance that these engine families could meet that standard.[34]

Even using an emission control system which for some families achieved test results below the 3.4 standard although above its emission targets, Toyota asserted that it would incure additional costs ranging from an estimated $90 to $150 per vehicle.[35] Toyota contended that granting the requested waivers would cause a negligible effect on ambient CO levels and therefore would provide only negligible effect on ambient CO levels and therefore would provide only negligible health benefits which would not justify these added costs.[36]

f. *Volkswagen AG.* The Volkswagen AG (Volkswagen) waiver application covered only one engine family comprising only 20% of its projected U.S sales for the 1981 model year. Volkswagen explained that the remainder of its production could meet the 3.4 gpm CO standard in the 1981 model year and that, in fact, it had already certified those vehicles in California for the 1980 model year at standards of 0.41 gpm HC, 3.4 gpm CO, and 1.0 gpm NOx (oxides of nitrogen).[37]

Volkswagen stated that the engine family covered by its waiver application used a carburetor rather than the fuel injection system employed on the remainder of its engine families. Volkswagen claimed that it had not been able to develop the carburetor system sufficiently to enable it to meet the 3.4 gpm CO standard, but that this system could be produced at a $225 per vehicle savings relative to the fuel injection systems.[38] Volkswagen also claimed that use of the carburetor system would reduce vehicle costs and therefore provide the company with the flexibility to apply these savings to achieve gains in fuel economy.[39] Volkswagen argued that granting a waiver allowing those benefits would serve the public interest, and that any health effects would be limited because

[15] General Motors Corporation's waiver application included a few engine families for which it requested only a one-year waiver (either for the 1981 or for the 1982 model year).

[16] AMC App., p. 5

[17] *Id.* at 4.

[18] *Id.*

[19] *Id.* at 5.

[20] *Id.* at 3.

[21] See, e.g., July 10 Tr., p. 7.

[22] See, e.g., BL App., p. 15.

[23] BL App., p. 2.

[24] C. App., Vol. I, p. B-1.

[25] *Id.*, p. B-3.

[26] *Id.*, p. B-3.

[27] *Id.*

[28] GM App., p. 9.

[29] GM App., pp. 8, 11.

[30] *Id.*, p. 315.

[31] *Id.*, p. 48.

[32] *Id.*, pp. 5-6.

[33] *Id.*, p. 6.

[34] T. App., P. 1-6—1-8. Emission design targets are those emission levels which, when achieved by test vehicles, provide a manufacturer with what it deems to be adequate assurance that vehicles of that model will meet emission requirements in mass production.

[35] *Id.*, pp. 1-7.

[36] *Id.*, pp. 1-9.

[37] VW App., p. 3.1; July 12 Tr., p. 3.4.

[38] *Id.*, p. 3.2.

[39] Id.

only an estimated 0.47 percent of the total 1981 model year vehicle population would be involved.[40]

2. *Decision Methodology.* Appendix A to this consolidated decision contains an assessment of technology available to meet the 3.4 gpm CO standard for each engine family in question. These assessments result from a review of the information contained in the waiver applications on these systems and of other information contained in the public record for this consolidated decision.

In evaluating availability of effective control technology, Appendix A assesses the emissions performance of each engine family as described in the waiver application and also of each described engine family after hypothetically factoring in one or more "adjustment factors". The adjustment factors include only those features which are reasonably available to a manufacturer for incorporation into a 1981 model year engine family's design in order to achieve greater reduction of CO emissions (such as an additional catalyst, air injection, or increased catalyst noble metal loadings).[41] Appendix A also projects the emissions performance of the engine family employing a replacement catalyst during its useful life, and of the engine family using both adjustment factors and a catalyst change.

Appendix A employs methodology which applies these few carefully selected, purposely conservative adjustment factors to emission test results supplied by a waiver applicant. This allows me to ascertain not only what CO emission levels the systems as described in the waiver applications can attain but also what these systems could attain had the systems incorporated "state-of-the-art" technology in which a high level of confidence can be placed.[42] EPA's Administrator has used this approach in assessing technology in conjunction with past decisions on applications for suspension of statutory motor vehicle exhaust emission standards.[43]

Appendix A then addresses the engine family under each scenario is capable of "certifying" (passing EPA's certification testing requirements) with 0.41 gpm HC, 3.4 gpm CO, and 1.0 gpm NOx standards in effect.[44] Consistent with the methodology used in the previous suspension decisions and outlined in the waiver application guidelines,[45] Appendix A contains this evaluation for each engine family for which emission test data were available by using a "Monte Carlo" statistical simulation technique. The Monte Carlo technique employs emission test data provided for a vehicle of a given engine family to generate the emission level distributions that would be expected to occur for a large fleet of durability vehicles of that engine family as measured by certification testing.[46] Appendix A assigns a "pass" or "fail" determination to each engine family scenario according to whether the applicable Monte Carlo simulation indicated that more or less than 80% of the vehicles of the engine family in question could meet certification testing requirements for each regulated pollutant if each were tested once.[47] In this manner the methodology takes into account the test-to-test, car-to-car, and deterioration factor variabilities which cause uncertainty in projecting from the few test results provided by an applicant whether an engine family can meet certification requirements when tested. This methodology therefore increases the reliability of projecting from available test results that an engine family will be able to meet certification requirements.

The results from this analysis indicate with high statistical confidence that most of the engine families which were covered by a waiver application and for which adequate emission test data were available can certify to the 3.4 gpm CO standard for the 1981 and 1982 model years. Appendix A provides an assessment for each engine family scenario and describes the adjustment factors employed in projecting each family's ability to certify.

B. *Waiver Applications Granted*

1. *Availability of Technology, Considering Costs, Driveability, and Fuel Economy.*—a. *Unavailable Technology.* I have determined that effective CO control technology, independent of considerations of costs, driveability, or fuel economy, is not available for 1981 model year vehicles of the engine families listed in section II(A) of this decision. These are the engine families which the Appendix A analysis projects as being unable to certify to the 3.4 gpm CO standard in 1981, even after incorporating any reasonably available adjustment factors short of catalyst replacement into the system designs as described by the waiver applicants.

Appendix A projects that the Chrysler 1.7, 3.7, and 5.2/2V engine families could certify at the 3.4 gpm CO standard if they employed both adjustment factors and a catalyst replacement during their useful life. The General Motors 2.8/173-2V FBC and 3.8/231-2V FBC engine families, the AMC 258 CID family, the Toyota 88.6 family, and the BL Cars TR 8 family, could certify at the 3.4 gpm CO standard if they employed only a catalyst replacement during their useful life.

I have determined that *effective* control technology is not available for these eight engine families to meet the 3.4 gpm CO standard. The technology available to these engine families (i.e., technology requiring catalyst replacement) is unlikely to be effective in controlling emissions to meet the 3.4 gpm CO standard because it requires consumers to assume a substantial extra burden in ensuring that these engine families continue to meet the CO standard. Specifically, this technology could require the consumer to assume additional costs (viz., the cost of the replacement) and/or additional

[40] Id., p. 2.1.

[41] Other factors (specifically, deletion of power enrichment and use of insulated or dual-walled exhaust pipes) also were considered available but were not included in the analysis, thereby adding to the conservative nature of the analysis.

[42] The estimates which the methodology employs to account for the effects of the respective adjustment factors on emissions is purposely low compared to measured effects of those factors on emissions.

[43] See, e.g., 40 FR 11900, 11908 (March 14, 1975), 38 FR 10317, 10323 (April 26, 1973). This is not the same methodology which the Administrator used in his initial decision, ultimately remanded by the Federal appellate court in *International Harvester Co. v. Ruckelshaus*, on applications for suspension of the 1975 HC and CO statutory standards.

[44] These are the statutory standards which the Act has scheduled to take effect (absent a statutory waiver) in the 1981 model year. For the sake of simplicity, in discussing an engine family's projected ability to certify, I will refer to this set of standards by merely citing the 3.4 gpm CO standard.

[45] 43 FR 47272, 47276 (October 13, 1978). No applicants commented on the use of this methodology during the waiver proceedings. This methodology was the subject of considerable public comment before the Administrator first employed it to assess available technology as part of the remanded proceedings for suspension of the 1975 model year HC and CO standards. 38 FR 10317, 10323 (April 26, 1973).

[46] The Monte Carlo technique simulated 100 durability tests on a vehicle with available test data by statistically selecting for each simulated test a set of values for car-to-car, test-to-test, and deterioration rate variabilities over the range of values that could be expected to occur in conjunction with vehicles of the design in question. General Motors used this technique in analyzing emission test data as part of its submission for the proceedings for suspension of the 1975 model year HC and CO standards. See 38 FR 10317, 10323 (April 26, 1973).

[47] The Administrator also applied this 80% confidence level in the methodology he used in making his final decision on applications to suspend the 1975 model year HC and CO standards. As Appendix B of that decision explains, EPA has certified many engine families which had not passed certification testing requirements until the second attempt. Because the certification regulations permit an engine family more than one attempt at certifying, the statistical chances of that engine family passing certification testing (by passing on one of the two attempts) actually are higher than 80%. In re: Applications for Suspension of 1975 Motor Vehicle Exhaust Emission Standards, Decision of the Administrator (April 1973) (Appendix B.)

inconvenience (leaving a car for repairs) which there is a natural inclination to avoid.

These disincentives would discourage consumers from obtaining the catalyst replacement while the vehicles are in use.[48] This effect would make it much less likely that after the time scheduled for the catalyst replacement these in-use vehicles of the engine families in question would continue to conform to emission standards. It is the Agency's continuing policy to encourage manufacturers to produce vehicles which will meet emission requirements effectively during their useful life. Denying a waiver application on the ground that a catalyst change can be part of an effective emission control system (without assurance that consumers will replace the catalyst in use) would encourage waiver applicants and other manufacturers to view catalyst replacement as an option in planning to produce automobiles to meet Federal emissions standards.

Appendix A further projects that the BL Cars XJ12 engine family would not be capable of meeting the 3.4 gpm CO standard even if it did employ a catalyst replacement. Thus, I have determined that effective control technology is not available for this family as well to meet the 3.4 gpm CO standard.

b. *Costs, Driveability, and Fuel Economy.* The Clean Air Amendments of 1977 added to the section 202(b)(5)(C)(iii) criterion the requirement to consider costs, driveability and fuel economy in assessing the availability of technology to meet the 3.4 gpm CO standard. Thus, an applicant can demonstrate that technology is not available by establishing that the costs (or driveability or fuel economy penalties) necessarily associated with progressing from the 7.0 gpm standard effective in model year 1980 to the 3.4 gpm goal set for 1981 are significant enough to make the engine family unable to remain reasonably competitive in the marketplace because it would be unacceptable as an alternative for motor vehicle purchasers.[49] For those engine families receiving a waiver, it is unnecessary to consider costs, driveability, or fuel economy in determining the availability of technology, since I have already determined that effective control technology is not available for those families independent of those additional concerns.

c. *National Academy of Sciences Studies and Investigations and Other Information.* As part of my assessment of technology, section 202(b)(5)(C)(iv) of the Act requires that I consider the results of NAS studies and investigations conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. In 1974, NAS published its most recent study under section 202(c) on technology available to meet the 3.4 gpm CO standard.[50] The 1974 study concluded that the technology was generally available to manufacturers to meet the 3.4 gpm standard, but only at the expense of a fuel economy penalty that would set the industry back to those levels the industry had been attaining in 1970.

Changes in the industry since 1974 limit the current value of this NAS study. Specifically, it is highly questionable whether the fuel economy concerns raised in 1974 still apply to the current state of technology. Since the 1974 report, Congress has passed the Energy Policy and Conservation Act (EPCA)[51] to ensure that the industry achieves specified levels of fuel economy performance. None of the applicants even claimed that it would face problems in meeting the Corporate Average Fuel Economy (CAFE) requirements.[52] Moreover, none of the applicants established that a significant fuel economy penalty will result for an engine family in question if a waiver covering that engine family is not granted.[53] In addition, the record further indicates that an applicant might not be inclined to achieve fuel economy gains beyond the standard at the expense of increasing product costs.[54] In light of these considerations, requiring attainment of the 3.4 gpm CO standard is unlikely to have a significant adverse effect on the fuel economy levels actually attained by waiver applicants in the 1981 model year.

The NAS has not produced any relevant studies or investigations since 1974. EPA has contracted for NAS to provide in the near future an updated version of its 1974 study on the feasibility of complying with a 3.4 gpm CO standard.

The available studies and investigations from NAS drew general conclusions about the availability of effective control technology to the light-duty vehicle industry on the whole rather than for specific engine families. The 1977 amendments to the Act, however, require that I assess the availability of technology for specific engine families covered by a waiver application. Thus, the findings of the available NAS studies do not directly contradict my assessment regarding the unavailability of technology for those engine families for which I have decided to grant a waiver.

In addition, my review of available technology has encompassed other information submitted to the record by non-applicant manufacturers and by part suppliers and developers in response to subpoenas issued under section 307(a)(1) of the Clean Air Act. Several non-applicant manufacturers expressed concerns over their respective technological abilities to achieve the 3.4 gpm CO standard by the 1981 model year.[55] Many of the concerns they raised, however, addressed the potential extra costs of the technology which those manufacturers projected to be necessary to achieve a 3.4 gpm CO standard and did not contest the availability of technology to meet that standard.[56] This additional information, as well as other information available to me and included in the record does not provide an adequate basis for me to alter any conclusions I have reached so far in this decision regarding the unavailability of technology for the particular engine families I have mentioned in this section.

2. *Protection of the Public Health.* Section 202(b)(5)(C) of the Act requires that before granting a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine

[48] Appendix A summarizes the applicants' estimates of the cost of a catalyst replacement to range between $78 and $278 per vehicle.

Consumer response rates to emission-related recalls indicate that even where replacement is free of charge, a substantial number of vehicles do not receive repairs.

[49] Of course, a manufacturer may remain competitive even though it is unable to market a given engine family. For example, Volkswagen may not be able to market its carburetor-equipped engine family, but the company will still retain its competitive position. In fact, Volkswagen indicated it could sell all the fuel-injected vehicles it could build. July 12 Tr., p. 58.

[50] Report by the Committee on Motor Vehicle Emission of the National Academy of Sciences, dated November, 1974.

[51] Pub. L. No. 94-163, 89 Stat. 871 (1975).

[52] The so-called CAFE requirements are the manufacturers' sales-weighted fuel economy standards set under § 502 of EPCA. See section VIII of Appendix A and the discussion in section III(C)(1)(b)(iii) of this decision.

[53] *Id.*

[54] *Id.*

[55] Ford Motor Company stated it still was uncertain whether its engine families would be able to certify to the 3.4 CO standard in 1981 (July 10 Tr., p. 204). See also, e.g., the testimony of Saab-Scania of America, Inc. (July 11 Tr., p. 5), Toyo Kogyo Co., Ltd. (July 11 Tr., p. 55), or Nissan Motor Co. (July 12 Tr., p. 164).

[56] See, e.g., the testimony of Ford (July 10 Tr., p. 209), Toyo Kogyo (July 11, Tr., p. 54), or AB Volvo (July 11 Tr., p. 92). AB Volvo explicitly stated its belief that technology is available to enable its engine families to meet the statutory 1981 standards at additional costs (July 12, Tr., p. 94).

family receiving the waiver for the model years to which the waiver applies. Upon examination of this issue with respect to each of the engine families for which I have determined that effective control technology, considering costs, is not available, I have found that any health effects resulting from waiving the 3.4 standard for the 1981 and 1982 model years for any or all of these engine families would be insignificant. As a result, protection of the public health does not require these engine families to attain a 3.4 gpm CO standard for those two model years.

The appropriate starting point for determining whether ambient CO levels protect public health is the National Ambient Air Quality Standards (NAAQS) for CO, which have been established under section 109(a) of the Act by regulations of the Administrator.[57] The "primary" (i.e., health-protective) NAAQS for CO are 35 parts per million (ppm) as measured over a one-hour period and 9.0 ppm as measured over an eight-hour period.[58]

Studies have determined that most (and in some areas, almost all) ambient CO originates from motor vehicles.[59] In setting a statutory CO emission standard for light-duty motor vehicles as part of the 1970 amendments to the Act, Congress determined that a 90% reduction from emission levels permitted by the CO standard in effect in 1970 was necessary to permit nationwide attainment of the NAAQS for CO.

The record for the proceedings at hand does not contain any information precisely assessing on an engine family-by-engine family basis the effects on ambient CO levels of granting a two-year waiver of the effective date of the 3.4 gpm CO standard. Appendix B to this decision, however, reviews the information contained in the record and provides an evaluation of the effects of an industry-wide CO waiver.

Appendix B uses EPA's rollback modeling technique [60] gpm, in effect for 1981 and 1982 model year vehicles, would have during 1981–1985 on the following matters: ambient CO air quality,[61] the number of areas from among the nation's 19 worst low-altitude, non-California air quality control regions (AQCRs) for CO that would exceed the health-based NAAQS for CO, and the number of violations occurring within these areas under each of several possible sets of variable conditions (such as the rate of in-use deterioration or the type of emission control system incorporated into vehicles in use).

The extent to which each of these developments occurs naturally depends upon the set of conditions assumed by the projections to be in effect and therefore differs to some extent from several of the projections supplied by the waiver applicants. In a "maximum effect" scenario, Appendix B projects that in 1985, for example, an industry-wide waiver would cause a small but measurable (4%) increase in ambient CO levels. Under those circumstances, the industry-wide waiver would cause a 31% increase in the number of CO NAAQS violations which could occur in these AQCRs and an increase from 11 to 12 in the number of "non-attainment" regions [62] in this group.

In Appendix B's projections under a scenario employing a set of variable conditions judged most likely to occur, however, the effects of an industry-wide waiver would be less pronounced. Under these circumstances, Appendix B projects no change in the overall ambient CO level in 1985 or in the number of non-attainment regions, and only a 4% increase in the number of CO NAAQS violations.

In light of these projections for a two-year, industry-wide waiver, the incremental contribution to ambient CO levels from an individual engine family receiving a waiver would constitute such a small portion of these effects on ambient CO levels that I find it reasonable to characterize that contribution as insignificant. The information supplied by waiver applicants supports this conclusion regarding the incremental contributions of individual engine families.

I also have found that the sum of the incremental contributions to ambient CO levels from those 1981 and 1982 model year engine families for which I have determined that effective control technology, considering costs, is not available still is so small (constituting less than 10% of total light-duty vehicle production) as to be insignificant in its effect on public health. This combined projected effect should be small enough to avoid any modification of any State Implementation Plan (SIP) adopted according to the requirements of section 110 of the Act for the purpose of attaining the NAAQS for CO.

3. *Essential to the Public Interest or to the Public Health and Welfare.* Before I may grant a waiver request, section 202(b)(5)(C)(i) of the Act requires that I determine that granting the waiver is essential to the public interest or the public health and welfare. I have determined that it is essential to the public interest to grant the waiver requests covering those engine families for which I have determined that effective CO control technology is not available.

I have based this determination on the need to protect the public's interest in preserving diversity and competition in the automobile industry. Denying a waiver for one (or more than one) engine family which lacks the technology to continue in production under the 3.4 gpm CO standard would reduce the diversity of choices available to consumers to that extent.[63] It also could create a threat to the ability of that engine family's manufacturer to continue as a competitive force in the marketplace and therefore to the viability of that applicants as a manufacturer of automobiles.[64] This problem assumes added import in cases in which smaller volume manufacturer are concerned, because these manufacturers produce fewer model lines which might substitute for engine families which would be forced out of production and sell fewer vehicles over which they can spread any resulting losses.

Thus, if I denied the waiver applications covering the engine families for which I have determined effective CO control technology is not available, I would be creating a high degree of risk that the range of choices available to meet the automotive needs of consumers may decrease. This results may hinder the automobile industry's ability to meet market demand for automobiles and therefore would be detrimental to the public interest.[65]

[57] 40 CFR 50.8 (1978).

[58] These standards were established by correlating ambient CO levels with observed negative health effects and factoring in a margin of safety. I am not undertaking a review of these standards as part of these proceedings.

[59] See, e.g., Joint Comments from Environmental Defense Fund and National Resources Defense Council, p. 9 (July 30, 1979); T. App., p. 2–15.

[60] The rollback model basically assumes a proportional relationship in calculating CO concentration in the atmosphere on the basis of the rate of CO emissions. A mathematical description of the rollback model is presented in an EPA memorandum from Edward J. Lillis to Charles L. Gray, dated May 14, 1979, and included in the record for these proceedings.

[61] As described by the highest second highest CO reading from any of the 19 air quality control regions examined. The analysis examines the second highest CO reading in a region to represent the maximum ambient CO level reached during a given year so as to negate any biasing effect which an extraordinary high measurement due to highly unusual meteorological conditions might cause.

[62] An AQCR is a "non-attainment" region if measurements in that region produce results which exceed either one of the NAAQS for CO more than once per year.

[63] See AMC App., p. 3, C. App., vol. I, p. III–2.

[64] See C. App., vol. I, p. III–2.

[65] Ford, a non-applicant, indicated in its testimony that as a competitor it would have problems meeting the extra market demand created when an

Footnotes continued on next page

Undermining the competitive abilities of one or more engine families for I have determined effective control technology is not available could be further inimical to the public interest in certain instances by ultimately threatening an applicant's viability, thereby lending to an adverse economic impact on an applicant's stockholders, employees, and suppliers.[66] In this case, in which I already have determined that granting waivers for engine families for which effective control technology is not available still would be protective of public health, I have concluded that it also is essential to the public interest to allow applicants to produce these engine families by granting the waiver applications covering these engine families.

4. *Good Faith.*—In order for me to grant a wavier to any applicant, section 202(b)(5)(c)(ii) of the Act requires that I determine that the applicant in question has made all good faith efforts to meet the emission standards established by this subsection. In the context of this consolidated decision, therefore, I have examined information regarding each applicant's previous and projected efforts toward meeting a 3.4 gpm CO emission standard for the engine families in question.

In response to the waiver application guidelines and Agency subpoenas, each applicant has submitted detailed, specific description of its past, present, and future programs for development of CO emission controls. As a basis for comparisons, the record contains similar, though perhaps less extensive, submissions from other automobile manufacturers which have not filed waiver applications.

The information contained in the record which relates to the good faith criterion tends to support a finding confirming the good faith efforts of each applicant. In some instances, however, the applicant's showing in this regard is at best marginal.[67] The applicants' financial information is rather general and therefore difficult to evaluate in the context of this decision. Nevertheless, I have no basis for concluding that any significant discrepancy exists among them, or in comparison with other manufacturers, with respect to the amounts of resources, relative to company size, which each applicant has committed to the development of CO emission controls.

Of course, each applicant has a natural motivation to present its good faith arguments in the best light possible. The record contains little, if any, evidence from disinterested sources which directly corroborates the information supplied by the applicant.

In *International Harvester Co.* v. *Ruckelshaus,*[68] the court discussed the relative burdens and standards of proof present in proceedings such as these. The court stated that once an applicant produces ostensibly reliable and specific information in support of its position, the Administrator bears the burden of showing the reliability of any methodology employed in reaching a decision adverse to the evidence presented by the applicant.

In this case, I have concluded that I could not reasonably reach a determination that any of the applicants in these proceedings has not taken all good faith efforts to meet the 3.4 gpm CO emission standard. Information submitted by an applicant might tend to ignore or gloss over information pertaining to an existing or potential CO control technology which the applicant failed to pursue in good faith. Nevertheless, the record contains no information indicating that a given applicant acted in bad faith, and therefore provides no basis for refuting the information supplied by the applicants.

Thus, I have determined that each applicant has demonstrated compliance with the good faith criterion set forth in section 202(b)(5)(c)(iii) of the Act.

5. *Conclusion.*—Each of the engine families for which I have determined that effective CO control technology is not available is covered by a waiver application which meets each of the remaining criteria under section 202(b)(5)(C) of the Act. As a result, I am granting a waiver of the effective date of the 1981 statutory CO emission standard for each of these engine families.[69]

C. Waiver Applications Denied

1. *Availability of Technology, Considering Costs, Driveability and Fuel Economy.* a. *Available Technology.*—Appendix A projects that of the remaining engine families covered by a waiver application, the following are capable of passing certification testing requirements by using the design specified in the waiver application:

Manufacturer	Engine family
American Motors	151 CID.
Chrysler	2.6 liter.
General Motors	1.6 liter/98 CID-2V.
	2.5 liter/151 CID-2V.
	4.3 liter/260 CID-2V.
	5.0 liter/305 CID-4V.
	5.7 liter/350 CID-4V (Chev).
	5.7 liter/350 CID-4V (Olds).
Toyota	144/134 CID.

In addition, Appendix A projects that the following remaining engine families are capable of passing certification testing requirements by using the design with one or more adjustment factors added:

Footnotes continued from last page applicant would be unable to market an engine family which could not meet a 3.4 gpm CO standard. Specifically, Ford explained that, because it would receive notice of that extra market demand only shortly before the 1981 model year, it would not have sufficient lead time to meet any more of that demand than already-existing idle capacity would permit. July 10 Tr., p. 203.

[66] C. App., Vol I, p. III-2.

[67] An area that especially concerns me is the paucity of data from the applicants on systems that would appear to represent best effort technology. For example, GM claimed that the emission control system that was their prime system was the system that can generically be called 3-Way plus oxidation catalyst (3W+OC). However, of the 94 vehicles for which GM submitted sufficient durability data, less than one half (43) were equipped with the type of emission control system that GM claimed was its first choice system to meet 3.4 CO. I believe that the 3W+OC system is generally considered the generic system that has the best chance of meeting the 0.41 HC, 3.4 CO, 1.0 NO_x standards. However, AMC submitted data for its 151 CID engine on only a 3-way only system (i.e. without an oxidation catalyst), which was actually a 1980 California certification vehicle, and not a system specifically targeted for 0.41 HC, 3.4 CO, 1.0 NO_x. In addition to this, AMC's efforts to meet 3.4 CO apparently consisted of only two tests.

BL Cars also appears to have limited its investigation to California systems, targeted toward a more lenient CO standard. Toyota's efforts are quite disturbing, especially with one of its smaller engines (88.6 CID). Toyota's statements concerning the reasons for choosing this system, namely the possible CO advantage, are not entirely convincing, since my analysis shows that the pollutant most difficult to control for this system is NO_x, not CO.

Another area of equal concern to me is the class of vehicles for which I could not make a pass/fail determination due to the lack of sufficient data submitted by the applicants. Therefore, I have to deny the waiver applications covering these vehicles. For GM, this "no data" category encompasses 18 "no data" families out of a total of 26 (or 69%) for the 1982 model years, for example. For Chrysler, this problem involves 3 out of 8 (38%) families, for British Leyland 2 out of 5 (40%), and for Toyota 1 out of 5 (20%). This lack of demonstrated effort touches on the good faith issue directly.

I have denied these "no data" applications, but the 1981 model year certification process is already underway. It would appear that the 1981 certification process will be the first time applicants test some of these engine families to determine if they can certify at the 0.41 HC, 3.4 CO, 1.0 NO_x standards.

Although I cannot refuse an application for certification on the basis of the absence of what I consider to be best effort technology, I am putting the industry on notice now that applications for a waiver of the 3.4 CO standard, based on 1981 certification data generated by less than best effort technology, will be evaluated very carefully in light of the "all good faith efforts" criterion of the statute.

[68] 478 F. 2d 615 (D.C. Cir. 1973).

[69] Given the conservative nature of the analysis used to project that effective control technology is not available for these engine families, it remains possible that some of these families still might be able to meet the 3.4 gpm CO standard. Even with my decision to grant waivers for these families, I still expect the applicants to make reasonable attempts to have these families meet the 3.4 gpm CO standard.

Manufacturers	Engine family	Adjustment factors [70]
BL cars	TR 7	Switched AIR system; cleanup oxidation catalyst.
Chrysler	5.2 liter/2V	Catalyst improvement.
Toyota	168/156.4 CID	AIR system.
	A-8	Start catalyst.

[70] Section IV of Appendix A explains how these factors were developed and applied.

On the basis of these projections, I have determined that effective CO control technology is available to the engine families in both of these lists, independent of considerations of costs, driveability, and fuel economy. In addition, Volkswagen in its own application confirms that effective control technology is available to enable its 97 CID engine family to meet the 3.4 gpm CO standard, apart from consideration of costs, driveability, and fuel economy, by using fuel injection rather than a carburetor.

Each of the applicants has argued that inquiry into whether a waiver applicant has met the technology-related criteria established by the Act for receiving a waiver does not end with the evaluation of whether an engine family is capable of certifying to the 3.4 gpm standard. The applicants assert that proper consideration of this area also should take into account the prospects for an engine family's complying with the other emission-related statutory requirements should the 3.4 gpm CO standard go into effect.

More specifically, the applicants content that factors such as prototype-to-production slippage, production variation, and in-use deterioration create a significant risk that production vehicles will not meet the applicable CO emission standard either coming off the assembly line or in use.[71] Under those circumstances, the manufacturer could be subject to liability under EPA's assembly-line testing, recall, and warranty programs. For this reason, the applicants have developed their own emission design targets below the actual CO standard. The applicants contend that only after they meet these targets have they assured themselves that they have minimized to an acceptable level the risk of mass producing vehicles exceeding the CO standard.

I have determined that none of the waiver applicants has established that technology, processes, operating methods, and other alternatives will not be available to enable the engine families which in question here to continue meeting the 3.4 gpm CO standard during their useful life after those families go into mass production.

Section 202(b)(5)(C)(iii) of the Act clearly places the burden of making the necessary showing regarding the available technology criterion with the applicant. EPA specifically indicated the significance of this explanation by requesting information on this point in its "Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard" (43 FR 47272, 42276 (October 13, 1978)), in the subpoenas it issued to the waiver applicants, and in the questions propounded to the applicants during the public hearing.

The applicants for the most part have provided EPA with their design targets and with a general list of the factors considered in deriving the design targets for the respective engine families.[72] No applicant, however, provided EPA with actual production vehicle test results supporting the validity of its design targets generally or of the factors (specifically, test-to-test, car-to-car, or deterioration rate variations in production, or prototype-to-production slippage) used to develop those targets.[73]

As explained in the discussion on decision methodology in section III(A)(2) of this decision, the projections of available technology in Appendix A are intentionally conservative in an effort to factor in considerations pertaining to any possible risks that engine families will not meet standards when they are mass produced. Appendix A applies deterioration factors to low mileage emission test data supplied by the applicants in order to project the ability of those tested vehicles in question to meet the 3.4 gpm CO standard for 50,000 miles (the vehicles' legal useful life) and also accounts for the variation in deterioration rate that may occur between vehicles. The methodolgy also statistically applies test-to-test and vehicle-to-vehicle variation factors, which accounts for much of the effects of those variations in production. Finally, in the absence of more specific contrary evidence, I am unable to conclude that any applicant has established that prototype-to-production slippage creates an unacceptable risk that available technology will not meet the 3.4 gpm CO standard once that technology is introduced into mass production.[74]

American Motors raised a unique concern regarding the availability of effective control technology for 1981 model year vehicles of its 151-CID engine family. Specifically, American Motors pointed out that it purchases the technology for this engine family from another manufacturer (General Motors) rather than developing the technology on its own. American Motors contended that even if that technology were capable of meeting the 3.4 gpm CO standard when employed on vehicles of its supplier, it would need at least two additional model years to adapt the purchased technology to its own systems inorder to meet the 3.4 gpm standard.[75]

Despite this argument, I am unable to determine that effective control technology is not available for 1981 model year vehicles of this engine family. Appendix A indicates that the 151-CID engine family can pass certification testing at a 3.4 gpm standard without adding any adjustment factors or a catalyst change. American Motors purchases that engine family as a complete package from General Motors.[76] In fact, the same deterioration factor calculated for the General Motors engine family during certification testing is applied to the engine family once American Motors receives it.

American Motors presented no specific evidence regarding the special kinds of adaptations it needs to perform on the purchased technology before introducing it into production or why it needs an additional two model years to complete the process. The recalibration activities it would have to perform on that engine family during or after General Motors completes durability testing for that family and establishes a deterioration factor should require no more lead time than do recalibration activities normally performed by a manufacturer after it conducts its own durability testing. As the discussion of this engine engine family in Appendix A points out, American Motors has demonstrated that it can complete the necessary recalibrations within nine months (and probably in less time in this case), which should be ample time to allow production of this engine family in

[71] See, e.g., GM App., p. 92; AMC App., pp. 19-20.

[72] See, e.g., AMC App., pp. 23-24; C. App., vol. 1, pp. V-D-31-32; VW App., Appendix 3.

[73] Although specifically asked to explain the basis for the perceived risks assertedly present when putting certified engine families into production, General Motors provided no information to quantify those risks and characterized the matter as only a "minor consideration." July 9 Tr., pp. 213-219.

[74] In fact, in responding to questioning from the EPA Hearing Panel, General Motors indicated that it does not anticipate prototype-to-production slippage in its emission control planning. GM, 7/20/79, Attachment B, pp. 10, 11. Volkswagen indicated that for 1975 model year vehicles meeting newly-imposed interim CO standards, it experienced no noticeable prototype-to-production slippage. VW, 7/23/79, p. 2.1.

[75] *Infra*, section III(A)(1)(a), n. 17 and 18.

[76] AMC App., p. 32.

the 1981 model year. Thus, on the basis of the information the record, I cannot determine that, with respect to American Motors' 151–CID engine family incorporating purchased technology, effective control technology will not be available for a sufficient period of time to enable that engine family to meet a 3.4 gpm CO emission standard in the 1981 model year.[77]

The record did not include sufficient information to make any conclusive determination regarding available technology for the following engine families:

Manufacturer	Engine family
BL cars	MGB.
	XJ6.
Chrysler	2.2 liter.
	5.2 liter/EFM.
	5.9 liter
General Motors	3.2 liter/196 CID–4V
	3.8 liter/231 CID–4V
	4.4 liter/267CID–2V
	4.9 liter/301CID–4V
	Engine family ("EF") P
	EF–H
	EF–M
	EF–K
	EF–J
	EF–W
	EF–N
	EF–V
	EF–Y
	EF–U
	EF–X
	EF–T
	EF–E
	EF–C
	EF–O
Toyota	108 CID.

The waiver applications covering these engine families included no emission test results which the decision's prescribed methodology could use as a basis for evaluating their respective CO emission control capabilities, even though the waiver application guidelines expressly specified the form for the test data.[78] Moreover, no engines families for which the applicants did submit test data were similar enough to these "no data" engine families to provide a basis for assessing the capabilities of those engine families.

As I have mentioned earlier in this section, the Act places with the applicant the burden of establishing the lack of available technology. By failing to supply sufficient data from any engine family through which I can assess adequately the CO emission control capabilities of a particular engine family, the applications I have received covering these engine families have failed to meet the burden which the Act imposes on them. Thus, I cannot determine that, independent of considerations of costs, driveability, and fuel economy, effective control technology is not available to those engine families listed here.

The applicants in question here may reapply for waivers for these "no data" engine families. At that time, I will re-examine the availability of effective control technology for those engine families in light of any new, sufficient emission test data which the applicant may provide.

b. *Costs, Driveability, and Fuel Economy.* I also cannot determine for each of the engine families not granted a waiver that, even after considering costs, driveability, and fuel economy, effective control technology is not available to enable these engine families to meet a 3.4 gpm CO standard in the 1981 model year. Specifically, neither the separate nor the combined effects of the costs, driveability, and fuel economy considerations associated with meeting a 3.4 gpm rather than a 7.0 gpm CO standard are significant enough to make any of these engine families unable to remain reasonably competitive in the marketplace.

i. *Cost.* Appendix A analyzes the costs on a manufacturer-by-manufacturer basis of meeting the statutory CO standard based on 1979 dollars. Table VII–2 in Appendix A provides the following list detailing the extra costs per vehicle (for those families not receiving a waiver) which a manufacturer would have to incur in marketing systems targeted at a 3.4 rather than a 7.0 gpm CO standard:[79]

Manufacturer	Extra cost (1979 dollars)
American Motors	$0
BL Cars	0
Chrysler	14
General Motors	40
Toyota	4
Volkswagen	165

The manufacturer's own estimates of their respective cost differences in attempting to meet the 3.4 versus the 7.0 gpm CO standard are listed in Appendix A's Table VII–3 as follows:

Manufacturer	Extra cost (1979 dollars)
American Motors	No data.
BL Cars	Confidential.
Chrysler	[80] $0.
General Motors	$30–$40.
Toyota	Confidential.
Volkswagen	$225.

[80] The only extra cost Chrysler claimed it would incur in meeting the 3.4 gpm CO standard is the cost of a catalyst replacement, approximately $250. Because I am granting waivers to those families which can meet the 3.4 gpm CO standard only by employing a catalyst change, the $250 figure is not applied here. This table displays the extra cost incurred only by a vehicle in an engine family which has not received a waiver.

These added costs are not large enough to affect significantly the competitive position of any of the engine families not receiving waivers.[81]

The only extra cost figure which even has the potential for presenting a significant risk to an engine family's competitive position is Appendix A's $165 per affected vehicle projected cost for Volkswagen. Volkswagen could save by using the carbureted system which Appendix A projects will be incapable of meeting the 3.4 gpm CO standard on the engine family covered by its waiver application rather than the fuel injection system Volkswagen currently is producing which meets the 3.4 gpm CO standard. Testimony received from Volkswagen at the public hearing on the waiver applications, however, indicated that Volkswagen will be able to sell all the vehicles it produces for the United States market, regardless of whether its vehicles include an extra savings due to use of the carbureted system on the

[77] American Motors' two-year lead time argument was more compelling in its application under section 202(b)(1)(B) for waiver of the effective date of the 1981 NOx standard, which I granted. American Motors does not purchase its 258 CID engine family as a complete package; rather, it assembles that other engine family after purchasing its components separately. Adaptation of this engine family involves much more than mere recalibrations, and thus requires significant additional lead time. This lead time problem provided part to my basis for concluding that American Motors lacked the technological ability to develop technology to enable the 258 CID engine family to meet the statutory 1.0 gpm NOx standard for the 1981 model year. Because the Act directed me to consider those waiver applications on a manufacturer-by-manufacturer rather than engine family-by-engine family basis, I granted a NOx waiver to American Motors which covered its 151 CID engine family as well.

[78] See "Guidelines for Application for Waiver of the 1981 Carbon Monoxide Emission Standard", 43 FR 47272, 27276 (October 13, 1978). In order to be adequate for use in the analysis, the emission test data must come from a vehicle which has accumulated at least 20,000 miles with no major emission control component change and has been subject to at least four valid tests according to the 1975 Federal Test Procedure. Generally speaking, the data which applicants submitted for the engine families in question here did not come from vehicles which had accumulated the mileage necessary to give some indication of the vehicles' durability characteristics.

Section V of Appendix A contains a more complete discussion of how the methodology employed the emission information which manufacturers submitted.

[79] All cost figures cited for a given manufacturer in this subsection are sales-weighted averages.

[81] Of course, to the extent that each manufacturer incurs some extra costs in meeting the 3.4 gpm CO standard, the effect of the extra costs on the competitive positions of the engine families of each waiver applicant will be mitigated. See also the discussion of costs in section III(C)(3) on the public interest criterion.

engine family in question.[82] Loss of the potential $165 (or $225) cost savings, therefore, will not affect the ability of the Volkswagen engine family to remain competitive in the market place and does not prevent me from determining that effective control technology, considering costs, is available to this engine family.

ii. *Driveability.* I also have determined that the sacrifices in vehicle driveability associated with implementing the technology necessary to meet the 3.4 gpm CO standard would not make any of the engine families in question an unacceptable alternative to consumers. For the most part, the applicants included only general allusions to driveability concerns in stating their respective cases for waivers. Toyota, the only applicant which provided any specific driveability information, did not establish that driveability concerns were significantly enough to preclude the practicability for implementing effective technology.[83]

Appendix A's analysis of the driveability issue also refers to information obtained from sources other than the waiver applicants. This information did not indicate that driveability necessarily suffers when vehicle CO emissions are reduced. Thus, I have no adequate basis for concluding that driveability concerns prevent effective control technology from being implemented on any engine family covered by a waiver application.

iii. *Fuel Economy.* I also have determined that any fuel economy penalties associated with effective CO control technology would not seriously impact the acceptability to consumers of the engine families in question. Indeed, at least one applicant confirmed that technology designed to meet the 3.4 gpm standard in model year 1981 incorporated features which actually improve fuel economy relative to the fuel economy levels achieved by systems designed to meet the current less stringent CO standard for 1979 model year vehicles.[84]

No applicant contended that the failure to receive a waiver would preclude the applicant from achieving the Corporate Average Fuel Economy (CAFE) requirements imposed by the Energy Policy and Conservation Act. The estimates from applicants of the projected fuel economy penalty associated with meeting a 3.4 gpm CO standard relative to levels they would be capable of attaining in conjunction with their suggested 7.0 gpm interim standard for 1981 model year vehicles ranged from a maximum 5% penalty for Toyota to a 5–10% penalty for BL.[85] This information does not establish that the fuel economy penalties are significant enough to prevent associated technology from being incorporated into 1981 model year vehicles which would be acceptable to consumers and therefore still could be marketed competitively.

Thus, I have determined that considerations of costs, driveability, and fuel economy whether evaluated separately or in combination, do not give me a basis for concluding that effective control technology is not available for the engine families which Appendix A either projects to be capable of attaining the 3.4 gpm standard or is unable to evaluate because of a lack of sufficient information. For that reason, I am denying the waiver applications under consideration insofar as they apply to these engine families.

c. *National Academy of Sciences Studies and Investigations and Other Information.* As explained in section III (B) (1) (c) of this decision, the most recent study by the NAS (published in 1974) on the availability of technology to meet a 3.4 gpm CO standard concluded that the requisite technology (at the expense of a fuel penalty) was available to the industry as a whole, but reached no conclusions regarding the availability of technology on an engine family-by-engine family basis. As this earlier discussion also explained, the fuel economy penalty projected for technology available in 1974 is not a significant concern now.

Thus, I have determined that the results of the available NAS studies and investigations do not indicate that effective control technology considering costs, driveability, and fuel economy, is not available for the engine families not receiving waivers. I also have made the same determination regarding the indications provided by other information available to me and included in the record. (See the discussion of "other information" in section III (B)(1)(C) of this decision).

2. *Protection of the Public health.* According to the requirements of section 202(b)(5)(C) of the Act the Administrator must find that a waiver application has met each of the specified criteria with respect to a particular engine family before the Administrator may grant a waiver request. Thus, according to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which I already have determined effective control technology, considering costs, driveability, and fuel economy, to be available meet any of the remaining statutory criteria in order for me to deny these applications. Nevertheless, I am addressing these issues in this decision for the purpose of leaving as few matters as possible unresolved.

By the same reasoning I used in section III(B)(2) of this decision, I could conclude that the incremental ambient CO contributions from any engine family for which I have determined effective control technology considering costs, driveability, and fuel economy, to be available also is insignificant. In that case, waiving the 1981 and 1982 statutory CO standard for any one of those engine families arguably still would be protective of the public health.

As I already have noted, however, Appendix B projects that noticeable increases in CO levels could result from an industry-wide waiver under section 202(b)(5) of the Act. This result could hardly be protective of public health when the record indicates that as many as 189 urban areas measured violations of the CO NAAQS in 1978 [86] and that studies project at least some 181 violations still to occur in the 19 worst non-California, low attitude AQCRs, even with a 3.4 gpm CO standard applied industry-wide beginning in the 1981 and 1982 model years.[87] By thus aggravating the detrimental health effects caused by violations of the CO

[82] July 12 Tr., p. 58. When asked specifically during its testimony, Volkswagen was not able to confirm that the savings associated with the carbureted system would be reflected in the selling price of vehicles in that family. *Id.* at 77–81.

[83] Even Toyota's application provided driveability information which was far less specific than suggested by the published waiver application guidelines to provide an adequate basis for determining effects on driveability. Section VIII of Appendix A explains that Toyota never provided information on the relationship between driveability levels and customer satisfaction. In fact, measured driveability did not indicate a definite correlation with CO design levels on all of Toyota's vehicles.

[84] BL, Supplementary Report, July 1979, second page of Section I.

[85] Testimony of Toyota, July 9 Tr., p. 13. Testimony of BL Cars, July 10 Tr., p. 6. As noted in Appendix A, these manufacturers themselves offered conflicting information regarding the extent of the anticipating fuel economy penalty.

Although Volkswagen gave no precise figure, it did assert that use of its carburetor system would permit significant fuel economy gains. In its testimony during the public hearing, however, Volkswagen indicated that its vehicles' fuel economy levels were set more on the basis of marketing strategy than on the basis of technological capability. When asked, Volkswagen gave no assurance that it indeed intended to achieve in production the fuel economy improvements which its alternative system could attain. See July 12 tr., pp. 44–55.

[86] Joint comments from Environmental Defense Fund and national Resources Defense Council, p. 9 (July 30, 1979).

[87] EPA's Revised Air Quality Analysis of Waiving the 3.4 Grams/Mile CO Standard for Light-Duty Vehicles, dated August 1979.

NAAQS which studies already project will exist when 1981 and 1982 model year vehicles are in use, an industry-wide waiver of the 3.4 gpm CO emission standard would not be protective of public health.

Where granting waivers covering vehicles constituting only a small portion of the industry, however, would not create a significant effect on CO levels in non-attainment regions, or would not bring attainment regions into non-attainment imposing the 3.4 gpm CO emission standard on these vehicles is not required to protect public health. Thus it is reasonable within the intent of section 202(b)(5)(C) to provide waivers only on a limited basis by granting waivers covering only that portion of the industry consisting of engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy is not available (presuming these families also meet the remaining statutory criteria).

Several applicants have contended that recent measurements have shown a significant downturn in ambient CO levels which will lead to nationwide achievement of the CO NAAQS within an assertedly comparable time frame whether or not CO waivers are granted.[88] appendix B nevertheless indicates than an industry-wide waiver could measurably slow the progress towards the health-based CO NAAQS in non-attainment areas. The longer an area is in nonattainment, the longer the public health lacks adequate protection.

General Motors has challenged several specific areas of EPA methodology in measuring and projecting ambient CO levels.[89] Appendix B addresses each of these comments and explains the reasoned basis for the EPA methodology employed to assess both ambient CO levels and the effects which granting these waiver requests may have.

Moreover, in focusing their attention on the need for attainment of the 90 percent CO emission reduction requirement by the 1981 model year, the waiver applicants have misconstrued Congress' intent. Congress did not intend that I reassess the need for attaining the 90 percent reduction requirement by the 1981 model year to decide whether I should grant these waivers; rather, Congress included the public health consideration in section 202(b)(5)(C) of the Act to ensure that any waivers I granted, for a presumably limited number of engine families, would present no significant risk to the public health. In enacting section 202(b)(1) of the amended Act, Congress already had determined that considerations of public health adequately supported requiring the 90% reduction in CO emissions by the 1981 model year.

3. *Essential to the Public Interest or to the Public Health and Welfare.* I have determined that waivers for the engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is available are not essential to the public interest or to the public health and welfare.

On the basis of the information contained in the record, I conclude that in no case is granting a waiver essential to the public health and welfare. No applicant has made a claim that a waiver would enhance the public health and welfare, nor has any information supporting such a finding come to my attention. I have no basis for determining, for example, that manufacturers can achieve the statutory CO standard only at the risk of increasing emissions of other regulated or unregulated pollutants, as EPA's Administrator determined during the suspension proceedings for the 1977 model year motor vehicle exhaust emission standards because of his concerns regarding the uncertain health effects of increased sulfuric acid emissions.[90] Thus, the information elicited during the proceedings at hand has narrowed the scope of my examination of this issue to whether a waiver is essential to the public interest.

Several applicants have stated that though their engine families may have the potential for meeting the 3.4 gpm CO emission standard, the engine families can achieve that emission level only by incurring extra costs (or fuel economy or driveability penalties) which the applicants could avoid under a less stringent CO standard.[91] These applicants contend that I should grant waivers covering these engine families because it is essential to the public interest to avoid any extra costs (or fuel economy or driveability penalties) relating to assertedly marginal improvements in ambient CO levels achieved by attainment of the 3.4 gpm CO standard.

This argument overlooks the purpose for which Congress included the CO waiver provision in the 1977 amendments to the Act. Congress obviously realized that any 1981 model year vehicle model could attain the 90 percent reduction requirement for CO emissions, which it deemed ultimately necessary to achieve ambient CO levels protective of public health, only by incurring some extra cost or perhaps some extra penalty to fuel economy or driveability. As noted earlier, however, Congress intended that waivers be granted on a limited basis only. Thus, it is highly unlikely that Congress envisioned these extra costs (or fuel economy or driveability penalties) alone as justification for granting a waiver request.

The public interest consideration at issue in these proceedings is whether adverse effects from any of these factors are substantial enough to present a significant risk that the applicant will not be able to produce and market the engine family in question and perhaps other engine families as well. Section III(C)(1)(b) of this decision already has examined this aspect of the public interest consideration in discussing the effects of costs, driveability, and fuel economy on the availability of effective control technology.

My conclusion here parallels the one I reached there. Specifically, I have determined that it is not essential to the public interest to grant waivers to engine families which incur costs (or driveability or fuel economy penalties) in meeting the 3.4 gpm CO standard where the costs (or penalties) involved are not so substantial as to present a significant risk to the waiver applicant's ability to produce and market competitively vehicles of that engine family, or vehicles generally.

In its waiver application, Volkswagen argues that a waiver for its engine family designed with a carburetor would serve the public interest in permitting an alternative, potentially cost-saving form of technology to remain in production while Volkswagen further develops that system to meet the 3.4 gpm CO standard.[92] Congress did indicate that it viewed the CO waiver process as a means for permitting the development of innovative technology.[93]

I cannot conclude, however, that granting a waiver to Volkswagen to cover this engine family is essential to the public interest. It is highly unlikely that Congress intended the CO waiver provision to accomodate manufacturers, like Volkswagen, which are able to meet the 3.4 gpm CO standard across the board but which want to market an engine family with alternative technology already employed by much of the industry. Volkswagen asserted

[88] See, e.g. C. App., vol. I, p. C-3; GM App., p.6.

[89] GM App., pp. 33-39. Ford also supplied specific comments on EPA's methodology. Ford, July 9, 1979, Attachment V.

[90] 40 FR 1190 (March 14, 1975).

[91] GM App., pp. 48-51; T. App., pp. 3-4 to 3-6; VW App., pp. 3.1-3.2.

[92] VW App., p. 1.4.

[93] 123 CONG. REC. S13703 (August 4, 1977) (remarks of Senator Muskie).

that use of the carburetor system would permit a $225 cost savings for vehicles of the engine family in question, but was unable to explain, when specifically asked who would benefit from the savings or how the public interest would be served.[94]

4. *Good Faith.* I already have addressed the good faith criterion in section III(B)(4) of this decision. My conclusion here for the engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is available is the same as my conclusion there. Specifically, I have determined that because the applicants for waivers for these engine families have provided evidence supporting their good faith efforts to meet the 3.4 gpm CO standard and because the record contains no information providing any specific evidence to the contrary, I am unable to determine other than that these applicants have met the good faith criterion included in section 202(b)(5)(C)(ii).

5. *Risks in Determining Available Technology.*—In International Harvester Co. v. Ruckelshaus [95] the Federal appellate court reviewed the decision of EPA's administrator to deny a set of applications for one-year suspension of the statutory 1975 model year light-duty motor vehicle emission standards, which included the 3.4 gpm CO standard. The criteria provided in the Act for the Administrator to make his decision were substantially similar to the criteria now provided in section 202(b)(5)(C) of the amended Act.[96]

Among other things, the court stated that the Administrator should have balanced the risk associated with erroneously denying the suspension requests versus the risk of erroneously granting them. In that proceeding, the court indicated that the balance should consider the economic costs (in terms of jobs and misallocated resources) of an erroneous grant.

On remand the Administrator reversed his previous decision and granted the suspension application.[97] The Administrator cited as the most influential factor in his decision the risk that introducing catalyst technology into mass production without a scale-up period of limited mass production could lead to severe economic disruption because of unanticipated difficulties (such as a manufacturer's inability to acquire a supply of acceptable catalysts). The Administrator stated that the one-year suspension of the statutory emission standards would give manufacturers an opportunity to gain experience in the limited mass production of catalyst-equipped cars under conditions of careful quality control while maintaining the accelerating momentum of progress in catalyst development that had occurred during the previous two years.

As part of the waiver proceedings at hand, applicants again have raised concerns over the risks they might face in being unable to implement effective control technology in mass production.[98] Today's circumstances, however, are substantially different from those that existed during the 1973 suspension proceedings.

At that time, the industry had no experience in producing vehicles incorporating catalyst technology; hence, the Administrator determined that the risks associated with implementing a new type of emission control system into production might indeed be significant. Since that time, however, the industry has gained a substantial amount of experience in the mass production techniques and quality control measures associated with catalyst-based emision control technology. The move from today's state of technology to the technology required to achieve the 3.4 gpm CO standard does not require any substantial shift to untried emission control methods. As a result, the uncertainties associated with that move now are much less than those associated with the initial move to catalyst technology.

Moreover, in the proceedings at hand I have made a separate determination regarding the availability of effective control technology, considering costs, driveability, and fuel economy, for each engine family covered by a waiver application. The risks associated with requiring implementation of effective control technology for any one of these engine families are substantially smaller in scope than the risks associated with a determination that effective control technology is generally available for all vehicles of all manufacturers. An incorrect determination here regarding one (or even more than one) engine family will not necessarily prevent that manufacturer, or the industry as a whole, from being able to market other engine families for which effective control technology, considering costs, driveability, and fuel economy, is available.[99] Also, a manufacturer may reapply for a waiver by submitting new information.

In the proceedings at hand, therefore, I have determined for those engine families not receiving waivers that the risks of an erroneous denial of a waiver are justified when compared to the risks attendant to an erroneous grant. I have taken steps to minimize the risk of an erroneous denial by making sure that I base my findings that technology is available to meet certification testing requirements on conservative projections which themselves must meet demonstrate with no less than an 80% confidence level that vehicles of an engine family in question can pass a single certification test. I have found no information in the record that effectively corroborates the concerns raised by the applicants or other manufacturers, which have an obvious interest in a cautious assessment of their respective abilities to meet the 3.4 gpm CO standard.

Section III(B)(2) of this decision discusses the environmental health risks that would be associated with one or more erroneous grants. Even though the health risks associated with erroneous grants may be small, the risks associated with erroneous denials (which do not involve health considerations) also are limited significantly. In addition, an erroneous grant would serve to discourage manufacturers from implementing available effective emission technology as quickly as possible. In light of these counterbalancing risks, and in light of Congress' expressed intent to afford a statutory waiver only in exceptional circumstances rather than on an across-the-board basis,[100] I have concluded that it is appropriate to deny waiver applications insofar as they cover engine families for which I have

[94] July 12 Tr., pp. 77–81. When questioned, Volkswagen did not confirm that any cost savings would be passed on to consumers, or that the waiver would permit any fuel economy gains which it could not achieve otherwise. Because Volkswagen projects that it can sell all the cars it makes even without the $225 savings, it has no market incentive to pass those savings to consumers in the form of reduced prices or better fuel economy.

[95] 478 F. 2d 615 (D.C. Cir. 1973).

[96] See the discussion of the 1970 version of the Act in section I of this decision.

[97] 38 FR 1017 (April 26, 1973).

[98] See the discussion regarding applicants' risks and the establishing of design targets in section III(C)(I)(a) of this decision.

[99] The risk that denial of a waiver request will cause significant harm to an applicant's ability to market vehicles in a competitive manner is substantially less with respect to these engine families, for which the record does not establish that effective control technology is not available, than is the risk with respect to the engine families for which the record demonstrates that technology is available. See the discussion of the public interest criterion in section III(B)(3) of this decision.

[100] While the previous statutory suspension provision directed the Administrator to reach a decision with respect to a manufacturer in general, the current section 202(b)(5) directs the Administrator to examine separately the circumstances pertaining to each model (i.e. engine family). See also 123 CONG. REC. S13702–13703 (Aug. 4, 1977) (remarks of Sen. Muskie).

determined that effective control technology, considering cost, driveability, and fuel economy is available.

6. *Conclusion.*—For the engine families referred to in section III(C) of this decision, I have determined either that effective control technology indeed is available for these 1981 model year engine families, even after considering costs, driveability and fuel economy, or that the waiver applicants have failed to provide adequate data to enable me to make a determination that technology is not available. Thus, even though the waiver applicants may meet one or more of the remaining statutory criteria for granting waivers, I nevertheless must deny the waiver applications covering these engine families.

IV. Interim CO Exhaust Emission Standards

As required by section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations prescribing interim CO emission standards for 1981 and 1982 model year vehicles of each engine family for which I have granted a waiver of the effective date of the 1981 statutory CO standard. Consistent with the requirements of section 202(b)(5)(B) of the Act and the proposals of each waiver application covering these engine families, I am prescribing an interim CO emission standard of 7.0 gpm for each of these engine families. For these engine families, this action continues in effect for two additional model years the CO emission standard applicable to all 1980 model year vehicles.

Dated: September 5, 1979.

Douglas M. Costle,

Administrator.

Appendix A.—Summary of Technological Capability

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I. Introduction

The exhaust emission standards for 1981 and later model year light-duty vehicles are currently 0.41 grams per mile HC, 3.4 grams per mile CO, and 1.0 grams per mile NOx. Section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) provides the opportunity for manufacturers to request a waiver of the 3.4 grams per mile CO standard to 7.0 grams per mile during model years 1981 and 1982. Six vehicle manufacturers have applied for this waiver. These manufacturers are American Motors, Chrysler, General Motors, British Leyland, Toyota, and Volkswagen.

This appendix deals with the technological capability of those manufacturers to meet the 1981 and 1982 CO standard of 3.4 grams per mile. This appendix relies on three previous technical appendixes, particularly for discussion of the Monte Carlo simulation utilized in this analysis. These appendixes are:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

As indicated in Section 202(b)(5)(c)(iii), the technological feasibility determination is based on the consideration of technological capability, cost, driveability, and fuel economy. This appendix contains discussion of each of the above topics, in the same order as in the Act.

II. Summary of Technological Capability

Tables II-1 to II-6 summarize the capability of the six applicant manufacturers to meet the 1981 and 1982 emission standards. The standards considered in these tables are 0.41 HC, 3.4 CO, 1.0 NOx.

A guide to the summary tables is as follows. The first column lists engine family. The second column which lists per cent of model year 1981 sales is deleted because the values were derived in most cases from manufacturer's confidential sales estimates. The "as received" column refers to the data submitted by the manufacturer. "Improvements" refer to the projected technological improvements (factors) applied to the data. Catalyst change is self explanatory.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's technological analysis. The applicants have known for about six years what sort of data is necessary for EPA to make a determination whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in many cases there was a lack of acceptable data for specific engine families. This effectively precluded EPA from making a pass/fail determination for those families. In these cases the families are called "no data" and no pass/fail determination was made.

Table II-1.—*Applicant: AMC*

	Percent estimated 1981 sales	Pass as received?	Pass with improvements?	Pass with catalyst change?	Pass with both?
Engine:					
151		Yes (from GM)	Yes (from GM)	Yes (from GM)	Yes (from GM).
258		No	No	Yes	Yes.

Table II-2.—*Applicant: Chrysler*

	Percent estimate 1981 sales	Pass as received?	Pass with improvements?	Pass with catalyst change?	Pass with both?
Engine:					
1.7		No	No	No	Yes
2.2		(1)	(1)	(1)	(1)
2.6		Yes	Yes	Yes	Yes
3.7		No	No	No	Yes
5.2/2V		No	Yes	Yes	Yes
5.2/4V		No	No	No	Yes
5.2/EFM		(1)	(1)	(1)	(1)
5.9		(1)	(1)	(1)	(1)

[1] No data.

Table II-3A.—*Applicant: GM (1981)*

	Percent estimated 1981 sales	Pass as received?	Pass with improvements?	Pass with catalyst change?	Pass with both?
Engine:					
1.6/98		Yes	Yes	Yes	Yes
2.5/151-A		Yes	Yes	Yes	Yes
2.8/173		No	No	Yes	Yes
3.2/196		(1)	(1)	(1)	(1)
3.8/231-2V		No	No	Yes	Yes
3.8/231-4V		(1)	(1)	(1)	(1)
4.3/260		Yes	Yes	Yes	Yes
4.4/267		(1)	(1)	(1)	(1)
4.9/301-A		(1)	(1)	(1)	(1)
5.0/305		Yes	Yes	Yes	Yes
5.7/350-C		Yes	Yes	Yes	Yes
5.7/350-O		Yes	Yes	Yes	Yes
EF-P		(1)	(1)	(1)	(1)
EF-K		(1)	(1)	(1)	(1)

Table II-3A.—*Applicant: GM (1981)*—Continued

	Percent estimated 1981 sales	Pass as received?	Pass with improvements?	Pass with catalyst change?	Pass with both?
EF-W		(1)	(1)	(1)	(1)
EF-N		(1)	(1)	(1)	(1)
EF-U		(1)	(1)	(1)	(1)
EF-X		(1)	(1)	(1)	(1)
EF-E		(1)	(1)	(1)	(1)
EF-O		(1)	(1)	(1)	(1)

[1] No data.

Table II-4.—*Applicant: British Leyland*

	Percent estimated 1981 sales	Pass as received?	Pass with improvements	Pass with catalyst change?	Pass with both?
Engine/model:					
120 cu. in./MGB		(1)	(1)	(1)	(1)
2.0L/TR7		No	Yes	Yes	Yes
215 cu. in./TR8		No	No	Yes	Yes
258 cu. in./XJ6		(1)	(1)	(1)	(1)
326 cu. in./XJ12		No	No	No	No

[1] No data.

Table II-5.—*Applicant: Toyota*

	Percent estimated 1981 sales	Pass as received?	Pass with improvements?	Pass with catalyst change?	Pass with both?
Engine:					
88.6		No	No	Yes	Yes
108		(1)	(1)	(1)	(1)
144/134		Yes	yes	Yes	Yes
168/156.4		No	Yes	Yes	Yes
A-8		No	Yes	Yes	Yes

[1] No data.

Table II-6.—*Applicant: VW*

	Percent estimated 1981 sales	Pass as received?	Pass with improvements?	Pass with catalyst change?	Pass with both?
Engine:					
97 in³/FBC		No	No	No	No

III. Statistical Treatment of the Data

No changes have been made in the basic Monte Carlo methodology since its last use in a technical appendix. This methodolgy has been discussed in three previous technical appendixes:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1979.

IV. Factors

With respect to the vehicle emission data submitted by the manufacturers for EPA analysis, vehicles are often run and tested over durability mileage accumulation schedules without using the best technology that is available to the manufacturer for certification in the 1981 model year. There are many reasons why this occurs. First, such technology may have simply not been available in quantity when fleets of vehicles began mileage accumulation. Second, all vehicles submitted for EPA staff analysis may not have been specifically designed for the 1981 and 1982 Federal emission standards. Also the manufacturer may wish to maintain some technologies (with known durability) in reserve if their low mileage testing indicates that such technology may not be needed for compliance with the target emission standards. In addition, technology may not appear on durability vehicles because the manufacturer has made a

decision that the technology would be too costly for production vehicles.

To account for some of the deficiencies in emission hardware, factors have been applied to some of the emission data submitted by the manufacturers. Due to substantial lead time problems for implementation of new or additional technology by the 1981 model year, these factors have been applied only for currently known hardware that can be implemented in 1981 certification and production. These improvements have been basically limited to additional catalyst (i.e., the addition of oxidation catalyst in some cases), the addition of air injection, and increased noble metal loadings of catalysts.

The factors that have been applied to the data are dimensionless numbers that represent the improvement in emission performance that is predicted for the more effective emission control technology. The factors are derived from data that reflect the emission performance of a vehicle with and without the more effective technology. For example a factor for CO of 0.90 indicates that a 10% reduction in CO is projected for the use of the more effective technology. In addition, when there are several different sources for the same improvement, EPA uses a conservative estimate of that projected factor, i.e., a factor greater in absolute value than that indicated by most of the date (e.f., Table IV-3).

Other factors which were developed, but not used in the following analysis include factors for:

- Deletion of power enrichment.
- Use of Insulated or dual-walled exhaust pipes.
- Use of exhaust port liners.
- Use of throttle body fuel injection.
- Use of multiple point fuel injection.
- High energy ignition.

Although the deletion of power enrichment and the use of insulated or dual-walled exhaust pipes were considered feasible for 1981, they were not used. Therefore, because of this conservatism, the manufacturers may have some additional cushion for certification. Use of the other items was not considered possible for most manufacturers for most engine families before the 1982 model year.

Chrysler Improved Catalyst Factor

The vast majority of vehicles tested by Chrysler Corporation used 3-way catalysts having platinum to rhodium (Pt:Rh) ratios of 10:1. The overall vehicle Pt:Rh ratios (including the oxidation catalysts) were approximately mine mix, according to Chrysler [5 at 117].* Chrysler has previously maintained a corporate policy that 3-way catalysts could not be used in production that had Pt:Rh ratios below 10:1 [3 at Vol. II, Sec. B-4, page B4-5]. That policy has recently been revised to include lower ratios in Chrysler test programs [5 at 116-117].

The EPA technical staff is in general agreement that it is desirable to utilize the minimum necessary loadings of all noble metals if the emission standards can be met with such loadings. However, if the emission standards can not be met with these loadings alternate loadings must be considered.

To correct the Chrysler vehicle data for increases in Rh loading, a factor has been developed.

The data in Table IV-1 were submitted by Chrysler in their CO waiver application.

Table IV-1.—*Aged Catalyst Samples Tested on Car 369*

Catalyst	75 FTP			Reference [3]
	HC	CO	NOx	
Chrysler standard 3W (90 in³, 10:1 PtRh)	.35	4.79	0.70	Vol. II, pB4-8 and B4-42.
Engelhard Volvo 3W (102 in³, 5:1 PtRh)	.32	3.66	0.43	Vol. II, pB4-40.
UOP #1941	.25	4.47	0.83	Vol. II, pB4-39.
UOP #1970	.29	4.58	0.80	Vol. II, pB4-39.
GM 160	.36	4.03	0.39	Vol. II, pB4-42.
GM 260	.31	4.49	0.49	Vol. II, pB4-42.

The factors for the difference between the Engelhard catalyst with a 5:1 Pt:Rh ratio and the Chrysler standard catalyst are .32/.35 = 0.91 for HC, 3.66/4.79 = 0.76 for CO, and 0.43/0.70 = 0.61 for NOx.

The data in Table IV-1 that relate to UOP and GM catalysts are provided only to indicate that several improvements can be made compared to the standard Chrysler catalyst.

If it is only necessary to go to some intermediate Pt:Rh ratio, the Chrysler CO waiver application contains data for going from 10:1 to 7:1 Pt:Rh. These data are shown in Table IV-2.

Table IV-2 *.—*Increased Pt:Rh Ratios With Standard Chrysler Catalyst Aged 300 Hours*

	Efficiency		
	HC	CO	NOx
Pt:Rh:			
7/1	76	70	81
10/1	73	63	80

* Volume II, page B4-5.

*The brackets contain the designation x at y. This means the reference is located in reference number x (listed at the end of this document) at page number y.

The factors here are (1−.76)/(1−.73) = 0.89 for HC, (1−.70)/(1−.63) = 0.81 for CO, and (1−.81)/(1−.80) = 0.95 for NOx.

The data in Tables IV-1 and IV-2 are shown to be directionally correct by vehicle data in reference number 1 on page 7-456. These data indicate factors of 0.72 for HC, 0.67 for CO, and 0.44 for NOx when the Pt:Rh ratio is changed from 19:1 to 5:1.

To be somewhat conservative in this analysis, only the factors for the change from 10:1 to 7:1 Pt:Rh were utilized in the Monte Carlo analysis. Since Chrysler plans to increase the size of their catalysts in 1981, an additional safety margin is present.

GM Improved Catalyst Factor

The GM waiver application contained vehicle data using a number of catalyst types (i.e., monolithic 3-way catalysts, pelleted 3-way catalysts, monolithic 3-way plus oxidation catalysts, and pelleted 3-way plus oxidation catalysts). Also a variety of catalyst volumes and noble metal loadings were utilized on the GM vehicles. Since GM has indicated that their prime system for model years 1981 and 1982 (for 3.4 CO) will include a 3-way plus oxidation catalyst [4 at 187 to 207], this system was studied in detail.

GM has claimed confidentiality for the majority of the details concerning the various catalysts, so an in-depth discussion of the analysis can not be presented in this document. However, the factors which were derived for the improved GM catalyst are 0.68 for HC, 0.48 for CO, and 0.66 for NOx. The actual values used in the Monte Carlo were 0.75 for HC, 0.60 for CO, and 0.75 for NOx. These factors applied only to some vehicles equipped with 250 cubic inch, pelleted, 3-way plus oxidation catalysts.

Start Catalyst Factor

The available CO control technology includes light-off or start catalysts. Start catalysts are small in size, have low thermal inertia and are mounted close to the engine. This combination of factors leads to rapid light-off for the start catalyst, which tends to lower HC and CO emissions.

The data used to develop the start catalyst factor came from Automobile Emission Control—The Current Status and Development Trends as of March, 1976 (S.R. 1976) page 4-14 and from subpoenaed information from Englehard Industries [16 at Section II]. This data is shown in Table IV-3.

Table IV-3.—*Start Catalyst Effect*

	HC	CO	NOx
	0.48	0.36	1.01
	0.62	0.45	1.00
	0.70	0.66	1.00
	0.60	1.01	0.98
	0.57	0.46	0.90
	0.68	0.72	1.20
	0.25	0.62	*0.78
Average factor	0.56	0.61	0.98
Factor used in Monte Carlo	.7	.7	1.0

* Englehard data.

The average factors were 0.56 for HC, 0.61 for CO, and 0.98 for NOx. The technical staff has conservatively used factors of 0.7/0.7/1.0 for HC, CO, and NOx respectively in the Monte Carlo.

Air System Factors

The factors for AIR used in the Monte Carlo were 0.8, 0.8 and 0.95 for HC, CO, and NOx respectively.

The factors used for AIR vs. PAIR were 1.00, 0.90 and 1.00.

"To date the most successful exhaust treatment technique used commercially has been air injection into the exhaust system [18 at 210]". Although this claim is now outdated, it does indicate that significant emission reductions are possible with the addition of an AIR System.

Data from Volvo [10 at 4–39] and Saab [11 at Enclosures 2 and 5] were used in calculating the AIR factor.

The data from Saab Enclosure 5 shows the influence of AIR vs. no AIR on Bag 1 CO results only. In order to translate this data into FTP results, the following formula [17 at 32988] is used:

Ywm = (0.43 Yct + 0.57 Yht + Ys)/7.5

Where:

Ywm = Weighted mass emissions of each pollutant, i.e. HC, CO, or NOx, in grams per vehicle mile.

Yct = Bag 1 = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Yht = Bag 3 = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Ys = Bag 2 = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

Enclosure 2 of the Saab subpoena submittal is a table of "Selected Bag Results From Various MY80 Certification Tests" which includes data from a turbocharged engine. The average of twelve tests are as follows:

Yct = Bag = 43.09 grams CO
Ys = Bag 2 = 5.68 grams CO
Yht = Bag 3 = 8.23 grams CO
Ywm = [0.43 (43.09) + 0.57 (8.23) + 5.68]/7.5
Ywm = 3.85 grams/mile CO

Saab enclosure 5 shows the influence of air injection on CO in Bag 1 at 4,000 miles and at 50,000 miles for a turbocharged engine.

At 4,000 miles, Bag 1 CO was reduced by 11 grams, which when subtracted from Yct, gives 32.09 grams CO in Bag 1 for an AIR equipped engine.

Ywm equals 3.22 grams/mile for the AIR equipped vehicle at 4,000 miles.

At 50,000 miles the bag 1 results were reduced by 18 grams, giving 25.09 grams CO in Bag 1.

Ywm at 50,000 miles * equals 2.82 grams/mile CO.

The average of the 4,000 mile and 50,000 mile emissions is as follows:

Ywm w/AIR = (Ywm 4K) + (Ywm 50K)/2 = (3.22 + 2.82)/2 = 3.02 grams/mile CO with AIR

Ywm no/AIR = 3.85 grams/mile CO as calculated previously

The AIR System Factor is:

$$\text{AIR System Factor for CO} = \frac{\text{Ywm w-AIR}}{\text{Ywm no/AIR}} = \frac{3.02}{3.85} = 0.78$$

The Volvo and Saab data is combined in Table IV–4.

Table IV–4

Vehicle		Gms/mi*		
		HC	CO	NOx
Volvo	No/Air	0.19	2.85	0.14
KMU 748 Auto	W/Air	0.15	2.36	0.13
Factor-Air		0.79	0.83	0.93
Volvo				
KFL 989-Manual	No/Air	0.21	2.79	0.11
	W/Air	0.15	2.16	0.10
	W/Pair	0.15	2.43	
Factor-Air		0.71	0.77	0.91
Factor-Pair vs No/Air		0.71	0.87	
Factor-Air vs Pair		1.00	0.89	
Saab Turbo	No/Air		3.85	
	W/Air		3.02	
Factor-Air			0.78	
Factor-Air (avg-Volvo+Saab)		0.75	0.79	0.92
Factor Used in Monte Carlo-Air		0.80	0.80	0.95
Factor used in Monte Carlo-Air vs Pair		1.00	0.90	1.00

*NOTE.—Factors are dimensionless.

V. Discussion of Individual Manufacturer's Technical Capability

This section will discuss all vehicles which (1) were submitted by each of the six applicants and (2) also are acceptable for input into the Monte Carlo simulation. Acceptable for input means (1) that the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components and (2) that a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

Details of the pass/fail determinations in Section II are also presented here. To pass the 1981 and 1982 emission standard (of 0.41 HC, 3.4 CO, 1.0 NO_x), the probabilities of passing each individual pollutant must be greater than or equal to 80%. If the probability of passing only HC, for example, is less than or equal to 79%, the vehicle fails—even if the probabilities for CO and NO_x greatly exceed the 80% cut point.

Due to time constraints for this analysis, pass/fail analysis is provided only for emission standards of 0.41 HC, 3.4 CO, and 1.0 NO_x. The complete data needed for a similar analysis at emission standards of 0.41 HC, 7.0 CO, and 1.0 NO_x are presented in the attached Monte Carlo output, but this analysis was not completed. Consequently, vehicles designed for a 7.0 CO standard are included in the following discussions of vehicles which were acceptable for entry into the computer analysis, but are not discussed at length afterward with respect to compliance at 7.0 CO.

In order that the Monte Carlo analysis not be cluttered with hundreds of failing vehicles utilizing inappropriate technology, prior certification vehicles are not considered in this analysis except in special cases where a manufacturer's ability to comply with the 1981 and 1982 emission standards is directly affected. It is not surprising that the durability vehicles from past certification would fail to achieve the 3.4 CO standard for two reasons. First, this standard represents a substantial reduction in CO from prior model year standards. And second, major changes in technology are being planned for introduction in 1981 by the vehicle manufacturers to achieve the more stringent standards.

If a manufacturer's prime (prime means the system most capable of achieving the 1981 standards) 1981 emission control system has been tested in prior certification, (generally 1980) these data are included in the analysis.

A. American Motors

Data from a total of 7 durability vehicles were reported by AMC in their waiver application (Reference 8). They were all 1980 certification vehicles for California. Two vehicles are numbered D80–101C and D80–65C–1. Other vehicles include the durability cars for engine families CP–8L1, CP–8M1, CP–8T1, CP–5X1, and BP–6C1 (vehicle numbers were not provided by AMC). Acceptable Monte Carlo data were not submitted for families CP–8L1, CP–8M1, CP–8T1, and CP–5X1. Vehicle D80–101C and family BP–6C1 were not entered into the Monte Carlo because these particular emission control systems were not AMC's prime system and would have been expected to have poorer emissions due to the lack of start catalysts. Only vehicle D80–65C–1 was entered in the Monte Carlo.

Family BP–6C1 was equipped with a 151 CID engine and FBC/EGR/3W. The remaining vehicles had 258 CID, I6 engines with FBC/EGR/AIR/3W/OC. The catalyst systems were different between these 6 certification families. Family CP–5X1 and vehicle D80–65C–1 were also equipped with 3-way start catalysts.

The one vehicle in Monte Carlo had no factors applied to its emission test results as

* This is not to say that 50,000 mile emissions for an AIR System would be lower than 4,000 mile emissions. It does, however, indicate the emissions reduction from a given baseline with an AIR System.

data for improved systems did not exist. The entire AMC development effort apparently consisted of two vehicle tests (8 at 26) on a single prototype vehicle with two different axle ratios, which effectively precluded the development of any improvement factors.

AMC stated that AMC would like to market 50-state vehicles in 1981. Also, the 1980 California emission control system used on Vehicle D-80-65C-1 is the best AMC system for emission control. On this basis and on the basis of the failure of this single vehicle in the Monte Carlo, the existing data indicate that the 258, I6 engine family will not be able to meet the 1981 standards of 0.41 HC, 3.4 CO, 1.0 NO_x, unless a catalyst change is performed.

Some recent data from the 258 engine are shown in Table V-1.

The technical staff predicts that vehicles equipped with the 151 CID engine will be able to fully comply with the 1981 emission standards (without a catalyst change), based on analysis of GM vehicles using this engine. AMC utilizes deterioration factors in certification that were actually generated by General Motors (5 at page 189).

Table V-1.—*Results of 1980 AMC Certification Vehicles Which Have Completed Durability Testing*

Family engine	VIN	Engine	Projected 4K			Projected 50K		
			HC	CO	NO_x	HC	CO	NO_x
CP-5N1	D80-65C-1	258	0.23	2.40	0.92	0.32	3.93	0.95
CP-5X1	Not given by AMC	258	0.33	3.83	0.70	0.32	3.10	0.96

AMC asserts that,

"Should the other major manufacturers demonstrate the technology to meet 3.4 CO standard in 1981 it would then follow that AM could be expected to possess this same level of technology by 1983. It would be unreasonable and inconsistent, however, to expect a vendor-dependent company such as AM to possess this technology in the same model year as the other manufacturers." [8 at 4]

The EPA technical staff finds AMC's assertion inconsistent with their recent certification to the 1980 emissions standards. By meeting the 1980 standards, for their 1980 model year vehicles, AMC has shown the ability to develop and adapt the technology to meet Federal HC and CO standards that went from 1.5 g/mi. and 15.0 g/mi. in 1979 to 0.41 g/mi. and 7.0 g/mi. in 1980. AMC does not state why it would be more difficult for them to meet the 1981 and 1982 standards in which only the CO standard is lowered, as AMC will still be able to certify at the 2.0 NO_x.

In regard to the 151 engine AMC is purchasing from General Motors for 1981, AMC asserts that,

"The major AM effort results in adapting the engine and the emission control system calibration to compensate for our particular vehicle configurations must by necessity be conducted after the engine family has successfully completed the 50,000 mile durability process and acceptable deterioration factors have been established." [8 at 33]

For 1980 certification of AMC's BP-6C1 engine family, which is also a 151 cu. in. engine purchased from GM, AMC was in the same position it will be in for 1981 certification. Durability testing was completed by GM, and AMC was only required to adapt that technology to 4,000 mile emission data vehicles. The 50,000 mile test on GM durability vehicle 0297 occurred in January 1979. On the basis of three AMC 4,000 mile emission data vehicles, AMC was issued a Certification of Conformity for engine family BP-6C1 on August 20, 1979, less than nine months after the completion of the applicable GM durability vehicle. This was accomplished even though both HC and CO standards were lowered.

In 1981 and 1982, only the CO standard will be lowered, and having had calibration development experience with the 151 cu. in. engine for 1980 model year certification, the EPA technical staff concludes that lead time constraints should not be any more of a factor for the 1981 model year than it was for the 1980 model year. In fact, AMC does not need to wait until GM runs the 50,000 mile durability data vehicle for them. AMC has experience with adapting the 151 CID GM technology for model year 1980, which should provide a data base from which an emission data vehicle calibration study can begin.

AMC could start an emission data vehicle calibration study as soon as GM starts the 1981 151 CID durability vehicle. This study could give AMC the necessary information about calibration change sensitivity that would be necessary to be able to start emission data vehicle calibration after GM's durability vehicle is finished. This would reduce the 9 month time it took AMC in 1980 to adapt the GM technology.

It also should be noted that AMC has experience in 1980 with the adaptation of technology which is similar to the technology that they will buy from GM for 1981. This is the closed loop 3-way catalyst system that AMC is getting from GM for 1980. AMC's 1980 model year experience with closed loop feedback fuel metering could again reduce the adaptation time to less than the 9 months it took them in 1980.

Therefore, even if one assumes that AMC will take as long as it did in 1980 to adapt GM's technoligy, sufficient lead time exists for this to be done for model year 1981. As the above paragraphs indicate, the 9 months may be a conservative estimate. In any case, AMC's contention of a two year lead time cannot be substantiated, based on their performance for model year 1980.

B. *Chrysler.—Vehicles in the Monte Carlo Analysis.* The vehicles contained in the Chrysler waiver application (Reference 9) which met the minimum criteria for entry into the Monte Carlo are shown in Table V-2. Only four total vehicles were rejected for use in the analysis for not using prime emission control systems. All four cars were not identical to any other vehicle entered into the analysis, and therefore, these four vehicles did not affect the pass/fail outcome of any engine family. Vehicle 325F could have been omitted as it was equipped with multiple point fuel injection, and it is highly unlikely considering the remaining lead time, that Chrysler could mass produce many different engine families with such a system, especially for model year 1981.

Special mention should be made of the notation "would fail in all cases" in Table V-2. Vehicles from the 1.7L family (CO47, CO51, CO65), the 225-1 family (169, CO55, 332, 524N, CO59, CO61, CO69R), and the 318-4 family (566H, CO36, CO21, CO22) were excluded from the analysis. However, no negative impact on Chrysler results from eliminating these vehicles from the analysis, since the 1.7L, the 225-1 (3.7L), and the 318-4 (5.2-4V) families all have been determined to not be able to meet the standards without a catalyst change.

Table V-2.—*Vehicles in Chrysler Waiver Application Meeting the Minimum Criteria for Entry Into Monte Carlo*

Engine	VIN[1]	entered in[2] Monte Carol	If Not entered—why?
1.7L	264M	X	
	266M	X	
	334Z	X	
	CO54[3]	X	
	CO585[3]	X	
	CO66[3]	X	
	CO47		Would fail in all cases.
	CO51		Would fail in all cases.
	CO65		Would fail in all cases.
2.6L	233	X	
	232	X	
	J-01-1	X	
	246	X	
	258	X	
225-1	166	X	
	BO18[3]	X	
	485	X	
	169		Would fail all cases.
	CO55[3]		Would fail all cases.
	332		Would fail all cases.
	311	X	
	537F	X	
	588	X	
	325F	X	
	524N		Would fail all cases.
	CO59[3]		Would fail all cases.
	CO61[3]		Would fail all cases.
	CO69R[3]		Would fail all cases.
	CO48R[3]	X	
	CO67[3]	X	
318-1	175H	X	
	684N	X	
	614N	X	

Table V-2.—*Vehicles in Chrysler Waiver Application Meeting the Minimum Criteria for Entry Into Monte Carlo*—Continued

Engine	VIN[1]	entered in[2] Monte Carol	If Not entered—why?
318-4	131H	X	
	566H		Would fail all cases.
	162H	X	
	CO36[3]		Would fail all cases.
	CO21[3]		Would fail all cases.
	CO22[3]		Would fail all cases.

[1] A group of vehicles that are single spaced are identical vehicles (i.e. vehicles 169 and CO55 are identical)-as nearly as can be determined. Consistent information regarding catalyst volume, loading, and Pt:Rh ratio was not presented by Chrysler. Vehicles separated by a dotted line-vehicles 311, 537F, and 588 are not identical.

[2] "X" measn entered.

[3] Certification car.

Pass/Fail Analysis for 1.7L Engines

All three prototype vehicles using the 1.7L engine failed in the Monte Carlo analysis until catalyst change and an improved catalyst were simulated. All but one of the vehicles pass in this case, thus the family is projected to pass a 3.4 CO standard with catalyst change.

It is unusual that the prototype vehicles used less catalyst volume than the certification vehicles and passed while the certification vehicles failed. This is explained by the probabilities of the 1980 model certification cars passing as shown below:

	Percent probability of passing		
	HC CO		NOx
Car CO54	100	98	35
Car CO585	100	100	27
Car CO066	92	92	26

Apparently the vehicles in certification were calibrated differently than the prototypes, possibly due to the allowance of line-crossing by California. Data from six 1980 model year Chrysler certification vehicles were submitted. Three of the vehicles (CO47, CO51, and CO65) were not included in the Monte Carlo data due to poor emissions, and the other three vehicles (CO54,CO585, and CO66 which were entered) failed even with factors and catalyst change due to high *NOx* not CO, emissions. All six vehicles were equipped with catalysts of the volume projected by Chrysler for use in 1981, but no catalyst loading information was provided.

Vehicle 266M requires some special discussion here as the factor applied to all of these vehicles was for an increased rhodium (Rh) content in the catalyst. Car 266M was tested with a catalyst with a 6.7:1 platinum (Pt) to Rh ratio; however, the Pt content was reduced to account for the decreased Pt:Rh ratio (the typical Chrysler ratio of Pt:Rh is 10) and Rh content was held constant. The applied factor assumes a constant Pt level and an increase in Rh content to obtain the reduced Pt:Rh ratio of about 7:1. Thus an additional factor should have been applied to account for the reduced Pt content, but as part of the conservative nature of the analysis, such a factor was not applied.

As a margin of safety, Chrysler plans to increase the volume of the catalyst used on similar vehicles in 1981 certification. The catalysts planned for certification are a close coupled catalyst of 115 cubic inches of 3-way catalyst and 55 cubic inches of oxidation catalyst followed by an underfloor oxidation catalyst of 90 cubic inches (3 at Vol. I, Section V, p. D-2). This change was not simulated in the Monte Carlo analysis, thus making the analysis conservative.

Pass/Fail Analysis for 2.2L Engines

Chrysler did not submit acceptable durability data for this family.

Pass/Fail Analysis for 2.6L Engines

The 2.6L engine family included vehicles which were not equipped with 3-way catalysts. Because the Car to Car, DF, and Test to Test variabilities for NOx used in the Monte Carlo can be different for vehicles not using 3-way catalysts, the NOx probabilities for the vehicles which passed were hand calculated and included in the Part III Monte Carlo results. Vehicles which were affected include J-01-1 and 258. A more complete expalnation can be found in Section V-E which discusses Toyota's technical capabilities.

Of the five vehicles submitted by Chrysler, all were entered into the Monte Carlo, and two passed without catalyst change. They were cars J-01-1 and 258. This family is projected to pass based on car J-01-1. (Supported by the passing of car 258.) Car J-01-1 was substantially different from the other five vehicles in that a much reduced rear axle ratio was used, i.e.: 2.79:1 as opposed to 3.31:1 on the other 4 cars.

No factors were applied to the vehicles in the analysis. When a catalyst change was simulated, all five vehicles passed.

Chrysler's likelihood of passing certification is further increased in that they intend to increase the catalyst volume from a total of 85 cubic inches as used on these vehicles to 104 cubic inches in 1981 certification (3 at Volume I, Section V, p. D-2).

Pass/Fail Analysis for 3.7L (225 CID) Engines

Thirteen cars were considered in the analysis of the 225 CID engine family. Seven vehicles (listed in Table V-2) were not entered into the computer analysis and would fail all cases if entered. Of the remaining nine vehicles, none of these vehicles passed without factors and without catalyst change. In reality, car B018 has already passed the model year 1981 emission standards in certification. Its complete emission results are shown in Table V-3. When the 1981 standards of 0.41 HC, 3.4 CO, 1.0 NOx are compared to the projected 4,000 mile and 50,000 mile results of car B018, it can be seen that 50,000 mile NOx emissions are very close to the standard. That is why the car failed to pass the Monte Carlo analysis, *even though it could be certified for 1981.* This is an example of the conservatism of EPA's methodology.

With the catalyst improvement factor, car B018 passed. However since vehicles with larger, more heavily loaded catalysts failed, the 225 family was considered to fail with the catalyst improvement factor and without catalyst change. Other vehicles in the sample used catalysts substantially different than the ones used on car B018 as shown in Table V-4.

With catalyst change and no factor, again only vehicle B018 passed.

Table V-3.—*Certification Test Results of Vehicle B018*

	HC	CO	NOx	Emission control systems
Miles:				
0	0.26	2.2	0.72	FBC/AIR/EGR/3W/OC
5,000	0.18	1.6	0.86	
10,000	0.24	1.0	0.79	
15,000	0.34	2.0	0.68	
15,000	0.32	3.1	0.79	
20,000	0.23	2.3	0.84	
25,000	0.29	2.0	0.87	
30,000	0.24	2.5	1.10	
30,000	0.22	2.0	0.93	
35,000	0.18	2.1	0.91	
40,000	0.20	2.3	0.95	
45,000	0.23	3.4	1.00	
45,000	0.21	3.0	0.92	
50,000	0.27	2.4	0.93	
Deterioration:				
Factor	1.0	1.7	1.3	
Proj 4K	0.26	1.67	0.78	
Proj 50K	0.22	2.86	0.99	

Table V-4.—*Catalysts Used on Vehicles Analyzed (225 CID)*

	3W catalyst		Oxidation catalyst	
	Volume	Pt/Rh	Volume	Pt/Pd
VIN:				
524N	90	30/3	90	100/0
325F	135	10/1	.....	.....
166	90	150/15	152	50/0
169	135	100/15	141	75/0
311*	90	100/15	141	100/0
0	71	100/151	.....	.....
322	135	150/15	141	100/0
485	90	150/15	152	50/0
537F*	135	150/15	141	100/0
588	135	115/151	212	100/0
B0108*	90	150/15	152	100/0
C055*	135	100/15	141	75/0
C059*	90	150/15	141	100/0
C061*	90	150/15	141	50/0
C069*	135	150/15	90	75/0
C046R	90	150/15	141	75/0
C067	135	150/15	90	100/0

With catalyst change and factors, vehicles, B018, 311, and 537F passed. The fact that car 537F passed is important as this car most closely represents the vehicle Chrysler wants to build in 1981 (i.e. includes lock-up torque converter and large catalysts).

Pass/Fail Analysis for 318-2 Engines.—Three vehicles (all that were acceptable data) were entered into the statistical analysis. They are cars 175H, 694N, and 604N. Car 694N passed with the catalyst improvement factor and no catalyst change. Car 175H was similar and failed; however, it had a much reduced axle ratio (2.41 vs 2.7). On this basis the family was determined to pass a 3.4 CO standard. Car 604N had much reduced catalyst loadings as shown in Table V-5.

With catalyst change and no factors, still only car 694N passed. With both the catalyst

improvement factor and catalyst change, all the cars pass.

Pass/Fail Analysis for 318-4 Engines.—Two vehicles (131H, 162H) were submitted into the Monte Carlo analysis and an additional three cars (CO36, CO21, and CO22) were considered in the pass/fail analysis. These latter three cars would fail if they had been entered into the Monte Carlo data base.

No vehicle with a 318-4 passed either with or without factors and no catalyst change. Without factors and with catalyst change car 131H passed. The family was deemed to have failed; however, as other similar cars failed with higher catalyst loadings as shown in Table V-6.

Table V-5.—*Catalysts Used on 318-2 Vehicles*

VIN	Close-coupled 3W		Underfloor 3W		Underfloor OC	
	Vol	Load	Vol	Load	Vol	Load
175H	2X75	150:15	71	150:15	141	100:0
694N	2X75	150:15	71	150:15	141	100:0
604N	67	10:1				
	60	10:1			152	100:0

Table V-6

VIN	Close-coupled 3W		Underfloor 3W		Underfloor OC	
	Vol	Load	Vol	Load	Vol	Load
C036	2X75	150:15	71	150:15	141	100:0
C021	2X75	100:15	71	150:15	141	100:0
C022	2X75	150:15	71	150:15	141	75:0
131H	2X75	100:15	71	100:15	141	75:0
566H	2X75	150:15	71	0:15	141	100:100
162H	2X75	150:15	71	150:15	141	100:0

Table V-7.—*Vehicles in GM Waiver Application Meeting the Minimum Criteria for Entry Into Monte Carlo*

Engine	VIN	Catalyst*		Entered in Monte Carlo			If not entered—why?
		Vol	HN	P	or	M*	
98	Z-518	160	3256	P			Not prime system.
	Z-713A	171	3428/2961	M		X	
	Z-519	160	3264	P		X	
	Z-714	130	3401/2931	P		X	
	Z-714A	171	3451/2961	M		X	
	7T263	160	3218	P		X	
151	Z-520	160	3264	P		X	
	Z-521	180	3229	M			Not prime system.
	Z-522	160	3256	P			Not prime system.
	Z-523	180	3229	M			Not prime system.
	Z-524	160	3264	P		X	
	Z-525	180	3229	M		X	
	Z-620	160	3256	P		X	
	Z-621	160	3256	P		X	
	Z-625	192	3186/2874	M		X	
	Z-720	171	3428/2961	M		X	
	Z-721	171	3429/2962	M		X	
	Z-722	171	3452/2961	M		X	
	67506	100	Volvo prod	M			Not prime system.
	67510	160	3218	P		X	
173	Z-550	180	3229	M			Not prime system.
	Z-551	160	3256	P		X	
	Z-552	120	3246/3246	P		X	
	Z-553	155	3305/2846	M		X	
196	Z-741	171	3430/2962	M		X	
	Z-742A	171	3428/2961	M		X	
	Z-743A	130	3501/4063	P		X	
231	Z-640	160	3256	P		X	
	Z-641	160	3256	P		X	
	Z-643	250	3256/2576	P		X	
	Z-644	250	3256/2576	P		X	
	Z-645		3186/2874	M		X	
	Z-649	160	3293	P		X	
	66418	210	3166	M			Not prime system.

With the catalyst improvement factors and with catalyst change, cars 131H, and 162H passed. On that basis (two of six total cars), the family was considered to pass.

Pass/Fail Analysis for 318-EFM and Engines.—No acceptable durability data were submitted by Chrysler for either of these families.

C. General Motors

The prime emission control system planned for use by GM in 1981 and 1982 for 3.4 CO is FBC/EGR/AIR/ISC/3W/OC. Variations on this basic system by engine family for 1981 and 1982 were claimed by GM to be confidential. For a 7.0 CO standard in the same model years, GM would eliminate the oxidizing portion of the 3W + OC catalyst system (and replace the oxidizing portion with additional 3W catalyst—all at a constant noble metal loading and nearly constant total catalyst volume [4 at 71-72, also at 196 to 205]) and modify and/or delete the AIR injection system.

Table V-7 contains information about all vehicles submitted by GM which were candidates for Monte Carlo analysis. It should be recognized that vehicles with 3W only catalyst systems are not prime system for achieving 3.4 CO. The data from 3W only catalyst systems are not considered here when data are available for 3W + OC systems.

Pass/Fail Analysis for 98-2V FBC Engines.—Acceptable data for the Monte Carlo analysis were submitted by GM for six vehicles. One car (Z-518) was not entered into the Monte Carlo as it was not a prime system. Of the remaining five vehicles, three were prime systems for 3.4 CO (3W + OC) and two were prime systems for 7.0 CO (3W only). No factors were applied to any of the vehicles.

Both remaining vehicles with 3W only systems (Z-519 and 7T263) failed at 3.4 CO both with and without catalyst change. Car Z-714A passed with and without catalyst, and cars Z-714 and Z-713A passed only with catalyst change.

This family is projected to pass without factors and without catalyst change on the basis of vehicle Z-714A (and differences in emission control systems, e.g., different catalyst codes, between this car and the other cars). Since all three vehicles with the 3W + OC systems passed with catalyst change, this family is also projected to pass with catalyst change.

Pass/Fail Analysis for the 151-A FBC Engines.—A total of fourteen vehicles were submitted by GM that were adequate for Monte Carlo analysis. Four vehicles (Z-521, Z-522, Z-523, and 67506) were rejected as they were not prime systems. None of these vehicles used 3W + OC systems, and would not affect a pass/fail projection at 3.4 CO.

Only four of the remaining vehicles used 3W + OC systems.

Table V-7.—*Vehicles in GM Waiver Application Meeting the Minimum Criteria for Entry Into Monte Carlo—Continued*

Engine	VIN	Catalyst*		Entered in Monte Carlo			If not entered—why?
		Vol	HN	P	or	M*	
260	Z-536A	160	3293	P			Not prime system.
	Z-537	210	3267	M		X	
	Z-538	195	3246/3246	P		X	
	Z-633	250	3264/2576	P		X	
	Z-635	260	3279	P		X	
	Z-732	250	3395/2924	P		X	
301	Z-725	250	3394/2924	P		X	
305	Z-514	195	3246/3246	P			Cat. vol. much smaller than typical.
	Z-515	260	3263	P			Not prime system.
	Z-516	260	3263	P		X	
	Z-517	260	3263	P		X	
	Z-610	260	3263	P		X	
	Z-612	250	3256/2576	P		X	
	Z-613	192	3186/2874	M		X	
	Z-614	250	3256/2576	P		X	
	Z-615	192	3186/2874	M		X	
	Z-710	250	3374/2934	P		X	
	Z-711	250	3470/2934	P		X	
	Z-712	250	3395/2924	P		X	
	66313	120/260	3096/prod	M/P		X	
	66353A	210	3141	M		X	
	67326	160	3172	P		X	
	67327	174	3161/2707	M		X	
	67328	260	3172	P		X	
	67334A	174	67334A	M		X	
	67339	195	3246/3246	P		X	
	68306	160	3265	P		X	
	68331	120	3248	MM		X	
	68332	250	3264/2576	P		X	
	67325	160/260	3062/prod	MC/P		X	
350 Olds	Z-532	171	3186/2773	M			Not prime system.
	Z-533	210	3141	M			Not prime system.
	Z-534	260	3263	P		X	
	Z-535	260	3226	P		X	
	Z-539	195	3246/3246	P		X	
	Z-630	260	3279	P		X	
	Z-631	192	3186/2874	M		X	
	Z-634	250	3256/2576	P		X	
	Z-730	250	3407/2935	P		X	
	Z-731	250	3406/2934	P		X	
	Z-735	250	3407/2935	P		X	
	67410	260	3174	P		X	
350 Olds EFI	Z-760	250	3394/2925	P		X	
	Z-761	250	3395/2924	P		X	
350 Chev	65344	260	3032	P		X	
	66346A	120/260	3125/prod	M/P		X	
Other Vehicles Considered:	Z-512	160	3256	P		X	
	Z-513	180	3229	M		X	
	Z-649+	160	3293	P			Not prime system.
	Z-618	260	3263	P		X	

*The HN number is the GM catalyst code number. Different code numbers indicate different catalysts; however, identical code numbers do not necessarily represent identical catalysts. If the HN number is a single number, the vehicles uses a 3W only catalyst system. If the HN number is two numbers separated by a slash (/), the vehicle has a 3W+OC catalyst system. P means pellet, M means monolith.

No factors were applied to any vehicle in the 151 family. Vehicles Z-625 and Z-721 passed without catalyst change, and vehicles Z-620, Z-625, and Z-720 would pass with catalyst change. This family is projected to pass a 3.4 CO standard on the basis of vehicles Z-625 and Z-720. With catalyst change the family is again projected to pass a 3.4 CO standard as all four vehicles with 3W+OC systems pass. They are all unique vehicles and represent different engine families as indicated by the catalyst code numbers.

A 3W+OC pelleted oxidation catalyst system was not present in this sample.

Pass/Fail Analysis of 173-2V FBC Engines

Of the four acceptable vehicles in the 173 family, one (vehicle Z-550) was rejected from Monte Carlo as it was not a prime system. This vehicle and car Z-551 used 3W only catalyst systems and were not prime systems at 3.4 CO.

No factors were appllied to these vehicles. All vehicles failed without catalyst change. Both vehicles (Z-552 and Z-553) using the prime system passed 3.4 CO with catalyst change. Thus the family is projected to pass only with catalyst change.

Pass/Fail Analysis of 196-4V FBC Engines

A total of 3 vehicles were submitted by GM. All were included in the computer analysis, and all used different 3W+OC systems (and thus would be considered different engine families in certification). However, there is "no data" for the 196-4V engine since all three of these vehicles have 2-barrel carburetors.

No factors were applied to the three cars. Car Z-741 was projected to pass without a catalyst change, and cars Z-742A and Z-743A would pass with a catalyst change. Because data was not supplied for the 4-barrel carburetor, this is considered a "no data" case.

Pass/Fail Analysis for 231-2V FBC Engines

Data for seven vehicles with 231 engines were provided by GM. Vehicle Z-649 was not considered in this analysis as it was equipped with Throttle body fuel injection (TBFI).

Vehicle 66418 was not included in the Monte Carlo run as it was not a prime system. Of the remaining five cars, only three (Z-643, Z-644, and Z-645) used 3W+OC systems.

No factors were applied to any of the vehicles. At 3.4 CO, all the vehicles with 3W only catalyst systems failed without and with catalyst change. Also at 3.4 CO, all three vehicles with 3W+OC systems passed only with catalyst change.

Thus, this family is projected to fail without catalyst change and pass with catalyst change.

Pass/Fail Analysis of the 231-4V Engine

GM did not submit acceptable data for this family.

Pass/Fail Analysis of 260-2V FBC Engines

Acceptable data for input to Monte Carlo were provided for six vehicles in the 260 family. Vehicle Z-536A was not entered into the statistical portion of the analysis as it was not a prime system. Three of five remaining vehicles used 3W+OC systems (cars Z-538, Z-633, and Z-732). Improved catalyst factors were applied only to car Z-732.

Car Z-633 passed in all four cases. Cars Z-537, Z-538, and Z-635 passed with catalyst change and no factors. Car Z-732 passed only with factors and with catalyst change.

On the basis of car Z-633, this family is projected to pass without factors and without catalyst change. Since 2 of 3 cars using the prime 3.4 CO system (Z-633 and Z-538) passed without factors and with catalyst change and since both cars using the prime 7.0 CO system (Z-536A and Z-635) passed 3.4 CO without factors and with catalyst change, this family was deemed to pass this case. The remaining vehicle (Z-732) passed only with the catalyst improvement factor and catalyst change.

Pass/Fail Analysis of the 267-2V Engine

GM did not submit acceptable data for this family.

Pass/Fail Analysis for the 301-A Engine

GM provided data for only one vehicle which had a two barrel carburetor. It was entered into the Monte Carlo and a catalyst improvement factor was applied to vehicle Z-725. This car used the prime 1981 emission control system for 3.4 CO.

Car Z-725 passes with the catalyst improvement factors and without catalyst change. It also passes with and without the factors with catalyst change, but because it did not have a 4 barrel carburetor, these families are considered to have no data.

Pass/Fail Analysis for the 305-4V FBC Engines

GM submitted acceptable data on a total of twenty-three vehicle with 305-4V engines. Two vehicles (Z-514 and Z-515) were not entered into the Monte Carlo because vehicle Z-215 used a 3W only emission control system and would not affect a pass/fail analysis of the 3.4 CO standard, and vehicle Z-514 used a catalyst with a volume much smaller than typical for GM vehicles with this engine displacement.

Of the remaining twenty vehicles, eleven were equipped with 3W+OC systems (i.e. prime systems for 3.4 CO). These were vehicles Z-612, Z-614, Z-615, Z-710, Z-711, Z-712, 66313, 67327, 67339, 68332, and 67325. The improved catalyst factors were applied to vehicles Z-711 and Z-712.

Without catalyst change, vehicles Z-712 and 67327 passed the 3.4 standard. As indicated by the catalyst code numbers, there were no vehicles in this sample which would be in the same certification engine families as these two vehicles. All of the eleven vehicles with 3W+OC systems would pass with catalyst change except car Z-614.

Consequently this family is projected to pass with and without factors and without catalyst change and is projected to pass with and without factors and with catalyst change.

Pass/Fail Analysis of the Oldsmobile 350-4V FBC Engines

Acceptable data were received for a total of thirteen vehicles. Vehicle Z-533 was not entered into the computer analysis since it was not a prime system. Of the remaining dozen cars, seven were equipped with 3W+OC systems. They are cars Z-532, Z-539, Z-631, Z-634, Z-730, Z-731, and Z-735.

The catalyst improvement factors were applied to cars Z-730, Z-731, and Z-735. With neither factors nor catalyst change, vehicles Z-532, Z-634, and Z-735 pass the 3.4 CO standard. With catalyst change all seven vehicles with 3W+OC are projected to pass the 3.4 CO standard.

Different catalysts were used on all the vehicles with 3W+OC systems. Based on this and the success of cars Z-532, Z-634, and Z-735, vehicles using this engine are projected to be capable of passing certification at a 3.4 CO standard without additional technology and without catalyst change. Based on the success of this entire group of seven cars, vehicles using this engine are also projected to pass with catalyst change.

Pass/Fail Analysis of Oldsmobile 350-Multipoint (8-point) Fuel Injected Engines

Data were submitted by GM on two vehicles using the 350 Oldsmobile engine with Bendix multipoint fuel injection. These are cars for which no waiver was requested. Thus, these vehicles will not be discussed in detail. For the interested reader, however, both vehicles passed without catalyst change.

Pass/Fail Analysis of Chevrolet 350-4V FBC Engines

Data from both acceptable vehicles (65344 and 66346A) were included in the Monte Carlo analysis. Car 65344 was equipped with a 3W only catalyst system, and 66346A had a 3W+OC system.

No factors were applied to either vehicle. The prime vehicle for 3.4 CO (66346A) passed without catalyst change. The other vehicle failed without and with catalyst change.

The family was, therefore, considered to pass without factors or catalyst change.

Pass/Fail Analysis for the EF-P, EF-H, EF-M, EF-K, EF-J, EF-W, EF-N, EF-V, EF-Y, EF-X, EF-T, EF-E, EF-C, EF-U, and EF-O Engines

Because the data submitted from GM did not reflect the prime system for the engine family for which a waiver was sought, these families have been determined to be "no data" families.

D. British Leyland

Table V-8 lists the engines for which British Leyland is requesting CO waivers, and the corresponding emission control system being developed to meet the 3.4 CO standard. Table V-9 lists the vehicles considered in the pass/fail analysis.

Table V-8

Engine	Emission control system
100 cu. in	Carb. + one closed loop fuel injector/3W/ESA/HEI.
2.0 L	CLEFI/3W.
215. cu. in	CLEFI/3W/EGR.
258 cu. in	CLEFI/3W.
326 cu. in	CLEFI/3W/3W

Table V-9.—*Vehicles in British Leyland Waiver Application Meeting the Minimum Criteria for Entry into Monte Carlo*

Engine	VIN	Catalyst	In Monte Carlo?	If not entered, why?
2.0L	TVC 51R	TWC/1993	Y	
	SHP 639R	EW23/39L-1/4/6	Y	
	BDU 968T	EW 23/39L-1/4/16.7	Y	
	BDU 987T	EW 23/39L-1/6/16.7	Y	
215 cu. in	JYF 230N	EW 23/39L-1/6/16.7	Y	
	JYF 229N	EW 23/39L-1/6/16.7	Y	
	VRW 408S	EW 23/39L-1/4/16.7	Y	
	VRW 411S	EW 23/39L-1/4/16.7	Y	
	CVC 845T	EW 23/39L-1/6/16.7	Y	
	CVC 844T	EW 23/39L-1/4/16.7	Y	
326 cu. in	BL-1		Y	

Pass/Fail Analysis for the 120 cu. in. Engines MGB).—British Leyland did not submit durability data for this engine.

Pass/Fail Analysis for the 2.0L Engines (TR7).—The 2.0L family is projected to pass with factors for an AIR system, without a catalyst change. This assessment is based on the results of vehicle TVC-51R.

Although TVC-51R was the only vehicle to pass with factors for an AIR system, without a catalyst change; it had a unique catalyst. The other vehicles considered in the pass/fail analysis for this family includes BDU 988T and BDU 987T. Both vehicles are considered to have failed all cases, although the Monte Carlo results show these vehicles as having passed with factors, without a catalyst change. The factor used in this case was for a switched AIR system with a clean-up oxidation catalyst. Because British Leyland claims it would be impossible to add an additional oxidation catalyst, due to insufficient room, this factor is not being used in this analysis, and the two vehicles are considered to have failed all cases. Vehicle SHP 639R also failed all cases, but its "L" Jetronic fuel injection system was of an early design that did not include an adaptive time constant, and therefore was judged as not having current emission control technology.

Because these latter three vehicles did not include the catalyst with which TVC 51R was equipped, and one of the three did not include a current design fuel injection system, the results of vehicle TVC 51R are, in the judgment of the EPA technical staff, representative of the 2.0 L engine's capabilities.

Pass/Fail Analysis for the 215 cu. in. Engines (TR8)

British Leyland submitted durability data from six vehicles for the 215 cu. in. engine. This family is projected to pass without factors, with a catalyst change. This assessment is based on the results of vehicles JYF 230N and JYF 229N, which passed without factors, with a catalyst change. These two vehicles and vehicle CVC 845T were equipped with catalyst EW 23/39L1/6/16.7. CVC 845T failed with a catalyst change, without factors, but two of the three vehicles with catalyst EW 23/39L-1/6/16.7 passed with just a catalyst change. Also, vehicle VRW 408S, which was equipped with a catalyst having a lower noble metal loading, also passed with only a catalyst change.

Vehicles CVC 844T, JYF 229N, JYF 230N and VRW 411S were run in the Monte Carlo in three different simulation cases, with differing vehicle identification numbers. *Case A*: no factors for vehicles CVC 844T, JYF 229N, JYF 230N, and VRW 411S. *Case B*: factors for AIR which included vehicles CVC 844T-1, JYF 229N-1, JYF 230N-1, and VRW 411S-1. *Case C*: factors for switched AIR and a clean-up catalyst, which included vehicles CVC 844T-2, JYF 229N-2, JYF 230N-2, and VRW 411S-2. Case C and its included vehicles should be disregarded, as they were not used in the pass/fail analysis for the 215 cu. in. engine.

Pass/Fail Analysis for the 258 cu. in. Engines (XJ6)

British Leyland did not submit durability data for this engine.

Pass Fail Analysis for the 326 cu. in. Engines (XJ12/XJS)

British Leyland only supplied durability data from one certification vehicle. Based on the results of vehicle BL-1, this family is projected to fail.

E. Toyota

Toyota has developed two emission control systems for four of its five engines. "The System A objective was to meet the 3.4 CO standard without particular regard to cost, available space . . . or other possible negative factors . . ." [14 at 10]. System B is Toyota's cost effective approach to meeting the 1981-82 standards. Toyota stated that "despite our strong expectations for these System B emission controls, prototype testing proved them inadequate in each case . . ." [14 at 10]. Toyota would use its System B to comply with a 7.0 CO standard.

Two of the Toyota engine families, the 88.6 and the A-8, did not use 3-way catalysts. The variabilities (Car to Car, Deterioration Factor, and Test to Test) used in the Monte Carlo analysis were inappropriate for cars which were *not* equipped with 3-way catalysts. The vehicles discussed in the pass/fail analyses for the aforementioned engine families were affected and consequently their probabilities were calculated with the variabilities shown below.

	NOx variabilities		
	Car-Car	DF	Test-Test
No catalyst change:			
3-way	0.047	0.313	0.067
No 3-way	0.237	0.105	0.175
Catalyst change:			
3-way	0.047	0.040	0.067
No 3-way	0.237	0.105	0.175

Note that the NOx probabilities tabulated in the Part III Monte Carlo results have been hand calculated for the vehicles affected. Only vehicles which passed all three pollutants were hand calculated. Those that failed would not be influenced by a new NOx probability since the new and correct probability would only be lower. Also, the 2-car and 3-car cases were omitted and only the 1-car case was examined.

Table V-10 lists the vehicles submitted by Toyota which included acceptable data for the Monte Carlo simulation. The following list indicates the System A and B control systems for each family.

Engine	System A	System B
88.6	AIR/OX/EGR/EM	PAIR/OX/EGR/EM
108	CL-AIR/OSC/3W/EM.	CL-AIR/3W/EM
144/134	Switched CL-AIR/3W/OX/EM.	CL-AIR/3W/EM
168/156.4	CL-AIR/3WSC/3W/EGR/EM System A has a more precise ECU, higher EGR rate and catalyst differences.	CL-AIR/3WSC/3W/EM
A-8	System B with a catalyst change at 30,000 miles.	PAIR/EGR/OX

Table V-10.—*Vehicles in Toyota Waiver Application Meeting the Minimum Criteria for Entry Into Monte Carlo*

Engine	VIN	System	Catalyst	Entered in Monte Carlo?	If not entered—why?
88.6	36B-16	B	130V(W)	Y	
	36B-25-1	B	17RT(L)	Y	
	31B-36	B	130V(X)	Y	
	36B-40	B	130V(W)	Y	
	36B-92	B	130V(W)	Y	
108	TE31-42		351	N	Not current control system.
	177B-16		351	N	Not current control system.
	130B-24		351	N	Not current control system.
	353B-40-1	B	420AH	Y	
	353B-40-2	B	340ESN	Y	
144	TA40-19	B	397AT	Y	
	RT651-2	B	397AT	Y	
	RT651-1	A	386W, 387AT	Y	
134	306B-2	B	387A	Y	
	RT333-1	A	387A, 351	Y	
	187B-4-1	B	387A	Y	
	187B-4-2	A	387A, 351	Y	
156.4	MX-10	B	310A	Y	
	MX-302	B	310A	Y	
	147B-14	B	M	Y	
	147B-20	B	M, 310A	Y	
168	147B-37	A	M, 310A	Y	
	338B-16	A	M, 310A	Y	
	338B-12	A	M, 310A	Y	
A-8	70B-15	B	130V(W)	Y	
	61-1-1	B	385D	Y	
	61-1-2	B	130V(W)	Y	

Pass/Fail Analysis for the 88.6 cu. in. Engines.—This family is projected to pass without factors, with a catalyst change. This assessment is based on vehicle 31B–36, which passed with just a catalyst change.

The results of four remaining vehicles were as follows: Vehicle 36B–16 failed all four cases, but it did not have the same catalyst as 31B–36. Vehicles 36B–25–1, 36B–40, and 36B–92 failed *NOx*, not CO.

The results of vehicle 31B–36 are considered to be representative of this family's ability to certify because it included a unique catalyst and had its NOx control technology calibrated such that NOx control would be more effective than that on vehicles 36B–25–1 and 36B–40 and 36B–92. Also, vehicles 36B–25–1 and 36B–40 did not fail CO, with a catalyst change.

Pass/Fail Analysis for the 108 cu. in. Engines

This family was judged to have insufficient data.

Vehicles 353B–40–1 and 353–40–2 were the only vehicles Toyota submitted with current System B control systems. Vehicles TE31–42, 177B–16, and 130B–24 all included a Reactive Manifold, which is no longer a part of Toyota's current emission control systems.

Since no acceptable durability data was submitted for System A, this family was judged as having insufficient data.

Pass/Fail Analysis for the 144/134 cu. in. Engines

This family is projected to pass without factors and without a catalyst change. This assessment is based on vehicles RT–651–1, RT333–1, 187B–4–2, which were equipped with system A, and passed without factors and without a catalyst change.

Vehicles 187B–4–1, TA40–19 and RT651–2 were equipped with System B. Vehicle 187B–4–1 passed without factors and without a catalyst change. TA40–19 and RT651–2 passed with a catalyst change, with and without factors. Vehicle 306B–2 failed in all cases, but was also equipped with System B.

Pass/Fail Analysis for the 168/156.4 cu. in. Engines

This family is projected to pass with factors for an AIR system, without a catalyst change. Four of the seven vehicles included in the analysis, passed under the conditions mentioned.

Vehicle 338B–12 passed without factors, without a catalyst change and was equipped with System A. 147B–37 and 338B–16, which were equipped with System A, and 147B–20, which was equipped with System B, all passed with factors for AIR, without a catalyst change.

Vehicle 147B–14 passed without factors, with a catalyst change, and MX–10 passed with factors, with a catalyst change. MX–302 failed all cases. These three vehicles were equipped with System B.

Pass/Fail Analysis for the A–8 Engine

This family is projected to pass with factors for a start catalyst, without a catalyst change, and without factors, with a catalyst change.

Toyota only submitted data on three vehicles which would be acceptable for the Monte Carlo simulation. Since Toyota has not developed a System A for this engine, the three vehicles were equipped with System B. Vehicle 70B–15 and 61–1–2 were equipped with the same catalyst and both passed with factors for an AIR system, without a catalyst change, and also passed with a catalyst change, with and without factors. Vehicle 61–1–1 passed with factors and a catalyst change.

F. Volkswagen

Volkswagen has requested a CO waiver for its 97 cu. in. engine with feedback carburetion. VW stated that, for the same engine,

"The technology is available [to meet the 3.4 CO standard] in the use of the electronic fuel injection (K-jetronic) with a control and a single bed 3 way catalyst. This system is certifying in 1980 for California vehicles at HC, CO and NOx levels below 0.41, 3.4, and 1.0 respectively." [A at 3.1]

VW is requesting a CO waiver for cost reasons, claiming that the carbuetion system is significantly less costly than the fuel injection system.

Pass/Fail Analysis for the 97 cu. in. Engine

The 97 cu. in. engine with feedback fuel injection is projected to pass without factors, without a catalyst change, based on vehicle 283, which passed under the stated conditions. Additional data was not submitted for the fuel injected engine.

The 97 cu. in. engine with feedback carburetion is projected to fail all cases. This assessment is based on vehicles 439–734, 439–W–888, and 449–528. These vehicles did, or would fail all cases.

VW's position with respect to meeting 3.4 CO and being able to sell vehicles is unique compared to the other applicants. All the other applicants have maintained that effective control technology may not exist and have at least alluded to the consequences of not being able to meet the standards. VW's position is that effective control technology *does* exist (the fuel injection version), but they would rather not use it, and that the grant or denial of the waiver will not affect their sales anyway. Their waiver request might be categorized as being driven by convenience for VW, not necessity.

Table V–11.—*Vehicles in VW Waiver Application Meeting the Minimum Criteria for Entry Into Monte Carlo*

Engine		VIN	In Monte Carlo?	If not in Monte Carlo, why?
97	FI	283	Y	
97	FBC	439–734	N	Would fail in all cases.
		439–517	N	Not current control system.
		439–867	N	Not current control system.
		439–611	N	Not current control system.
		439–W–888	N	Would fail in all cases.
		449–528	Y	

VI. References for Sections I–V

1. *Automobile Emission Control—The Development Status, Trends, and Outlook as of December, 1976*, Environmental Protection Agency, April 1977.

2. Gerald F. Robertson, *A Study of Thermal Energy Conservation in Exhaust Pipes*, General Motors Research Laboratories, SAE Paper 790307, Feb-Mar, 1979.

3. *CO Waiver Application, Chrysler Corporation, Application for Waiver of the 1981–1982 Model Year Carbon Monoxide (CO) Standard of 3.4 Grams per Vehicle Mile for Passenger Cars*, July 3, 1979.

4. *Transcript of Proceedings—Environmental Protection Agency—In the Matter of: 1981 and 1982 Emission of Carbon Monoxide Waiver Hearings* dated July 9, 1979, by Acme Reporting Company.

5. *Transcript of Proceedings—Environmental Protection Agency—In the Matter of: 1981 and 1982* Emission *of Carbon Monoxide Waiver Hearings* dated July 10, 1979, by Acme Reporting Company.

6. *Transcript of Proceedings—Environmental Protection Agency—In the Matter of: 1981 and 1982 Emission of Carbon Monoxide Waiver Hearings* dated July 11, 1979, by Acme Reporting Company.

7. *Transcript of Proceedings—Environmental Protection Agency—In the Matter of: 1981 and 1982 Emission of Carbon Monoxide Waiver Hearings* dated July 12, 1979, by Acme Reporting Company.

8. *American Motors Corporation Application for Waiver of the 1981 and 1982 Carbon Monoxide Emission Standard*, July 3, 1979.

9. *CO Waiver Application, Chrysler Corporation, Application for Waiver of the 1981–1982 Model Year Carbon Monoxide (CO) Standard of 3.4 Grams per Vehicle Mile for Passenger Cars*, July 3, 1979.

10. *AB Volvo Submission In Connection With CO Waiver Hearings*, July, 1979.

11. *Response to Subpoena* dated June 29, 1979 of Environmental Protection Agency, Washington, D.C., by Saab-Scaia of America, Inc.

12. *Application for Waiver of the 1981 and 1982 CO Emission Standard for Light Duty Vehicles*—Volkswagen AG, July, 1979.

13. B. L. Cars, Ltd., *Application for a Waiver of 1981 and 1982 Carbon Monoxide Emission standards*, June, 1979.

14. Toyota Motor Co., *Request for Waiver Carbon Monoxide Standard Applicable to 1981 and 1982 Light Duty Vehicles.*

15. *Automobile Emission Control—The Current Status and Development Trends as of March 1976*, Environmental Protection Agency, April, 1976.

16. Engelhard Industries, July 9, 1979, *Response to the Environmental Protection Agency Subpoena* dated June 29, 1978, regarding the 1981 model year carbon monoxide standard.

17. Federal Register, Vol. 42, No. 124; Tuesday, June 28, 1977.

18. *Emissions From Combustion Engines and Their Control*, D. J. Patterson and N. A. Henein, 1972.

VII. Cost Analysis of Manufacturers' Emission Control Systems

EPA cost estimates presented here are based on the methodology described in cost Estimations for Emission Control Related Components/Systems and cost Methodology Description, LeRoy H. Lindgren, March 1978, prepared for EPA (Pub. #EPA-4601 3-78-002). Manufacturers' cost of estimates were generally rejected, for two reasons: a) lack of completeness and/or b) no explanation of methodology used to derive costs. The second (b) reason was by far the most important.

EPA developed a cost analysis for each manufacturer which accounted for all emission control-related hardware. Catalyst costing presented a special problem because of the problems presented in accounting for noble metals prices. As of July 1979 noble metal producers prices were inflated 170% over last year, according to American Metal Market/Metalworking News. However, it is doubtful that the automobile manufacturers pay this listed price. Chrysler and GM, for instance, have contracts with South African mines which could grant them a 23% discount of the published open-market price, according to Ward's Auto World, April 1978. Therefore, absent information from the manufacturers, this discount was used in the EPA methodology for determining noble metals costs in catalysts. Another problem related to noble metals costs, and costs in general, was predicting the effects of inflation between 1979 and 1981. An inflation factor of 12% per year was assumed for all costs labeled "1981 dollars" in the following pages (which translated into a calculation factor of 1.25 over 1981 costs labeled "1979 dollars").

Catalyst Change Cost Methodology

In order to estimate the cost of a catalyst change, the following procedure was followed.

1. The cost of the portion of the catalyst system that would be involved in a catalyst change was calculated. This is the cost of the pellets in a pelleted catalyst like GM's, and the cost of the entire catalyst system for monolithic catalysts. The technology exists to change just the pellets for pelletized catalysts, but for monolithic catalysts it appears that the approach taken toward a catalyst change would be to remove the entire catalyst system (container and catalyst) and replace the entire unit.

2. Since it is not known exactly how the cost for the replacement unit would be handled, the catalyst change costs were estimated as a range. The lower value of the range was obtained by assuming that the catalyst cost would equal the RPE cost, with no charge for labor. This is considered a lower bound on the cost. The upper value of the range was obtained by assuming that the replacement catalyst could be costed as a typical replacement part, and that the replacement part/RPE ratio was 3/1. In addition an installation labor cost of $10.00 for pellets and $20.00 for monoliths was assumed.

3. The above calculations were made for each engine family for which the technological capability analysis indicated that a catalyst change would be needed. Next, the catalyst change costs were sales-weighted to arrive at a range of per-vehicle catalyst change costs. These values are presented on the summary tables.

The table indicates that the cost impact of a catalyst change can vary substantially between manufacturers especially if a manufacturer who utilizes pellet catalysts and has a small number of families needing a catalyst change (GM) is compared to a manufacturer using monoliths, a large number of which need to be replaced to meet the standards (Chrysler).

How to allocate this per-vehicle catalyst change cost is not obvious, especially when one considers the impact on vehicle first cost. Since it is not clear how this cost would affect the first cost of the vehicle (the record is silent on this point) EPA considered the use of a range. One end of the range could be obtained by assuming that the catalyst change cost will not affect the vehicle first cost, and the other end of the range could be obtained by adding the catalyst change cost impact to the emission control system cost for the 1981 3.4 CO system. Because it was decided that the catalyst change would more likely be added into the first cost (e.g., July 19, 1979 transcript at pp. 127-135), the cost is also reflected in that manner in the table.

Cost of Compliance with 3.4 CO vs. 7.0 CO—EPA Estimates

The 1981 system costs listed below are described in 1979 dollars and 1981 dollars. (1981 dollar calculation accounts for 12% per year inflation, or a factor of 1.25 over 1979 costs.)

Table VII-1.—*Cost Increase for 3.4 vs. 7—EPA Estimates* [1]

Manufacturer	1979	1981
Chrysler	$344 to $702.	$430 to $878.
GM	$41 to $45	$52 to $56.
AMC [2]	$0	$0.
VW	$165	$207.
Toyota	$59 to $115	$73 to $143.
BL	$101 to $180.	$126 to $225.

[1] Includes catalyst changes where necessary to meet 3.4.
[2] Catalyst change impact on AMC no computed.

Table VII-2.—*3.4 vs. 7.0 EPA Cost Estimates*,

[Assuming no catalyst change]

Manufacturer	1979
Chrysler	$14
GM	40
AMC	0
VW	165
Toyota	4
BL	0

Cost—The Manufacturers' Estimates: During the CO waiver hearings in Washington, D.C. on July 9th to 12th, EPA requested additional cost information from the manufacturers. The cost breakdown by emission component was declared confidential by most automobile manufacturers. For the most part, cost is in 1979 dollars, and is the total change in retail price per vehicle, or the retail change in price to modify the component to meet the 1981 standard of 3.4 grams per mile.

Some manufacturers have included in their total price the cost of some non-emission control components. This accounts for the large variety in total cost.

From these manufacturers' cost estimates the price range for emission control components is as follows:

Component	Minimum	Maximum
Electronic control unit (ECU)	$112	$125
Air injection system	64	112
EGR modification	8	130
Start-up catalyst	90	139
Catalyst (3W+OC) modification	30	160
Catalyst	76	287

This range of costs does not include a price estimate from each manufacturer but does include all estimates EPA received.

Table VII-3.—*Manufacturers' Estimates of Total Emission Control Cost and Change in Cost*

[In 1979 dollars]

	Chrysler [1]	GM	AMC	VW	Toyota	British Leyland
Total cost estimate to meet 3.4 standard	700	355	No data	Conf	Conf	Conf.
Decrease in cost if 7.0 standard were met	250	30-40	No data	225	Conf	Conf.

Conf=Confidential information.
[1] $700 includes $250 for catalyst change, the amount saved at 7.0 CO.
The data in this table is all available from the public hearings, GM on July 9, Chrysler on July 10, and VW on July 12, 1979.

VIII. Driveability and Fuel Economy

Driveability and fuel economy are specific criteria that are involved in the evaluation of technical feasibility. Each issue will be discussed separately, but it should be pointed out that the record is relatively sparse on these issues, compared to the issues of meeting the standards and the associated cost impacts.

Driveability

The subject of driveability and the data that would be considered as a basis to make a reasonably thorough technical evaluation were discussed by EPA in the waiver application guidelines. Unfortunately none of the applicants complied fully with the guidelines in the driveability area and the applicants themselves, therefore, have precluded EPA from considering the subject in as much detail as was originally considered appropriate, as indicated by the guidelines. It can be concluded that the applicants may not have considered the driveability criterion to be one that buttressed their case for a wavier, since so little was contained in the applications.

General Motors, whose application was essentially absent a substantive driveability discussion, was asked about the issue at the public hearing. The entire discussion can be found on page 182 of the July 9, 1979 transcript. GM stated: "We assume that we will be able to get good driveability with either standard."

The major discussion of driveability by Chrysler is found in the July 10, transcript starting on about page 72. However, the discussion centers around the attempt by Chrysler to explain the data which showed very low CO (less than 3.4) and good driveability (higher than Chrysler's goals), not in making any sort of detailed argument on any relationship between driveability at 3.4 vs. 7.0 CO. Further testimony is in the July 10 transcript beginning at page 97. This discussion involves near wide open throttle impacts of enrichment, power to weight ratio, etc., but again does not constitute a record which would allow EPA to make a distinction between 3.4 CO and 7.0 CO in terms of driveability or more importantly, customer acceptance.

The driveability discussion by AMC can be found starting on page 178 of the July 10 transcript. However, the discussion is not quantitative with respect to driveability, it is a discussion of balancing emissions, driveability, fuel economy, etc.

VW did not make a major issue out of driveability.

British Leyland also did not make driveability an issue in their CO request.

Toyota provided numerical driveability data on several different vehicles, some of which met Toyota's goals and some of which did not. However, Toyota did not describe the relationship between their driveability index and any measure of in-use consumer satisfaction or dissatisfaction. The driveability with the System A packages was in some cases better than for the System B packages (e.g., 3T-C) which does not support a trend toward reduced driveability performance at lower CO levels.

Summary—Driveability

It is clear that driveability will not be the major criterion that will determine the technical feasibility of 3.4 CO vs. 7.0 CO. The applicants did not stress the subject to any great extent, and did not comply with the guidelines on driveability. An assessment of the opinions of the applicants (except GM) seems to be that they think that driveability may be impacted negatively, but they didn't adduce any sort of data or analysis to make that case.

EPA staff looked to the technical literature in an attempt to increase EPA's understanding in this area, absent the magnitude of data that would have been needed to do a detailed study.

Two Society of Automotive Engineers papers and a Technical Report were studied. These are referred to as Reference DR-1, DR-2, and DR-3.

The abstract from Reference DR-1 is reproduced below.

"The effects of fuels having atypical distillation characteristics on the driveability, fuel economy, and emissions of vehicles equipped with a variety of power plants were studied. The power plants included conventional, stratified charge, port injected, and lean-burn engines. The atypical distillation fuels reflect the effect of removing varying amounts of mid-range or front-end blending components from a typical commercial gasoline.

"An index system was developed which allows a comparison of fuel effects across a fleet of vehicles differing substantially in terms of driveability, fuel economy, and emissions. Using this index system, the fleet average results show that emissions and fuel economy as well as driveability are depreciated with the extreme atypical fuels and that improved driveability can result in improved emissions and fuel economy."

Note that improved driveability was found to *reduce* emissions, not increase them.

The abstract from reference DR-2 is also reproduced below.

"Fuel volatility and cold/hot engine driveability relationships were evaluated in six 1976/1977 model cars representing conventional carburetor and advanced type fuel metering systems. The program objective was to provide guidance for engine modifications to take advantage of fuel benefits or to overcome performance deficiencies. There were large variations among cars in the maximum volatility tolerance relative to vapor lock during summer, hot engine operation, with a fuel-injected and a new design carburetor system tolerating gasoline volatility levels in excess of normal maximum summer levels. Similarly, cold engine start and driveaway performance at low and intermediate ambient conditions varied widely.

"Fuel-injected cars showed the best performance and least sensitivity to gasoline volatility changes. Performance differences among all cars with a specific fuel were significantly greater than differences resulting from typical variations of fuel volatility for individual cars. This shows that fuel systems can be designed to provide good overall driveability performance and wide tolerance in fuel volatility, permitting greater flexibility to produce unleaded gasoline."

Note that advanced fuel management systems showed good driveability. It is expected that the fuel management systems on most 1981 models will be an improvement over today's systems.

Reference DR-3 was studied to see if there was any relationship between driveability and CO emissions for vehicles tuned to manufacturer's specifications. No simple relationship was found, although it should be pointed out that the vehicle that had the lowest CO emissions, 2.04 CO, had better driveability than all but one of the 22 vehicles studied.

Therefore EPA concludes that the driveability impact of 3.4 CO vs. 7.0 CO, based on information made available by the applicants and other information, is such that any difference in driveability will not be of such a magnitude to make 3.4 CO technically infeasible on the basis of driveability alone.

Reference DR-1: *Atypical Fuel Volatility Effects on Driveability, Emissions, and Fuel Economy of Stratified Charge and Conventionally Powered Vehicles*, by J. H. Baudino and L. C. Copeland, SAE Paper 780610.

Reference DR-2: *Fuel Volatility Effects on Driveability of Vehicles Equipped with Current and Advanced Fuel Management Systems*, by C. R. Morgan and C. N. Smith, SAE Paper 780622.

Reference DR-3: *Light Duty Vehicle Driveability Investigation*, by H. A. Toulmin, EPA Report # EPA-460/3-78-012, December, 1978.

Fuel Economy

The issue of fuel economy is like the driveability issue in some respects and different in others.

Like driveability, fuel economy does not appear to be a criterion upon which the issue of technological feasibility will pivot, primarily due to the lack of emphasis placed on the issue by the applicants.

Unlike driveability, which tends to be a subjective (although sometimes quantified) subject the criteria for which varies from company to company, the measure of fuel economy is consistent across manufacturers due in large part to the fuel economy standards which each manufacturer must meet. Each manufacturer must meet a sales-weighted fuel economy standard of 22 miles per gallon for 1981 and 24 miles per gallon for 1982, the years under consideration for the CO waiver decision. Here, it would appear, is a decision criterion that EPA would have had to consider carefully if a manufacturer had claimed that meeting the 3.4 CO standard precluded meeting the fuel economy standards, while meeting 7.0 CO would allow the fuel economy standard to be met. *However, no applicant claimed that the 3.4 CO standard precluded that applicant from meeting the applicable fuel economy standard for either 1981 or 1982. Furthermore,*

no applicant indicated that a waiver to 7.0 CO would allow the fuel economy standards to be met.

Therefore, as one might expect, the record is not replete with data, arguments, or analyses that project the fuel economy difference between 3.4 CO and 7.0 CO.

An example of the treatment of the fuel economy by GM in their testimony can be found in the July 9, 1979 transcript starting at page 181. GM was asked if the additional oxidation catalyst needed for 3.4 CO caused a fuel economy penalty due to increased backpressure. GM said "No." When asked if the deletion of the air pump (a move toward 7.0 CO) would improve fuel economy, GM said that they looked for the effect in engineering tests using the EPA procedure but could not find a measurable difference.

The subject of fuel economy was not emphasized in Chrysler's oral testimony [July 10, 1979 transcript, pp. 62–155], or in their application.

AMC discussed fuel economy [July 10, 1979 transcript, p. 178], but only in the context of their opinion that the 1980 and beyond fuel economy standards were a formidable challenge and that driveability, producibility, and fuel economy need to be balanced, not a specific discussion.

The fuel economy issue with respect to VW is somewhat unique. Starting in the July 12, 1979 transcript at page 44, VW tries to explain the fuel economy benefits of the waiver, as seen by VW. VW tried to maintain that the cheaper carburetor system would allow them to make other vehicle (non-engine) improvements in fuel economy. However, the testimony shows [e.g., July 12 transcript at 47] that the non-engine fuel economy improvements represent a marketing, not technical issue and more importantly from the point of view of the waiver, apparently have nothing to do with 7.0 CO vs. 3.4 CO at all. It should also be noted that VW is not in any particular trouble with respect to fuel economy since they testified [July 12 transcript at 48] that they already now have fuel economy performance better than that required by the 1985 fuel economy standards (the most stringent ones).

Although Toyota discussed the subject of fuel economy somewhat more than the other applicants [e.g., July 9 transcript at 13], their claims vary—5% as their estimate and 2% to 3% as the difference between their system "A" and system "B".

In more detailed questioning [July 9 transcript at 27] Toyota indicated that they felt the fuel economy loss they forecast would be attributable to the air pump and increased backpressure. It should be noted that GM was asked specifically about these two potential fuel economy influencing factors (discussed in the GM discussion, above), and GM said they foresaw no penalty due to backpressure and could not measure any difference due to the presence or absence of the air pump. This leaves the record somewhat contradictory on this point, and tends to reduce the weight that EPA can put on Toyota's forecasts. Further discussion [July 9 transcript at 29–30] indicates that other factors may reduce even Toyota's projected loss. Toyota also did not make any claims of the 3.4 or the 7.0 CO emission standards affecting their capability to meet the fuel economy standards.

British Leyland's position on fuel economy is clouded by the lack of a firmly defined basis for each engine family from which different percent claims can be evaluated. The 5% to 10% fuel consumption *penalty* [July 10 transcript at 6], the 39% and 19% fuel consumption *improvement*, the 15% to 20% increase in fuel economy [July 10 transcript at 7], the comparison with 1979 of 4% to 26% improvement [July 10 transcript at 8], all tend to make the fuel economy issue for BL somewhat muddled, which is to say their claimed losses may be losses or they may be just lesser amounts of a larger overall gain.

In further testimony [July 10 transcript at 16], BL apparently arbitrarily changes the previously quoted 15% to 20% improvement to a 10% to 15% improvement.

In BL's Supplementary Report (July, 1979) in which BL replies to questions propounded to them by EPA, further fuel economy data is provided only for the XJ6 and XJ12 sedan models. Apparently the major issue raised by BL is the issue of whether or not the new cylinder head will be available for 1982 for the XJ12. BL did not provide data which would allow EPA to evaluate the influence of the new cylinder head on CO emissions. However, regardless of the CO standard, BL's own data indicates that a fuel economy *gain* will be achieved in 1981, compared to 1979.

In addition, BL did not claim or show that the 3.4 CO standard would preclude them from meeting the fuel economy standards.

Fuel Economy—Summary

Although the subject of vehicle fuel economy and the improvements in vehicle fuel economy that are required by the future fuel economy standards are important national issues, the record before EPA does not lend itself to a determination that the fuel economy performance at 3.4 CO vs. 7.0 CO will be of a direction or magnitude that would affect the determination of technological feasibility for these CO waiver proceedings.

Appendix B—Summary of Public Health and Air Quality Analyses as Related to Light Duty Vehicle CO Waiver Applications

Review of CO Air Quality and Health Effects Data

Data concerning the effects of a two year wavier of the light-duty vehicle (LDV) carbon monoxide (CO) emission standard have been obtained from various sources. These sources include: EPA's Office of Air Quality Planning and Standards (OAQPS); EPA's Office of Mobile Source Air Pollution Control (OMSAPC); Ford Motor Company; General Motors; and Chrysler. The data presented here consider the effects on air quality and public health of waiving the Congressionally mandated 1981 LDV CO emission standard of 3.4 grams/mile to 7.0 grams/mile for the 1981 and 1982 model years.

In our consideration of public health issues for this waiver request, we have assumed that the current EPA National Ambient Air Quality Standards (NAAQS) for CO of 35 ppm for a one-hour average and 9 ppm for an eight-hour average determine air quality levels adequate to protect public health. The NAAQS CO standard is designed to protect public health. The effect of a CO waiver on ambient air quality will thus also be considered in this paper as determining the effect of a CO waiver on public health.

This report will serve as a review of the air quality data presented in manufacturers' CO waiver submissions to EPA as well as the results of several of EPA's own air quality studies.

1. EPA—OAQPS Analysis

OAQPS has performed four successive analyses of the air quality impacts of waiving the 3.4 gram/mile LDV CO emission standard.[1,2,3,4] These analyses used rollback models to predict the differences in air quality for future years in various Air Quality Control Regions (AQCR's) as a result of different CO emission standards. Neither of the first two of these analyses considered the impact of a two year waiver but considered *either* a 3.4 gram/mile *or* a 7.0 gram/mile CO standard for 1981 and later years. This discussion will deal only with the data contained in the last of these four analyses as it is the most comprehensive in that it deals with the effects of a two year waiver and predicts the air quality effects on a year to year basis. This analyses includes scenarios combining three possible emission control system penetration rates, three emission rates, and three possible in-use deterioration rates. A total of 186 unique emissions scenarios for CO were analyzed and air quality projections were made for 19 AQCR's for the years 1981 through 1995. Specific details and assumptions made in the OAQPS analysis include the following:

(a) The analysis was done for 19 AQCR's. Criteria for choosing the 19 AQCR's were that appropriate CO data were available, the AQCR's had some of the most severe CO problems, the AQCR's were not in California or at high altitude where different emission rates would be necessary, and these AQCR's had been used frequently in the past by OAQPS. The 19 AQCR's are:

Birmingham, North Alaska, Clark-Mohave, Phoenix-Tucson, Hartford-New Haven, NY-NJ-Conn., Philadelphia, National Capitol, E. Washington-N. Idaho, Chicago, Indianapolis, Kansas City, Baltimore, Boston, Minneapolis-St. Paul, Central New York, Portland, S.W. Pennsylvania, Puget Sound.

(b) OAQPS's Linear Rollback Model was used to predict the reduction in ambient CO concentrations, the number of AQCR's above the 9 ppm, 8-hour NAAQS, and the total number of 9 ppm, 8-hour CO NAAQS violations in the 19 AQCR's in 1981 through 1995.

(c) The 186 CO emissions scenarios are those used in the March 9, 1979 memo from Charles L. Gray to Robert E. Neligan.[5]

(d) One half of the 186 scenarios assumed the following CO emission standards:

1977–79—15.0 grams/mile
1980—7.0 grams/mile
1981–95—3.4 grams/mile

The other half of the 186 scenarios assumed the following:

1977–79—15.0 grams/mile
1980–82—7.0 grams/mile
1983–95—3.4 grams/mile

(e) Each scenario assumed one of three possible generic emission control system

penetration rates. The resulting possibilities are:

(1) 100% 3-way plus oxidation catalyst systems (possible system for 3.4 grams/mile CO and 1.0 grams/mile NO_x).

(2) 100% 3-way catalyst systems (possible system for 7.0 grams/mile CO and 1.0 gram/mile NO_x).

(3) 10% 3-way catalyst systems, 80% 3-way plus oxidation catalyst systems, and 10% oxidation catalyst plus air pump systems (possible systems for 3.4 grams/mile CO and 1.0 gram/mile NO_x).

(f) Each scenario assumed one of three *certification* deterioration factors (DF's). The DF values possible were 1.0, 1.5, and 2.0 and the DF value chosen determined the CO emission level of new (zero mile) vehicles. Certification DF's are 50,000 mile emission levels of prototype vehicles (which must meet the emission standards) divided by 4000 mile emission levels. These DF's are then used to determine what emission levels new (zero mile) vehicles must meet.

(g) For each exhaust treatment system each of three possible *in-use* deterioration rates is applied. The primary deterioration rate is that reported by EPA in Table I-1 of its "Mobile Source Emission Factors" document and referred to as "AP-42." The other two deterioration rates for which scenarios are calculated are the "AP-42" rate divided by two and a zero deterioration rate.

(h) A one percent growth rate compounded annually from mobile source CO was assumed to result from increased vehicle miles traveled (VMT) for each AQCR.

(i) Stationary source CO emissions were projected to grow at a rate of 3.2 percent compounded annually.

(j) The CO base year concentration or "design value" was selected to be the highest second highest 8-hour concentration from the period 1974 through 1976. A background concentration of one ppm was also assumed for each region.

(k) The 1976 base year emissions inventories were taken from the EPA National Emissions Data System (NEDS) with suitable adjustments made to it to make it applicable for current mobile source emissions. Stationary source CO emissions from NEDS are included under electric generation, industrial, or miscellaneous sources.

(l) A stationary source contribution factor of less than 1.0 is used for each CO stationary source category. These factors account for the fact that CO "hot spots" are typically located in areas of high traffic density which are not usually associated with significant stationary sources of CO. CO stationary source contribution factors of 0.0 for power plants, 0.1 for industrial sources, and 0.2 for area sources were selected after considering the results from dispersion models for power plants and other industries, and review of the relationship between traffic density and CO levels in several situations.

(m) Control technology assumptions for stationary source CO control used in the OAQPS analysis are those described in the Three Agency Study.[6]

For each scenario the following projections are calculated for the years 1981 through 1995.

(a) The highest second highest 8-hour concentration of CO for each AQCR.

(b) The number of violations of the 9 ppm, 8-hour CO NAAQS for each AQCR.

(c) The average percent reduction in the highest second highest 8-hour CO concentration for the 19 AQCR's in 1981 through 1995 from the average 1976 concentration.

(d) the number of the 19 AQCR's in violation of the 8-hour CO NAAQS.

(e) The sum of the total number of 8-hour CO NAAQS violations projected to occur in the 19 AQCR's.

As only a limited amount of AQCR's are used in these projections, they must be viewed carefully. The data presented in Table 1 and Reference 4 are the results of projecting either a 3.4 or 7.0 gram/mile CO LDV emissions standard for the years 1981 and 1982 and then a 3.4 gram/mile CO LDV emission standard for the succeeding years. Within the constraints of these projections, both the average percent reduction in the highest second highest 8-hour CO concentration for the 19 AQCR's and the sum of the total number of 8-hour CO NAAQS violations in the 19 AQCR's are representative of what air quality trends that one could expect to see as a result of a two year CO waiver. The number of AQCR's predicted to show eight-hour NAAQS violations also serves as a comparison of the scenarios in the OAQPS data. Two scenarios have been chosen for comparison of the effects of the waiver on the above mentioned parameters.

These scenarios as summarized in Table 1 were chosen to represent first a possible reasonable assumption of what systems and deteriorations might be expected for vehicles meeting 3.4 or 7.0 grams per mile standards and second, what might be considered to be a "worst case" comparison looking for maximum differences between the two (but excluding the zero deterioration rate scenarios which although they showed greater improvements in air quality, were judged to be less probable). In 1985, with a CO waiver across the board, this analysis indicates that from 4 percent to over 30 percent more violations of the eight-hour CO NAAQS could occur in the 19 AQCR's analyzed.

Table 1.—*Air Quality Projections*

Scenario	1981	1982	1983	1984	1985
Nominal case					
Waiver (a):					
(c)	19	25	30	36	41
(f)	16	16	14	12	12
(g)	660	530	410	310	230
Standard	7.0	7.0	3.4	3.4	3.4
No Waiver (b):					
(c)	20	26	31	36	41
(f)	16	15	14	12	12
(g)	650	520	400	300	220
Standard	3.4	3.4	3.4	3.4	3.4
Possible maximum difference case					
Waiver (c):					
(e)	19	24	30	35	40
(f)	16	16	14	12	12
(g)	660	540	420	320	240
Standard	7.0	7.0	3.4	3.4	3.4
No Waiver (d):					
(e)	20	26	32	38	44
(f)	16	15	14	12	11
(g)	650	510	380	270	160
Standard	3.4	3.4	3.4	3.4	3.4

(a) 100% 3-way catalyst system, AP-42 deterioration rates, certification DF=1.5.

(b) 100% 3-way plus oxidation catalyst systems, AP-42 deterioration rates, certification DF=1.5.

(c) 100% 3-way catalyst systems, AP-42 deterioration rates, certification DF=1.0.

(d) 100% 3-way plus oxidation catalyst systems, AP-42/2 deterioration rates, certification DF=2.0.

(e) The projected average percent reductions of the highest second highest CO reading over the 19 AQCR's.

(f) The number of the 19 original AQCR's predicted to show 8-hour NAAQS violation.

(g) The total number of 8-hour CO NAAQS violations in the 19 AQCR's.

2. SRI-EPA CO "Hot Spot" Report

The Atmospheric Science Center of SRI International has in preparation for EPA a draft report entitled "Analysis of Pollutant and Meteorological Data Collected in the Vincinity of Carbon Monoxide 'Hot Spots.'"[8] The SRI research program currently has the following objectives:

a. Identify the contribution of carbon monoxide (CO) and hydrocarbon (HC) emissions from local sources versus the contribution from regional sources, as determined by the total concentrations measured around urban roadways in areas where concentrations are greatest (i.e., "hot spots").

b. Estimate the percentage of vehicles in different operating categories—e.g., hot start, cold start, and stabilized, as well as traffic mix, volume, speed, and idletime data.

The analysis in the draft report addresses only the first objective. The other objective will be dealt with in another report.

For this study four cities (San Jose, Seattle, Phoenix, and Chicago) were chosen to represent a broad range of climatological areas and different vehicle operating conditions. The area chosen for HC and CO sampling within each city was also selected to provide diverse conditions. The San Jose site was in the vicinity of a congested suburban intersection with considerable commercial development in the immediate area. The Seattle and Chicago sites were in heavily congested downtown areas. The Phoenix site was near numerous government buildings and provided data from an area where there is a simultaneous emptying of many office buildings. The sites were also chosen to be sites expected to show "hot spot" or high CO levels from vehicle traffic. The sites picked in Seattle, Phoenix, and Chicago were ones known to have previously violated the NAAQS. Preliminary measurements at the San Jose site showed that high CO levels were also present at that location.

Within each site area the researchers wished to determine what fraction of the ambient CO level was from the surrounding area and how much from local (motor vehicle) sources. To do this ten monitors were placed at various locations within each site. Some were placed upwind, on tall buildings, or set back from local streets. These monitors would represent the areawide or background concentrations. Other monitors were placed closer to the local sources so that the street level or local source contribution could be determined. The area monitors could, even though they were placed well away from the local monitors, still be influenced by local sources. To

minimize this effect, the background concentration was chosen to be the lowest of the measured values of the area monitors.

The report presents, at great length, all of the data for both CO and HC at each of the ten monitors in each of the four sites. These data are also presented in terms of one- and eight-hour CO and HC averages for each site.

The San Jose site shows ten violations in seven days of the 9 ppm, eight-hour CO NAAQS. All of the readings resulting in violations occurred at monitors downwind of the intersection during light wind (2.1 m/s ave.) conditions. The local contribution to ambient CO levels during periods when the CO concentration was above 9 ppm (the eight-hour CO NAAQS) ranged from 62 to 98 percent and averaged 80 percent.

The Seattle site had five eight-hour CO NAAQS violations in the seven day period. Three of these violations were similar to the San Jose violations with relatively high CO concentrations being seen at all the local monitors. The other two violations were more widespread with high CO concentrations at all local and two of four background monitors. This indicates that these high CO concentrations were widespread and not restricted to the immediate study area or to "hot spots." The authors point out that these two violations occurred following heavy traffic volume over a fairly wide area and this probably accounts for the high background levels.

Four eight-hour CO NAAQS violations occurred in the seven days of sampling at Phoenix. They all occurred during eight-hour periods ending at about one to three a.m. During NAAQS violations local CO contributions ranged from 18 to 59 percent with a 35 percent average. This is a relatively small amount. The authors feel that the high night time and low local CO concentrations may be explained by recirculation of air that passed over the city during peak mission periods moving back during the early morning and causing violations at the test site.

Chicago data showed only two eight-hour CO NAAQS violations. Both represented very high local contributions ranging from 79 to 97 percent with a 86 percent average. These are characteristic of classical "hot spot" violations.

The authors conclude that they found important differences between various eight-hour CO NAAQS violations. San Jose and Chicago had the expected high local contributions. In Phoenix all violations occurred when local contributions were relatively small. The Phoenix location could not be classified as a "hot spot." Seattle had several violations that could be classified as "hot spot" violations but several others that were area wide violations. The significance of this work is that it shows that it is not always valid to consider CO just a localized problem occurring in the central business district. It could be that with increased total vehicle miles traveled that CO becomes more of an areawide problem.

3. General Motors Submission

General Motors has made a number of comments regarding public health and air quality data in their CO waiver application, in their testimony, and in their later submissions. They maintain that the 3.4 gram/mile standard is not needed for protection of public health. We will address their comments individually.

a. Present CO Air Quality Standards Provide A Substantial Margin of Safety.—EPA has stated on numerous occasions that the present one- and eight-hour NAAQS for CO is designed to adequately protect public health. There is controversy in the scientific literature over what ambient CO levels cause what carboxyhemoglobin (COHb) levels in the blood. The CO NAAQS is designed to prevent blood COHb levels above 2.0 percent saturation in normal populations. According to GM, COHb levels of 1.5 percent are associated with eight-hour CO NAAQS levels. GM apparently feels that this difference represents too great of a margin for safety. In determining the appropriate margin of safety, EPA must consider the relationship between ambient CO and blood COHB levels, the effects of altitude, the impact on highly sensitive individuals such as pregnant women, fetuses, persons with angina, anemic individuals, persons with chronic obstructive pulmonary disease, etc. which represent significant portions of the population. In taking into account these factors the margin of safety does not appear inappropriate.

b. Estimation of a CO Emission Standard to Protect Public Health.—EPA does indeed find that in-use emission rates from the average vehicle exceed the applicable standards by gross amounts for most of the life of the vehicle. This is partly why recent air quality models show the need for lower CO emission standards.

c. Important Assumptions in Calculation of the CO Standard.

(1) Emission Rates.—GM has, in this section, attacked EPA's in-use emission rates as unrepresentatively high and not in agreement with data from the EPA Emission Factor Surveillance Program. They also claim that in-use emission rates for future vehicles will be less than that of present vehicles. The reason given for this is EPA's "parameter adjustment" regulations which are already figured into future year vehicles in MOBILE1.

EPA is in the process of reviewing in-use vehicle emission rates. The emission rates currently being used in MOBILE1 are, as was pointed out by GM in their oral presentation, closed to actual in-use measurements for vehicles with 40,000 miles or less. GM contends that data show a leveling off of emission deterioration after 20,000 to 40,000 miles. EPA has claimed that continued deterioration with age is justifiable as emissions system tampering increases with vehicle age.[9]

GM, in their oral presentation, made a significant point of how EPA has, in MOBILE1, used a deterioration factor (DF) of 1.7 for 1968–1974 and 1975–1979 vehicles but has used a DF of 3.7 for 1980 and later model year automobiles. GM stated that with "parameter adjustment" regulations and future technologies they would expect future in-use emissions to be much lower. EPA, in fact, has assumed this and GM's interpretation is misleading. First, the DF of 1.7 they refer to for 1968–1974 model year vehicles corresponds to a deterioration rate, as used in MOBILE1 and in Reference 6, of 6.15 grams/mile of deterioration per 10,000 miles. The DF of 1.7 GM refers to for 1975–1979 model year vehicles corresponds to a deterioration rate of 2.80 grams/mile per 10,000 miles. The DF of 3.7 GM refers to for "future models" actually in MOBILE1 is applicable only for 1980 model year vehicles and corresponds to a deterioration rate of 2.3 grams/mile per 10,000 miles. For 1981 and future years MOBILE1 assumes a deterioration rate of 2.0 grams/mile per 10,000 miles. It is thus clear that EPA and its MOBILE1 model assume decreasing deterioration rates on a gram/mile basis for newer technology vehicles. The deterioration factors or DF's that GM refers to are not a true reflection of actual vehicle deterioration. The DF's that GM discusses are 50,000 mile emission rate divided by 4000 emission rate. The DF of 1.7 that GM suggests using for future vehicles (Figure 6 of their oral presentation) corresponds to an unrealistic in-use deterioration rate of only 0.75 grams/mile per 10,000 miles for CO.

GM submitted additional information concerning EPA and GM tampering surveys to EPA[10] in response to questions asked at the CO Waiver Public Hearing. GM claims that it's interpretation of EPA's tampering report shows that EPA's contention that tampering increases with car age is fallacious. They claim that tampering, both in the EPA and GM surveys, grows to a certain level and then levels off after a certain number of miles. They claim that in the EPA data (shown in Figure 1 of Attachment C of their additional submission) this plateau has been reached for the 1973 and 1974 vehicles. They neglect to mention that many 1974 vehicles had relatively primitive emissions control systems and are recognized as a low point in LDV fuel economy ratings and *may* not be validly used to extrapolate other vehicle year's emissions. The GM Customer Car Emission Control Modification Survey that GM mentions does show a tapering off of emission control system tampering with vehicle mileage but again details of the GM study are very sketchy, and cannot be used as a basis to modify the in-use deterioration rates.

(2) Growth Projections.—GM presented their concern over EPA's use of a one percent, compounded annually *center city* vehicle miles traveled (VMT) growth rate as being unrealistically high. They claim that birth rates have fallen to replacement only levels and that many mature center city areas are already saturated with traffic. Figure II.C.1. of the GM submission shows U.S. human population growth projections with both a 1.14 percent compounded growth rate (1970–71 growth rate) and the U.S. Bureau of the Census, Series II projection (about a 0.75 percent compounded growth rate). Thus GM assumes that a 0.75 percent growth rate corresponds to what is referred to as "replacement levels." Figure II.C.2. of GM's submission shows VMT growth rate projections for four large metropolitan areas which are also CO non-attainment areas. The cities and their VMT growth rate projections are: Phoenix: 2.5 percent; Los Angeles: 0.75 percent; Chicago: 0.75 percent; New York: 0.35 percent.

(3) "Base Year" Air Quality Data.—GM criticized EPA's use of what they consider to be "erroneously high" base year air quality levels in the "Walsh/Lillis" study [1]. Revised air quality projections have been made by EPA [3,4] for a more recent "base year" (1976) and only two (of 19) AQCR air quality levels were found to have lower base year concentrations of CO.

d. Historical CO Air Quality Trends.—Figure 11.D.1. of GM's submission reportedly shows how CO levels have dropped from about 13 ppm to 5 ppm over the years 1969 to 1977 at the 45th Street monitor in New York City. GM feels that these data reflect a nationwide trend downward in CO levels due to control of motor vehicle emissions. They claim that similar downward trends in CO concentrations have been shown in other large metropolitan areas. GM claims that EPA's rollback model predicts only a 13 percent rather than a measured 59 percent reduction in Manhattan. Unfortunately, Figure 11.D.1. can be characterized as highly questionable as it reports data taken with several instruments, the first of which shows no apparent downward trend and a large amount of scatter.

e. Effect of a Two-Year Waiver on Air Quality.—GM's position is that from their interpretation of air quality data a 7 or 9 gram/mile LDV CO emissions standard is sufficient to achieve the CO NAAQS. They would like to see a permanent relaxation of the 3.4 gram/mile standard. Likewise GM feels that a two year waiver will have no effect on the attainment of the CO NAAQS. GM claims that by using EPA's rollback model with the assumptions they have questioned,[1] they only calculate a maximum total fleet emissions rate 1.96 percent lower in 1987 (the year when there is expected to be the maximum effect) if the waiver is not granted. They further calculate that granting the CO waiver will increase ambient CO levels in Chicago by 0.28 ppm and Spokane by 0.16 ppm, which they feel to be two typical cities, in 1987. They call these levels "insignificant" in view of the uncertainties present in the rollback calculations and assumptions.

f. Cost of Hours of Disability.—GM criticized EPA's projection of the increased personhours of disability related to cardiac disease (from Reference 1) as being insignificant. It should be mentioned that the approximately 5000 personhours of disability projected for the year 1990 by the model if the waiver is granted are only for the 26 AQCR's and only related to cardiac disease. The so called "Three Agency Study"[6] made similar projections of the health consequences of alternate CO emission standards. Although these projections are also dated and apply to slightly different emission standards for slightly offset years, they also project a significant number of additional personhours of disability associated with a higher CO emissions standard.

4. Ford Motor Co.

Although Ford has not applied for a CO waiver, they have kept their option open to do so. They have, however, submitted data and reports which they claim show that the 1980 model year 7.0 grams/mile LDV CO emissions standard is sufficient to achieve the 9 ppm eight-hour CO NAAQS and that a further tightening of the vehicle emission standards is not necessary to protect the public health. Ford has submitted specific reports dealing with each of their comments. These reports are discussed below.

a. Air Quality Effects of a CO Waiver.—In Ford's attempt to "better" analyze the CO air quality data they duplicated the projections of Lillis (from Reference 1), extended that model to include the effects of a 2 year CO waiver, and analyzed seasonal air quality and temperature data from various locations. Although no changes were made in its theoretical basis, EPA has since revised and updated the data inputs into the modified rollback model which Ford used in their modeling efforts. This reduces the ability to compare the two analyses.

Ford's modeling results, using input assumptions from Reference 1, showed small air quality differences due to a CO waiver. Projected air quality, rounded to the nearest ppm, indicated a difference in 1985 of no more than one ppm attributable to granting the CO waiver to the entire industry. They found the variability in the rounding procedure to be more significant than the calculated effect of granting the waiver. If Ford had calculated the rollback modeling results to more significant figures, Ford estimates they would have found that air quality in 1985 would be at most 3.3 percent worse on a CO annual tonnage basis if the waiver is granted. (This 3.3 percent is the change in automobile contributions to total CO.) Ford calculates that an 8 grams/mile CO average in-field performance level would be necessary to achieve the CO air quality standard by 1990 in those areas where stationary sources alone do not exceed the standard (North Alaska). This can be compared to the 16.57 grams/mile CO average in-field performance level calculated by EPA to result from the 3.4 grams/mile LDV CO standard. Ford's projected in-field performance requirement neglects cold-start emissions, vehicle speed effects, and model accuracy.

Ford feels that EPA's rollback model and associated data, as used in Reference 1, understate reductions in air pollution and that emission rates higher than 8 grams/mile average in-use performance figure may be adequate. Ford finds that fall and winter represent periods of higher CO concentrations than spring and summer. They also find that spring and fall represent the extremes in average CO concentrations but not the extremes in average temperature. For 1976 they calculated a correlation of CO air pollution with ambient temperature of —0.25 and conclude that there are other important factors besides temperature which influence ambient CO levels. Ford also presented data from a Chicago CAMP station near an eight lane arterial street which had seasonal CO pollution patterns which suggested what they considered to be a small seasonal effect on CO emissions. Ford did admit, however, that reasons for why greater CO pollution occurs in the fall or winter cannot adequately be explained by stationary source fossil fuel combustion.

Ford finds that air quality data show that significant improvement in CO levels is taking place. They also feel that, based upon this air quality data, EPA's model (from Reference 1) understates expected further reductions in CO air pollution.

b. Prediction of Future Urban Carbon Monoxide Concentrations.—In this section of Ford's submission they discuss their own rollback model and compare the results that it predicts with those from various EPA models. Unfortunately this Ford work is dated (February 1975) and thus is not up to date and not comparable in either their results or data base to EPA's most recent (Reference 4) rollback work. Ford apparently made many different assumptions than EPA in deriving their model. Some of these differences include assuming no vehicular growth in the Central Business District and taking spatial distribution of emission sources into account. Ford claims validation of their rollback model based on its agreement with actual Los Angeles County CO data over the 1965 to 1972 time period. They also claim that their analysis demonstrates that greater weight should be given to the driving pattern in the urban centers where highest CO concentrations are observed. They suggest a revised driving cycle and different FTP weighting factors to increase the weighting of central business district driving.

This entire section (Attachment III of Ford's submission) is not pertinent as the work is out of date, the differences in their model versus EPA's are largely unspecified, the model validation is questionable in both its assumptions and breadth, and some of their suggestions and conclusions appear unsubstantiated.

c. The Vehicle Emissions Standard for CO and Air Quality.—In this section Ford reiterates their position that the Federal Test Procedure (FTP) does not give a correct evaluation of the vehicle emissions responsible for the high CO concentrations observed in center-city locations. Ford claims that the FTP Bag 3 and particularly Bag 1 emissions are weighted too high in comparison to Bag 2 and that the use of these weightings overpredicts the effective CO emissions. Using this logic, Ford claims that a less stringent LDV CO emissions standard of 7.0 grams/mile, as measured on the FTP, is all that is needed as it does, in fact, correspond to a significantly lower effective CO emissions and thereby provides an additional margin of safety for the protection of public health. EPA studies indicate that catalyst equipped vehicles are probably in a "cold start" mode after a soak of only four hours. The EPA "hot spot" study indicates that high CO concentrations are not always a localized problem.

d. Ford's Comments on Two EPA Documents.—Ford commented on two EPA documents entitled "Air Quality Impact of Waiving the 3.4 Gram/Mile Automotive CO Standard" and "Status Report on the CO 'Hot Spot' Project." Both of these reports have been superseded by more recent analyses which are summarized elsewhere in this report. Many of Ford's criticisms have been rectified in the newer revisions of these reports which are discussed in this document.

e. Ambient Temperature Effect on Urban CO Air Quality.—In this submission Ford has

further discussed the sensitivity of CO air quality to the ambient temperature. Ford has modeled results of ambient CO measurements in both New York City and downtown Los Angeles. They have reported, as mentioned in an earlier section, that the dependence of CO concentrations on ambient temperature is weak. They also investigated which meteorological variables such as mixing height, wind speed, and atmospheric stability might have an influence on CO concentrations. Ford found that by analysis of data from the 62 U.S. National Weather Service stations in the contiguous States from 5 year records that slowest dilution episodes occurred most frequently in December, followed in order by January, November, February, and October. This trend agrees well with observed seasonal patterns of 99th percentile CO values. Although Ford agrees that LDV CO emissions arise largely from vehicles in the cold start mode, they feel that their analysis shows that increased CO standard violations in the winter months can be primarily attributed to differences in meteorology.

5. Chrysler Corp.

Chrysler states that their position is that "The protection of public health does not require attainment of a 90 percent reduction for carbon monoxide (3.4 g/mi) by any of Chrysler's passenger car engine families in model years 1981 and 1982." They further state that "... postponement of the 3.4 g/mi standard until 1983 would have no meaningful effect on overall air quality ...." Chrysler has divided their position into the following three arguments:

a. Health Effects of Carbon Monoxide.—Chrysler feels that epidemiological studies have shown that there is no evidence of any relation between ambient CO levels and morbidity or mortality rates among the general public. They also feel that there is no evidence of significant CO-related cardiovascular problems within the sensitive population of angina patients although until a few years ago many cities were in almost daily violation of the present eight-hour CO NAAQS. They claim that the only documented CO health problems are those associated with actual poisoning or asphyxiation. There are a large number of CO health effect studies documented in EPA's CO Air Quality Criteria Document which contradict this view.

b. Ambient Air Quality and Automotive Emissions.—Chrysler states that they feel that the present eight-hour CO NAAQS is sufficient to protect the public health and quote references who state that the present CO NAAQS should be protective of exercising individuals and that it represents an adequate safety margin. They also feel that the one-hour CO NAAQS is adequate.

Chrysler feels measured decreases in ambient CO levels are due to increasing numbers of controlled vehicles. They state that no violations of the one-hour CO NAAQS are presently being recorded and that the downtrend in eight-hour NAAQS violations is so strong that "... CO will be the first pollutant to come into compliance with its NAAQS." Chrysler references National Academy of Science, government, industry, and university computer modeling efforts which, they claim, show that a CO emission standard of 9 grams/mile would be adequate to meet the CO NAAQS. Chrysler claims to have used EPA's MOBILE1 model to show that granting of the CO waiver to the entire automobile industry "would slow overall improvement in air quality by only 10 weeks, and to Chrysler by only 11 days." They conclude:

"The 'improvement' in air quality produced by going to 3.4 g/mi, whether in 1981 or 1983, must therefore be judged from any rational perspective as being completely negligible in its effects on the public health."

c. Computer Projections of Future Air Quality.—Chrysler has interpreted and summarized the results of ten computer projections dealing with various automotive CO emission standards. These projections and Chrysler's interpretations are listed below:

(1) F.P. Grad, *et al*; "The Automobile and the Regulation of its Impact on the Environment" (1975).—Chrysler summarizes this book as concluding: "Postponement of the 3.4 g/mi CO standard for five years would have little significant adverse consequences on total aggregate CO emissions in comparison to the reductions achieved since 1967. An interim standard of 9.0 g/mi of CO still results in a reduction of aggregate CO emissions at a rate of 14 percent per year. . . . (T)here is little ultimate difference between a 3.4 g/mi and a 7.0 g/mi standard. Each results in almost the same substantial yearly reduction in CO emissions. The effect of a two year waiver would be even slighter."

(2) 1975 Yale University Study (Partially funded by Chrysler Corporation) (1975).—This study was an evaluation of the 1970 Clean Air Act to assess the adverse health effects of air pollutants emitted from automobiles and the expected benefits to be derived from automobile emission controls. The projections of the report suggested, according to Chrysler, that although reductions in automotive emissions are necessary for a substantial elimination of adverse health effects, the automotive emission standards need not be as stringent as the Clean Air Act requires. Their conclusion assumed that stationary sources would be controlled proportionally. By further comparison with several National Academy of Sciences studies, Chrysler was able to conclude that the Yale study showed that an automotive emissions standard of 9.0 or 15.0 grams/mile would be sufficiently stringent to achieve ambient CO concentrations which would prevent adverse health effects. The problem with this projection is that it predicts that an emission standard of 15 grams/mile would result in elimination of COHb levels and thus adverse health effects by 1981. As we approach 1981 this trend is not materializing.

(3) Denver Air Quality; Colorado Department of Health (1976, 77).—The U.S. DOT has estimated that 99 percent of all CO emissions in Denver are vehicular in origin. Data from the Colorado Department of Health shows a year-by-year reduction since 1971 in the number of one- and eight-hour CO NAAQS violations. These reductions are attributed to reductions in vehicular emissions. The Colorado Board of Health projects 84 and 85 percent reductions in the one- and eight-hour CO standards respectively in Denver by 1975. The U.S. DOT projects no one-hour CO violations in Denver in 1985 and a 75 percent reduction over 1975 data of violations of the eight-hour standard. Chrysler claims that these trends "clearly indicate that present vehicle emissions regulations will bring an end to the CO problem in Colorado within the next few years. . . ." However, no mention is made in Chrysler's Summary as to which emission standards or factors were used for which years to make these projections.

(4) Panel on Air Quality, Noise, and Health, Interagency Task Force (1979).—This report was prepared as a U.S. Government interagency effort to analyze the effects of various air pollution and noise emission limits on air quality, noise, and health implications through the year 2000. This report found that a 7.0 gram/mile LDV CO emission standard would result in a 80 to 85 percent average improvement in air quality from the base year (early 1970's) to the year 2000. Also, in the year 2000 no AQCR's were projected to be in violation of the CO NAAQS at a 9 grams/mile standard. The report also projected possible health consequences of various levels of emissions control for the years 1980, 1990, and 2000, as well as the period 1980 to 2000. They projected that a 15.0 grams/mile standard would be sufficient to reduce all excess cardiac deaths and disability to zero. Chrysler adds that a 7.0 grams/mile standard would thus provide "much more than adequate protection of the public health." Chrysler notes that this projection is based upon each standard being in effect for 23 years (1978–2000) rather than just two (1981–1982) as in the case of the CO waiver. This interagency report is considered to be somewhat dated. Many assumptions are made in the analysis that Chrysler does not detail. Some inspection/maintenance programs are assumed along with very low deterioration rates. EPA considers Reference 4 to be a more reliable source of information as it includes many updates and revisions.

(5) Future Urban Air Quality; Council on Environmental Quality (1977).—In the Council on Environmental Quality's 1977 Annual Report, CO air quality projections were made. They found that with the exception of 16 urban areas, all cities are expected to meet the CO NAAQS by 1985. The 16 cities are also expected to be in compliance by 1990. These calculations are based on rollback modeling using 15 grams/mile as an average, on-the-road automobile emission rate for 1990. Chrysler fails to point out that an average, on-the-road, emission value of 15 grams/mile actually represents a much lower emission standard because in-use deterioration is much greater than is predicted under certification type conditions.

(6) Automotive Air Pollution; National Academy of Sciences (1977).—Chrysler quotes several sections of the NAS report entitled "Implications of Environmental Regulations for Energy Production and Consumption." The first comment states that CO related health problems are important only to people spending many hours in areas

of heavy traffic congestion and that the CO health benefits from a stringent auto emissions standards are minimal compared to those to be gained from CO from cigarette smoke and home gas-fired heaters. The second comment states that "carbon monoxide is not deemed a significant hazard to today's community health at today's (15 grams/mile) emission levels; although the cost of meeting a more stringent standard of carbon monoxide seems low, the added benefits to community health are questionable and the resulting compromise with hydrocarbon elimination should be voided."

(7) Revised Weighting of CVS/CH Test for CO Emissions; Ford Motor Company (1978). Chrysler, in this section, mentions Ford's contentions that FTP CO emissions are not representative of those found in urban rush hour traffic. They suggest Bag 2 emissions as more appropriate. Ford feels that with the present FTP conditions, a CO emission standard of 11–12 grams/mile would be sufficient to meet the CO NAAQS. Again, in this section Chrysler gives insufficient data or analyses to make use of their projection. EPA's "Hot Spot" report gives some indication that CO may be a regional problem.

(8) Air Quality Impact of Waiving the 3.4 gram/mile Automotive CO Standard; EPA (1978).—A revision of this EPA report has been reviewed in the first section of this report.

(9) Effect of a Two-Year Delay on Total Emissions; John B. Pierce Foundation Laboratory (No date).—Chrysler hired the John B. Pierce Foundation Laboratory of Yale University to verify its calculations of the effect of a two-year delay in the imposition of the 1980 and 1981 automotive emission standards on Chrysler cars. Calculations showed that holding the CO standard at 15 grams/mile for 1980 and 1981 Chrysler would, for the 1980–1990 time frame, increase CO emissions by a ratio of 1.0086:1. This represents a six week delay in the attainment of air quality benefits. Chrysler feels that: ". . . Holding at 15 grams/mile for two more years is twice as severe a case as holding at 7 grams/mile instead of 3.4 grams/mile for 1981–82. Nevertheless, delay in the expected decrease of total emissions would be only six weeks. The effect on air quality or public health would be so small as to escape detection with any current methodology."

(10) Chrysler's Application of EPA's MOBILE1: Mobile Source Emissions Model.—Chrysler reports in this section on their use of and projections made with EPA's MOBILE1 model. The emission factors and methodology used are those described in EPA's "Mobile Source Emission Factors, Final Document." Chrysler has modified the program to allow various time-tables for emission standard implementation. Chrysler chose to look at the effects of a CO waiver on air quality in New York and Colorado (as "worst-case" examples), as well as on a national basis. Chrysler found for 1987, the year of maximum air quality effect, a 2.0 percent difference in CO emissions from all manufacturers' vehicles resulted between the waiver and non-waiver scenarios on a nationwide basis. For New York and Colorado the maximum percent differences were 2.7 and 2.1 percent respectively. For a Chrysler only waiver (assuming a 15 percent market share for Chrysler) the maximum nationwide difference in vehicle emissions found to be 0.30 percent while the New York and Colorado differences were 0.40 and 0.32 percent, respectively. Chrysler states that this shows that a two-year waiver would thus have no practical effect on CO emissions or on air quality and public health. They further state that ". . . If a two year waiver to 7.0 grams/mile were granted to the entire industry, the resulting delay in reduction of CO emissions would slow the rate of improvement in air quality by only 10 weeks. If the waiver were granted to Chrysler alone, the rate of improvement in air quality would be slowed by a mere 11 days. It is difficult to believe that air monitoring stations could even detect this difference."

1. Memo from Edward J. Lillis, Chief, Air Management Technology Branch to Michael P. Walsh, Acting DAA, Office of Mobile Source Air Pollution Control, "Air Quality Impact of Waiving the 3.4 g/m Automotive CO Standard," July 18, 1978.

2. Memo from Edward J. Lillis to Michael P. Walsh, "Revised Air Quality Projections for Waiving the 3.4 g/m Automotive CO Standard," August 11, 1978.

3. Memo from Edward J. Lillis to Charles L. Gray, Director, Emission Control Technology Division, "Air Quality Analysis of Waiving the 3.4 Gram/Mile CO Standard for Light-Duty Vehicles," May 14, 1979.

4. "Revised Air Quality Analysis of Waiving the 3.4 Gram/Mile CO Standard for Light-Duty Vehicles," EPA, August, 1979.

5. Memo from Charles L. Gray, Director, ECTD to Robert E. Neligan, MDAD, "OAQPS Support on CO Waiver Requests Under Section 202(b)(5)(a) of the CAA," March 9, 1979.

6. U.S. DOT, EPA, and Federal Energy Administration, "An Analysis of Alternative Motor Vehicle Emission Standards," May 19, 1977.

7. U.S. Environmental Protection Agency, "Mobile Source Emission Factors, Final Document," EPA-400/9-78-006, March 1978.

8. Shelar, E., F. L. Ludwig, and H. Shigeishi, Atmospheric Science Center, SRI International for the U.S. Environmental Protection Agency, "Analysis of Pollutant and Meteorological Data Collected in the Vicinity of Carbon Monoxide 'Hot Spots,'" Discussion Draft, May 1979.

9. U.S. Environmental Protection Agency, "Motor Vehicle Tampering Survey (1978)," November 1978.

10. Additional Submission for CO Waiver Docket from Betsy Anchor-Johnson, Vice-President, GM Environmental Activities Staff, to Benjamin R. Jackson, DAA, EPA Mobile Source Noise and Enforcement, dated July 20, 1979.

[FR Doc. 79-28294 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1316-3]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 and 1982 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes CO emission standards for 1981 and 1982 model year light-duty vehicles belonging to certain engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. 7521(b)(5).

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Glenn Unterberger, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9417.

PUBLIC DOCKET: Information relevant to this rule is continued in Public Docket EN-79-4 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (gpm).

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. Applications for these waivers were submitted by American Motors Corporation, BL Cars, Limited, Chrysler Corporation, General Motors Corporation, Toyota Motor Company, Limited, and Volkswagen AG. The statutory criteria, my determinations regarding the criteria with respect to the vehicle models covered by the waiver applications, and my decisions to grant or deny the waiver applications appear in the consolidated decision published above. In that decision, I granted waivers covering the following vehicle models (engine families for purposes of that decision):

Manufacturer	Engine family
American Motors Corp	258 CID.
BL Cars, Ltd	TR8.
	XJ12.
Chrysler	1.7 liter.
	3.7 liter.
	5.2 liter/4V.
General Motors Corp	2.8 liter/173 CID-2V.
	3.8 liter/231 CID-2V.
Toyota Motor Co., Ltd	88.6 CID.

Having decided to grant waiver applications for some vehicle models, the Act requires that I simulatenously promulgate regulations adopting a standard not permitting CO emissions from 1981 and 1982 model year vehicles of these vehicle models in question to exceed 7.0 gpm. Moreover, I must promulgate regulations establishing this standard no later than 60 days after I receive the waiver application in question. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this rule. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11944 and OMB Circular A-107.

Dated: September 5, 1979.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines.

1. 40 CFR 86.081-8(a)(1), published at 44 FR 47884 (August 15, 1979), is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 light-duty vehicles.

(a) (1) Exhaust emissions from 1981 and later model year light-duty vehicles shall not exceed the following levels for the following pollutants:

(i) Hydrocarbons—0.41 grams per vehicle mile;

(ii) Carbon monoxide—3.4 grams per vehicle mile, except that carbon monoxide emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer	Engine family
American Motors Corp	258 CID.
BL Cars, Ltd	TR 8.
	XJ12.
Chrysler Corp	1.7 liter.
	3.7 liter.
	5.2 liter/4-V.
General Motors Corp	2.8 liter/173 CID-2V.
	3.8 liter/231 CID-2V.
Toyota Motor Co., Ltd	88.6 CID.

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that oxides of nitrogen emissions from 1981 and 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile.

(Sections 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7601(a).)

[FR Doc. 79-28293 Filed 9-12-79; 8:45 am]

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federal register

Thursday
September 13, 1979

Part IV

Department of Health, Education, and Welfare

National Institutes of Health

Program to Assess the Risks of Recombinant DNA Research; Final Plan

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Research; Final Plan For a Program To Assess the Risks of Recombinant DNA Research

AGENCY: National Institutes of Health.

ACTION: Notice of final plan for a program to assess the risks of recombinant DNA research.

SUMMARY: This notice sets forth the final plan for the first annual NIH program to assess the risks of recombinant DNA research.

EFFECTIVE DATE: September 13, 1979.

FOR FURTHER INFORMATION CONTACT: Additional information may be obtained from Dr. John Nutter, Chief, Office of Specialized Research and Facilities, NIAID, National Institutes of Health, Bethesda, Maryland 20205 (301-496-5643).

SUPPLEMENTAL INFORMATION:

A. Decision of the NIH Director to issue the Final Plan.

I. The Proposed Plan was published in the Federal Register, Vol. 44, No. 64, Monday, April 2, 1979, pages 19302 to 19304. Following one extension, a formal closing date for Public Comment of June 2, 1979 was established. Thirteen correspondents submitted comments on the plan and they were divided into four generic categories as follows:

(1) *Opposition to the Program.* One correspondent noted that there is far less public and scientific concern today regarding DNA technology than there has been in prior years. Risk assessment studies were characterized as being costly and time consuming, diverting responsible scientists from research activities and being of questionable and limited probative value. Additionally he noted that there exists no definitive evidence of risk associated with any research involving recombinant organisms or products isolated from such organisms.

I am required to establish that actions under the NIH Guidelines for Recombinant DNA Research present no significant risks to health or the environment. Furthermore, to the maximum extent possible, these judgments should be based on a foundation of documented research that is subject to peer review. While I concur with most scientists that the perception of risk from this research is certainly less now than earlier, there still remain selected areas where data are insufficient to determine risk. This final plan is an attempt to satisfy this remaining need and will afford an opportunity to assess progress toward achieving the scientific objectives at least annually.

In response to other concerns of this correspondent it should be noted that the Special Assistant for Risk Assessment, NIAID does not have authority to make rulings superseding the Guidelines, nor will he function in a preliminary review role for submissions to the Recombinant DNA Advisory Committee (RAC). He/she will, as specified in the Plan, provide scientific leadership, aid in the interpretation of data from diverse sources and be the focus for the interaction of the Risk Assessment Program with the RAC.

(2) *Criticism of supporting statements.* Three correspondents criticized the interpretation of recent risk assessment experiments involving polyoma virus (see also RAC section below). The controversy seems to be essentially centered on the concluding sentence in the second paragraph of section II of the Proposed Plan; "In each case, there was no evidence that the inserted DNA produced any special hazard." It should be said that this experiment was performed by NIH scientists at the request of RAC and was conducted under P4 conditions; these circumstances limit the number of experimental variables that can be completed within a reasonable time. Accordingly, the protocols were reviewed widely by virologists before the studies were initiated.

Since one of the initial concerns related to the potential for the delivery of recombinant DNA molecules to mammalian cells by prokaryotic hosts attention was focused on that model. We have again reviewed all available data in the light of the criticisms received. We conclude that in the polyoma virus risk assessment experiments, potentially infectious or tumorigenic recombinant DNA molecules were not transferred out of EK2 hosts into susceptible mouse or hamster cells to produce either progeny virions or tumors. We have altered the wording in the Final Plan to reflect this conclusion.

(3) *Support and General Suggestions for the Program.* Four correspondents submitted letters supporting the Proposed Plan as published and made general suggestions for improving its effectiveness and impact.

Both the Proposed and Final Plan indicate that the Special Assistant for Risk Assessment will represent the Plan to the RAC. The Special Assistant will be a member of NIAID, the Institute with programmatic responsibility. RAC will, in its advisory capacity, continue to have a major impact on the constitution of the relevant programs. We envision the Special Assistant reporting progress to the RAC at its meetings and the Committee will review each annual updated Plan.

The importance of considering issues and synthesizing information in conferences and workshops was noted. We recognize the beneficial impact of this approach for identifying both problems and solutions and the Plan affords both the leadership and support for such activities. One area for such an approach is the question of autoimmune responses and this is included in the Plan along with other topics under Prokaryotic Host-Vector Systems. Additional areas may be added as a result of RAC advice and the interaction of the Special Assistant with the scientific community and interested public groups.

Encouragement to extend the specific studies on prokaryotic host-vector systems to *Bacillus subtilis* was received. The NIAID will seek the advice of RAC, through its Risk Assessment Sub-Committee, for suggested studies and other aspects of this plan. The proper emphasis and level of integration of *B. subtilis* studies with those based on *E. coli* will be a subject for discussion with that group.

One correspondent suggested the support of "worst-possible case" experiments by the NIH in maximum containment laboratories in order to reveal the maximum magnitude of the hazards. The Plan indicates that the NIH has facilities appropriate for the conduct of such studies and we anticipate continuing to maintain such laboratories in a state of readiness. Therefore, if the NIH receives requests for facility support or advice from RAC to perform directly such experiments the capacity to do the work will exist.

(4) Specific suggestions related to personal research interests.

Five individuals submitted statements indicating the relationship of their research to the various areas indicated in the Proposed Plan. Most of these comments suggested biological approaches or experiments that fall within the Plan's areas of scientific interest. Areas indicated were: ecological studies employing novel tracing techniques of the host strains, transfer of genetic information between unrelated bacteria, new approaches to the study of *E. coli* colonization of laboratory animals, and a suggested protein of biological importance for inclusion in studies of prolonged colonization.

While these suggestions are relevant to risk assessment studies they fall within the broad area of research supported through the regular grants program and should be incorporated into applications for such support. When specific research activities are requested by NIH for support through the grant or contract mechanism, the solicitations will be widely publicized in the NIH Guide for Grants and Contracts and in the Commerce Business Daily. Correspondents will then have the opportunity to make application if their interests lie within the area of solicitation.

One submission was received that addressed issues outside the Proposed Plan. This correspondent expressed an interest in pursuing research on some specific societal implications of recombinant DNA research. This general area was also supported in a less specific manner by one of the commenters cited in paragraph (3) above. This correspondent is urged to seek funding through the regular grants channels of the several agencies supporting research on Recombinant DNA Molecules.

II. The Recombinant DNA Advisory Committee considered the Proposed Plan at its Meeting on May 21, 1979. Dr. Richard M. Krause, Director NIAID presented a summary of the program and responded to questions.

Members of the public were provided an opportunity to address the committee and present their views about the proposed program. Comments were approximately equally divided between suggested areas to be added and criticisms of the interpretation of the polyoma risk assessment experiments cited in the Proposed Plan as background information. Suggested additions were to monitor nosocomial infections, monitor transfer from laboratory to wild type strains, and expand research on the role of plasmids and phages in the etiology of diseases.

Members of the Risk Assessment Sub-Committee of the RAC commented on the Proposed Plan and other committee members were provided opportunity to comment and ask questions. The Scientific Aspects and Implementation sections were received without significant criticism and the RAC did not recommend changes in regard to other issues which were raised by the public. The final Plan will permit close cooperation between the Program constituents and the RAC. As a first step the NIAID will work with the Risk Assessment Sub-Committee in developing areas that require risk assessment projects. NIAID will develop a plan for the orderly implementation of those projects of greatest importance.

B. Final Plan for a Program To Assess the Risks of Recombinant DNA Research

I. Introduction

With the issuance in December 1978 of revised guidelines for the conduct of recombinant DNA research, the Secretary DHEW requested that the National Institutes of Health (NIH) prepare an NIH Risk Assessment Plan, which after review by the Recombinant DNA Advisory Committee (RAC) and publication in the Federal Register for comment, would be made final and updated annually. The present document is the response to that request.

The major concerns about recombinant DNA experimentation have included the possible converson of non-pathogenic microorganisms to pathogenic agents, as well as the establishment of organisms containing recombinant DNA molecules in the ecosystem. Since the hypothetical risks and technical basis of recombinant DNA research are primarily microbiological in nature, the responsibility for coordination and implementation of the plan was assigned by the Director, NIH to the Director, National Institute of Allergy and Infectious Diseases (NIAID).

The vast majority of information relevant to recombinant DNA risk analysis has already come from research not primarily designed to provide information on risk. This will undoubtedly continue to be the case. This information will be obtained chiefly from publications in the scientific literature, from persons with special scientific knowledge, and from ongoing basic biomedical research. Risk assessment analysis will require continuing review of data developed in the fields of microbiology, infectious diseases, and related biological research.

Some essential information has been, and will continue to be, derived from projects specifically designed to assess various aspects of potential risks associated with recombinant DNA experimentation. Such experiments will be supported by the Intramural and the Extramural programs of NIH. Many experiments may also be conducted in the private sector or may be funded by other agencies or governments.

The essential goal of a successful risk assessment plan will be the development of means to collect, collate, coordinate, evaluate, and disseminate data obtained from all sources.

II. Background and Present Program

The revision of the guidelines for recombinant DNA research was developed primarily through the analysis of data generated from basic microbiological research, such as was done at the Falmouth and Ascot Risk Assessment Workshops. An example of such free-ranging research efforts which have generated data relevant to recombinant DNA experimentation was the discovery of the intervening sequences that interrupt genes in eukaryotic DNA. This finding virtually assures that shotgun cloning of eukaryotic chromosomal DNA into prokaryotes will not result in the production of biologically active proteins.

Special experiments have been and will continue to be specifically designed to assess the potential risks associated with recombinant DNA experiments. For example, within the Intramural Program of NIAID two experiments were undertaken to assess potential risks of this new technology. The first was an evaluation of the infectivity of polyoma DNA when the entire viral genome was cloned in phage and plasmid vectors of *Escherichia coli* K-12. A second experiment was a study of the pathogenicity and stability of shotgun clones of *E. coli* K-12 containing yeast (*Saccharomyces*) DNA. In the polyoma virus risk assessment experiments, potentially infectious or tumorigenic recombinant DNA molecules were not transferred out of EK2 hosts into susceptible mouse or hamster cells to produce either progeny virions or tumors. In the second experimental model there was no evidence that the inserted DNA produced any special hazard.

Specific risk assessment experiments have also been undertaken using the NIH contract mechanism. Contracts have been used to (1) assess the potential for generating aerosols in laboratories where recombinant DNA research is conducted and (2) to examine the EK2 systems for their ability to survive and their capacity to transfer heterologous cloned segments to secondary hosts under conditions simulating natural environments.

An important additional source of information is specific DNA risk assessment experiments that have been undertaken in foreign countries. Scientists supported by the European Molecular Biology Organization (EMBO) have also examined the infectivity of recombinant polyoma plasmid and phage DNA in tissue culture. The results of these studies agree with those of biological *in vivo* assays carried out by

the Intramural scientists of NIH already described.

III. Recombinant DNA Risk Assessment Plan: Scientific Aspects

There are threee major types of host-vector systems presently being used for recombinant DNA research, and the risk assessment program will naturally be focused on these. They are (1) prokaryotic host-vector systems, primarily, *E. coli* and *Bacillus subtilis;* (2) lower eukaryotes, namely, *Saccharomyces cerevisiae* and *Neurospora crassa;* and (3) eukaryotic viruses in cultured cells of higher eukaryotes.

A number of events must occur before a laboratory microorganism becomes a possible risk to people or higher organisms outside the immediate laboratory environment. The assessment of risk involves a determination of the probability for the occurrence of these various events. The particular data that are most susceptible to analysis, or most likely to provide a definitive answer concerning risk, will differ for the various host-vector systems. Data elements will include the probabilities of:

(1) Dispersal of the organism containing recombinant DNA into the environment.

(2) Survival of the organism in the environment or transfer of the recombinant molecule into another organism.

(3) Acquisition of a selective advantage by the recombinant-containing organism so that it can populate a significant ecological niche.

(4) Change in the natural biology of the recombinant-containing organism so that it becomes a danger to some higher organism, as, for example, by its conversion into a pathogen or into a vehicle for transferring foreign DNA into cells of the higher organism.

A major aspect of the risk assessment plan will consist of acquiring and analyzing information and data relevant on these elements for the various host-vector systems.

The following compilation of research activities in neither final nor inclusive. Furthermore, those mentioned here will require more than a single year to complete. While the present interest emphasizes *E. coli* host-vector systems in animals, in the near future the focus may shift to other host-vector combinations and their impact on the ecosystem.

Prokaryotic Host-Vector Systems

With regard to acquisition of new experimental data, the initial emphasis will be on the *E. coli* K-12 systems, since these are the major systems being used and areas where such data are needed have already been identified. The following areas will be given particular consideration.

(1) The survival in the environment and potential selective advantage of organisms carrying recombinant DNA.

(2) Further evaluation of the transmission of vectors from *E. coli* K-12 to other bacteria in the gastrointestinal tract of animals and human beings.

(3) Testing *E. coli* K-12 host-vector systems carrying recombinant DNA for virulence or increased ability to colonize the gastrointestinal tract of mice.

(4) Animal studies of hormone-producing strains of *E. coli* generated by recombinant DNA technology.

(5) Further evaluation of the biological activity of polyoma virus cloned in *E. coli* host-vector systems.

(6) The biological activity of *E. coli* K-12 clones carrying DNA copies of RNA tumor viruses.

(7) The possible occurrence of autoantibodies or autoreactive cells due to the production of eukaryotic polypeptides by bacteria that colonize higher organisms.

Lower Eukaryotes

Areas where new experimental data would be desirable include (1) determining the competitive advantage for survival of *S. cerevisiae* in relevant natural environments and (2) determining the ability of several types of eukaryotic viruses to replicate in *S. cerevisiae* and *N. crassa* when introduced via a recombinant molecule.

Higher Eukaryotes

The major concern that centers on the use of animal virus vectors to clone foreign DNA segments in cells of higher eukaryotes involves the unlikely possibility of (1) creating novel nondefective viruses as a result of the insertion of a new DNA fragment or (2) altering the host range of the viral vector. The risks associated with these problems will be evaluated continuously through the review of the general viral literature. Only a limited number of experiments are currently being conducted with these systems and it is highly improbable that the events enumerated above would occur. Specific risk assessment experiments are not being planned at present for these systems.

IV. *Implementation of Plan*

In order to implement the plan, NIAID will:

(1) Recruit and appoint an eminent scientist as a Special Assistant to the Director for Risk Assessment to provide leadership and coordination of all activities concerned with the evaluation of risks of research and research products related to recombinant DNA and other genetic research involving potentially infectious or toxic organisms. In this role, this scientist will be responsible for representing the plan to the Recombinant DNA Advisory Committee (RAC), the scientific community, international organizations, and the public; will advise on the collection and assessment of data and edit and coordinate reports on progress; and will chair workshops and conferences as necessary to address special problems of risk assessment. This individual will also review ongoing research for data pertinent to risk assessment by such means as analysis of data from research which is published or presented at meetings, by direct contacts with scientists, and through review of Memoranda of Understanding and Agreement (MUAs) filed with the Office of Recombinant DNA Activities (ORDA). Liaison will be maintained with those who have related responsibilities in other countries and international scientific organizations. The Institute will recruit and appoint such ancillary staff as are needed by the Special Assistant.

(2) Develop and issue such requests for applications or proposals as are necessary to ensure the conduct of risk assessment research required to answer specific questions or to fill gaps in data being accumulated from other research. It is anticipated that these specific needs will be identified by the activities of the Special Assistant for Risk Assessment, the RAC, and scientists addressing the issues in workshops and conferences.

(3) Prepare and send periodic reports to the RAC identifying questions, problems, and evaluations of scientific information pertinent to their various advisory functions.

(4) Respond to inquiries from scientists, the public, DHEW, or other government agencies regarding available data on risk assessment and evaluation of those data.

In order to carry out these responsibilities, the NIAID will enlist the services of the following existing NIH offices, committees, and people to provide information, to advise and evaluate, and to review, as appropriate, reports for completeness and accuracy.

(1) Recombinant DNA Advisory Committee (RAC)

A Risk Assessment Subcommittee has recently been established in the RAC to provide the NIH with broad technical and public policy advice concerning risk assessment. This subcommittee will

serve as the focus for RAC advice and interaction with the various program elements.

(2) Office of Recombinant DNA Activities (ORDA)

ORDA will maintain a registry of ongoing recombinant DNA research as filed in MUAs. The registry, which will include information on hosts, vectors, sources of inserted DNA, containment levels, etc., will serve as a resource for information on ongoing research which can be reviewed for risk assessment aspects.

(3) Office of Specialized Research and Facilities (OSRF)

The OSRF will:

(a) Manage grants and contracts solicited as a result of program efforts.

(b) Serve as a clearinghouse for special facilities, services, and other resources required by the plan.

(c) Organize workshops and conferences as necessary to evaluate research or coordinate these efforts.

(d) Maintain contact for information exchange with international groups conducting or fostering risk assessment work.

(e) Serve as central office for data compilation.

(4) Intramural Scientists

The NIH had available high containment laboratories which will provide a long-range base for risk assessment experiments requiring such technology. Intramural scientists in NIAID and other NIH laboratories will also contribute pertinent information and will serve as ad hoc consultants on the various aspects of risk assessment.

(5) NIH Extramural Program Officers and Executive Secretaries of the Study Sections

These individuals will serve as a valuable resource because of their familiarity with grants and contracts covering a full range of scientific disciplines supported by NIH which may yield valuable risk assessment information.

Dated: September 5, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-28313 Filed 9-12-79; 8:45 am]

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federal register

Thursday
September 13, 1979

Part V

Department of Transportation

Federal Aviation Administration

Controlled Visual Flight Rules; Withdrawal of En Route Proposals

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 71, 91, and 105]

[Docket No. 18605; Reference Notice No. 78-19]

Controlled Visual Flight Rules; Withdrawal of En Route Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The FAA hereby withdraws Notice of Proposed Rule Making 78-19, which was published in the Federal Register (44 FR 1322) on January 4, 1979. Notice 78-19 proposed to lower the "floor" of the continental positive control area (CPCA) from 18,000 feet mean sea level (MSL) to 12,500 feet or 10,000 feet MSL across the continental United States and require visual flight rules (VFR) aircraft in the airspace between the lowered CPCA "floor" and 18,000 feet MSL to comply with air traffic control (ATC) instructions. Detailed "controlled visual flight" (CVF) rules and additional restructuring of the airspace system were also proposed. The notice, as part of a comprehensive, system-wide study of airspace safety, invited public participation in the selection of the best means of effectively reducing the collision risk in the enroute airspace above 10,000 feet MSL. The commitment of the FAA to find effective means of reducing this risk was stated in Notice 78-19. This commitment is not lessened by withdrawal of these proposals. FAA's review of public comments as well as its own further analysis indicates that the specific proposals in the notice may not be the most effective means of reducing the risk. This is the reason for the withdrawal. A great deal of study was done before notice 78-19 was issued. The FAA fully recognized the complexity of the task it set out to accomplish. The regulatory process is designed to effectively involve the public in rule-making actions. The response to Notice 78-19 clearly demonstrates the efficacy of the public participation in FAA's rule-making process. Through the public comments received, the FAA has become convinced that effective alternatives exist for achieving the increased safety that was the objective of Notice 78-19. Therefore, in conjunction with this withdrawal, the FAA intends to examine alternative approaches to reducing the collision risk. This program will stress efforts on the part of the FAA toward increased enforcement and pilot education, and improved operating procedures, and, only where appropriate, will result in additional regulatory proposals. Close consultation with affected users and the travelling public will continue as part of this expanded effort.

In addition to the specific enroute regulatory proposals described above, Notice 78-19 advised the public that the FAA, in separate and individual actions, will propose new Group II Terminal Control Areas (TCAs) for public comment, and will propose to raise the tops of existing TCAs. This withdrawal of the enroute regulatory proposals does not affect the FAA's intent to identify and respond to the terminal airspace collision risk on a site-by-site basis.

DATES: Notice 78-19 withdrawal is effective September 13, 1979.

ADDRESSES: Persons wishing to comment on this withdrawal may submit their comments to Federal Aviation Administration, Attn: Airspace and Air Traffic Rules Division (AAT-200), Air Traffic Service, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William E. Broadwater, Airspace and Air Traffic Rules Divison (AAT-200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3721.

SUPPLEMENTARY INFORMATION:

The Scope of the Withdrawal

The proposals in Notice 78-19 were published as a single, comprehensive package for public comment as part of the Administrator's broad review of the national airspace system. Many valuable comments were received concerning the effectiveness of this combined package of proposals. This action to withdraw Notice 78-19 addresses only the advisability of adopting the entire set of requirements as proposed, and is not a judgment concerning possible future FAA proposals, that may contain some of the elements of the withdrawn proposals, where justified by expanded review of the national airspace system. As stated above, this withdrawal does not affect FAA's case-by-case review of the need for terminal control areas.

The Proposed Rules

Notice 78-19 proposed amendments to Parts 1, 71, 91, and 105 of the Federal Aviation Regulations (14 CFR Parts 1, 71, 91, and 105). The proposed changes to Part 1 would have amended the definition of "controlled airspace" to include "positive control areas," added a definition of "controlled visual flight," and added a definition of "positive controlled airspace."

Part 71 would have been amended to (1) lower the continental positive control area (CPCA) from 18,000 feet mean sea level (MSL) to 10,000 feet MSL east of the Mississippi River and a portion of California, and to 12,500 feet MSL over the rest of the continental United States; and (2) redefine the description of terminal control area airspace assignments to provide that all TCAs extend upwards to the "floor" of the lowered CPCA unless otherwise specified. A related change to the description of "control zone" was proposed, as was deletion of the concept of Group III TCAs.

The operating and equipment rules in Part 91 would have been amended to implement a comprehensive "controlled visual flight" concept intended to reduce the "mix" of controlled and uncontrolled aircraft in the enroute altitudes above 10,000 feet (or 12,500 feet) MSL. Proposed § 91.111, if adopted, would have required each person operating an aircraft (other than a glider) in the new positive controlled airspace at and below 18,000 feet MSL to notify ATC before entering that airspace, file a flight plan, comply with ATC clearances and instructions, advise ATC if compliance with clearances and instructions may cause violation of the visual flight rules, leave the positive controlled airspace if two-way radio communications fails, and advise ATC of the loss of navigational capability. In addition to the currently required altitude reporting transponder, the proposal would have required that all aircraft have the equipment now required in a Group I TCA (i.e., an operable VOR or TACAN navigational receiver, and an operable two-way radio capable of communicating with ATC on appropriate frequencies), in order to operate in the lowered positive controlled airspace. Consistent with this proposed expansion of enroute positive control, a relaxation of the current 250-knot speed limit was proposed for aircraft that are in a TCA which abuts the "floor" of the lowered positive controlled airspace, if the aircraft is at least 5,000 feet above the airport elevation and is cleared for altitudes above 10,000 feet MSL within the TCA.

Notice 78-19 also proposed to amend Part 105 of the Federal Aviation Regulations to prohibit parachute jumps in or into a TCA without, or in violation of, an ATC authorization.

Summary of Comments

In response to the proposals in Notice 78–19, a volume of public comments was received that was unprecedented not only in its magnitude—over 43,000 in all—but also in its value as an information base for future FAA analysis of the enroute collision risk. After reviewing the wide range of suggestions received, the FAA concludes that alternatives beyond the scope of Notice 78–19 may be desirable.

Alternatives suggested. Virtually all segments of the aviation community acknowledged the safety objectives of Notice 78–19. Numerous suggestions were received for achieving the safety objectives of the notice in other ways. Many of the comments recognized that the task of preserving the current high level of safety in the national airspace system requires additional monitoring of that system, exploration of alternatives approaches, and continuing consultation between the FAA, the airspace users, and the travelling public. This dialogue was greatly accelerated by Notice 7–19, and has resulted in a wide range of proposed alternatives for addressing the remaining enroute midair collision potential.

Climb corridors. The most widely recommended alternative was to leave the floor of the continental positive control area at 18,000 feet MSL and approach the problem of protecting air carriers from unknown VFR aircraft "from the ground up," that is, by establishing climb corridors leading into the enroute airspace from the tops of TCAs. It was argued that this alternative would lead to the same level of safety that would be furnished by a coast-to-coast airspace rule, without consuming the enormous volume of airspace that would be involved in a nationwide rule. These comments pointed out that climb corridors can be shown on aeronautical charts, can be implemented quickly, are less costly, and may save fuel. The FAA is considering this recommendation as a possible means of achieving the objective of Notice 78–19. Where it is determined, in an individual TCA, that climb corridors may be implemented consistent with the air traffic flow requirements at a given airport, and structured in a manner consistent with public comments concerning that TCA, the climb corridor concept will be explored at that location.

Other CVF Concepts. Several commenters recommended lowering the floor of the continental positive control area to 14,500 feet and the adoption of rules requiring communication with ATC, compliance with ATC instructions, and the furnishing of traffic advisories by ATC. Variations of this recommendation, involving different degrees of involvement of VFR aircraft with the ATC system, were submitted for FAA consideration. These recommendations will be considered as part of the expanded study of enroute airspace.

Adequacy of the "See and Avoid" Concept. Numerous comments supported the current "see and avoid" concept in the enroute airspace and contended that, when coupled with radar advisory service (which points out traffic to participating aircraft) and a wide range of other measures, such as improved pilot and controller training, the "see and avoid" concept can be highly effective. The FAA agrees that, in the enroute altitudes in question, the current low risk of collision in vast areas of the nation speaks well for the "see and avoid" concept. Adherence to the hemispheric altitude rules of Part 91, and extensive use of advisory radar service are effective aids to the separation of aircraft. However, where effective alternative means of assuring separation can be devised, the FAA believes that the "see and avoid" concept should not be the sole means of assuring safe separation, and that additional proposals should be developed.

Increased Enforcement and Education. Several comments urged that expanded positive control not be used as a substitute for pilot education and improved enforcement of existing regulations. The FAA agrees that an effective enforcement program is fundamental to effective management of the national airspace system and that increased education and enforcement should be stressed. Where existing enforcement procedures can be improved or effective new procedures devised, the enforcement effort will be expanded. Where improved education can increase compliance with regulations, this effort will also be broadened. For example, the comments indicate that certain operators may not be aware that an altitude reporting transponder has long been required for VFR as well as IFR operation in controlled airspace above 12,500 feet MSL. This appears to be an area in which increased education is needed.

Improved Operational Procedures. As a further alternative to expanded ATC restrictions on VFR operations, numerous suggestions were received concerning the procedures that are used by pilots and air traffic controllers. These comments included recommendations that the coordination between controllers be improved, that aircraft be separated by performance, that pilot and controller responsibilities be further clarified, and that radio communication procedures be improved to reduce lack of understanding between pilots and controllers. The FAA believes that continuing review of these alternatives to regulation should proceed along with the increased emphasis on effective regulatory solutions. As stated below, this includes establishment of nonregulatory terminal radar service areas (TRSAs), where justified on a case-by-case basis.

Safety Considerations. Many comments expressed concern that lowering the "floor" of enroute positive controlled airspace would not materially improve safety in the altitudes between 10,000 feet and 18,000 feet MSL. These comments stated that the relatively low traffic density in that stratum, the fact that many VFR aircraft already are receiving enroute radar advisories, and the fact that voluntary participation in these ATC services has been helpful, all raise serious questions regarding the added margin of safety that would result from mandatory CVF requirements at those altitudes.

In addition, a large number of comments were concerned that the lowering of positive controlled airspace, as proposed, may have a negative effect on safety for VFR operations. These persons believed that the ability of VFR pilots to stay above bad weather conditions (which often top in the 10,000-to-12,500-foot level), would be degraded, and that pilots would be forced to operate below the enroute airspace "floor" in poor visibility and with reduced ability to avoid hazardous weather. A high degree of concern was raised regarding the "compression" effect of the lowered "floor" over mountainous areas, particularly in the western and northwestern United States. This "compression effect," it was argued, would increase VFR traffic density below the positive control "floor," force nonparticipating aircraft to remain in dangerous mountain turbulence, and limit the maneuvering options available in the event of an inflight emergency such as engine failure. The potential effect of expanded positive control on human error in the ATC system or in the cockpit was also raised by many persons. These comments stated that, as controller workload rises, the potential for system errors also increases, and that, for relatively unsophisticated pilots operating under CVF, the added cockpit workload could degrade the ability to see and avoid other traffic. Comments questioned the ability of many VFR

pilots to make effective use of CVF services without disproportionate use of controller time. Concerns regarding the reliability of equipment used in VFR operations were also expressed. These comments pointed out that certain equipment performance and reliability standards for IFR operations do not apply to VFR operations. The conclusion in some of these comments was that addition of unknown numbers of VFR aircraft to the controller's responsibility could degrade the services furnished to IFR aircraft.

The FAA believes these concerns require further study to determine whether alternative proposals beyond the scope of those in Notice 78-19 would be effective.

Several commenters stated that there are substantial areas in the United States in which radio and radar coverage is not adequate in some of the altitudes between 10,000 or 12,500 feet MSFL and 18,000 feet MSL, and that the safety of operations in those areas would not be improved by the proposed rules. The FAA is reviewing this objection, and agrees that the burden of complying with CVF requirements, if otherwise justified, should not be extended to areas of impaired radio or radar coverage.

Several commenters recommended amendment of Part 91 to provide that the altitude reporting transponders now required above 12,500 feet MSL must be operated in flight. Contrary to the belief of these commenters, operation of that equipment is now required by § 91.24(b), which provides that the equipment must have an altitude reporting capability "that automatically replies" to ground interrogation. This is made clear by § 91.24(c), which provides for limited ATC authorization to deviate where the transponder is not "operating." This requirement will be emphasized through pilot education.

The En Route Collision Risk

Adequate identification of the enroute collision risk, and of the risk reduction that would result from imposition of CVF rules, is essential to sound regulatory decisions affecting the enroute airspace. Many comments stated that, while there may be a collision risk in the enroute airspace system between 10,000/12,500 feet MSL and 18,000 feet MSL, the FAA figures concerning reported near midair collisions (NMACs) do not demonstrate that this risk would be reduced by expanded positive control. These comments stated that the total enroute count of uncontrolled VFR aircraft is not known precisely, and that, without such a figure, a given NMAC rate does not conclusively show the actual collision risk as related to "real world" exposure. These comments recommended that better information be obtained concerning the density of uncontrolled VFR operations in the enroute altitudes for which expanded positive control is being considered.

The FAA agrees that continued refinement of its collision risk studies is appropriate. However, the FAA believes that the analysis done to date fully justifies the continued search for effective solutions. This withdrawal is based solely on FAA's assessment of the probable effectiveness of the proposals in Notice 78-19, and does not signify a reappraisal of the enroute collision risk since the notice was issued.

Several comments pointed out that the NMAC figures cited in the Notice have received extensive criticism and should be reviewed for accuracy. Before any further action is proposed, this review will be completed, incorporating NMAC information from not only the FAA, but also from the Department of Defense (DOD) and the National Aeronautics and Space Administration (NASA). To date, FAA review of its own information and DOD information has proceeded to the point that FAA is convinced that the collision potential in the affected enroute airspace justifies additional study to develop effective alternative solutions.

Conclusion

Considerable effort was expended by the FAA, and by members of the user community, on elements of the proposals contained in Notice 78-19 long before that Notice was issued. Substantial resources were also devoted to finalizing the proposals. The volume and quality of the public response has demonstrated the complexity of the task of further reducing the potential for midair collisions in the enroute airspace system. The response to Notice 78-19 also shows that the efforts which the Department of Transportation in general and the FAA in particular have devoted to the formulation of an effective rule-making process were well spent. The FAA will initiate further action to reduce the risk of collision in the enroute environment. Because of the process Notice 78-19 has gone through, this reduction will come about in a more effective manner. Following review of public comments and analysis of other data and information, the FAA has concluded that the proposals in Notice 78-19 may not be the best means of reducing the collision risk in the enroute environment. As a result, an expanded effort to seek more effective ways of reducing the collision risk is justified.

The task of continued analysis of the remaining enroute collision risk, and of developing effective means of reducing that risk, remains a high priority of the FAA. Withdrawal of Notice 78-19 reflects the need to continue to move forward in the search for appropriate solutions, and does not lessen the commitment to the search itself.

Emphasis On Terminal Airspace. Withdrawal of the package of enroute CVF proposals necessarily raises the question of how to best improve the safety of air carrier and other operations between the busy terminal environments and the high altitude enroute environment. Based on the comments discussed above, and on extensive public participation at 41 informal airspace meetings that were held across the country since the issuance of Notice 78-19, the FAA intends to continue to address the problem of terminal airspace safety by intensive study of each terminal area with direct public involvement. Where the studies indicate that a specific airspace configuration will improve the safety of terminal operations, an action to issue or revise a terminal control area will be proposed for public comment.

The FAA is accordingly continuing its emphasis on development of regulatory and nonregulatory (procedural) means of assuring the safe arrival and departure of aircraft in individual terminals. This includes the establishment of TRSAs where justified at specific locations. This reflects the fact that 69% of the total NMACs reported anywhere in the system between July 1, 1976, and November 30, 1978, occurred in terminal airspace.

The Role of Cost Considerations. Comments supporting Notice 78-19 in its entirety were received. One such comment strongly urged that the safety objectives in the Notice not be compromised by cost considerations. As stated below, cost is not the deciding factor in this withdrawal. Extensive review of docketed information indicates that, while the terminal airspace objectives referred to in the Notice should be pursued, the enroute CVF proposals may not be the best solution to reducing the enroute collision risk, and that withdrawal is consistent with the development of more effective measures. While cost factors were important considerations in assessing the reasonableness of the proposals, and will be considered in any future regulatory proposals affecting the airspace system, this decision to withdraw is not based on cost considerations, but rather reflects FAA's

intent to develop the most effective means of reducing the enroute collision risk.

The Withdrawal

In consideration of the foregoing, Notice 78–19 as published in the Federal Register (44 FR 1322) on January 4, 1979, is hereby withdrawn.

(Secs. 305, 306, 307, 313(a), 601, and 1110, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1346, 1347, 1348, 1354(a), 1421 and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. §1655)(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for the proposed regulations is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT . . ."

Issued in Washington, D.C., on September 7, 1979.

Langhorne Bond,

Administrator.

[FR Doc. 79-28412 Filed 9-10-79; 3:39 pm]

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federal register

Thursday
September 13, 1979

Part VI

Department of the Interior

Fish and Wildlife Service

Plymouth Red-Bellied Turtle; Reproposal of Critical Habitat

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for the Plymouth Red-Bellied Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for the Plymouth red-bellied turtle.

SUMMARY: The Service reproposes Critical Habitat for the Plymouth red-bellied turtle (*Chrysemys rubriventris bangsi*). Endangered status and Critical Habitat were originally proposed for this species on May 19, 1978 (43 FR 21702–21705). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (44 FR 12382–84) because of the procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. This proposed rule comports with these requirements.

DATES: Comments on this proposed rule must be submitted by November 16, 1979.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U. S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500 1000 North Glebe Road, Arlington, Virginia 22201. Public meetings/hearings will be held at the locations set out in the table below.

FOR FURTHER INFORMATION CONTACT: For further information on the original proposal, as well as on this supplement, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/234–2771).

SUPPLEMENTARY INFORMATION:

Background

The Plymouth red-bellied turtle was proposed as Endangered with Critical Habitat on may 19, 1978. Before final action could be taken on the proposal, however, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The present rulemaking will bring the Critical Habitat proposal into conformity with the Amendments.

The known range of the Plymouth red-bellied turtle (*Chrysemys rubriventris bangsi*) consists of 11 ponds and adjacent land in Plymouth Township, Plymouth County, and ponds on Naushon Island, Dukes County, Massachusetts.

Various estimates, ranging from less than 100 to 200, have been made of the total population of this turtle in Plymouth County, but there are insufficient data to support these estimates. Quantitative data are limited to that developed by Dr. Terry Graham in his 1969 mark-release-recapture studies. He captured a total of 35 *C. r. bangsi* in Gunner's Exchange, Hoyts, Crooked, and Island ponds, Plymouth County. The last sighting of the red-bellied turtle on Naushon Island was reported by Dr. James D. Lazell Jr. in 1971. Since that time, the continued existence of this species there has not been verified.

The Plymouth population survives at low population levels in Billington Sea, Boot Pond, Crooked Pond, Duck Pond, Gunners Exchange Pond, Hallfield Pond, Hoyts Pond, Negro Pond, Turtle Pond, Island Pond, and a named pond 0.1 kilometers northwest of Island Pond. The total area of all eleven ponds is approximately 410 acres. However, because the Plymouth red-bellied turtle wanders extensively over land and lays its eggs on land, herpetologists familiar with this turtle have concluded that a larger area is essential to its conservation.

Knowledge of the historical range of *C. r. bangsi* is limited. There is evidence that the range once extended at least 50 miles farther north to the Ipswich River in Essex County, and south to Martha's Vineyard, Massachusetts. This evidence consists of skeletal remains of the red-bellied turtle found in Indian shell heaps at Ipswich and Vineyard haven, Massachusetts. Based on this evidence, it has been concluded that the red-belly was widespread in eastern Massachusetts from more than 4,000 years ago until at least 1,000 years ago.

Summary of Factors Affecting the Species

Foremost among the reasons for the turtle's endangered status is its very limited range. Ten of the eleven ponds known to support the turtle are within one 1500-acre area and the eleventh pond (Billington Sea) is already surrounded by a great deal of residential development. The entire Plymouth County area and particularly the land adjacent to the county's many scenic ponds is increasingly being developed for housing. As a result, a major threat to this species is the modification of ponds and associated wetlands on which it depends. Some areas may also be adversely affected by road widening projects.

Although residential development will not directly eliminate the turtle from the ponds, the best scientific evidence indicates that it will decrease the turtle's reproductive success and the survival of its young as a result of:

(1) Increased disturbance to nesting areas adjacent to the ponds by humans and their pets,

(2) Increased collection and harassment of turtles by youngsters in the area,

(3) Manipulation of terrestrial and aquatic vegetation used as food by the turtle,

(4) Increased siltation and other water quality problems which may affect the aquatic flora and fauna which comprise the turtle's food supply. Because ground water, which supplies the water in these ponds, moves freely through the sandy soils, polution at a considerable distance from the essential habitat ponds could impact the turtle's habitat.

(5) Shoreline modification, filling, and dredging for beaches, dikes, real estate, etc.

Furthermore, Dr. James D. Lazell, Jr. has indicated that the Plymouth red-belly's conservation depends on the amount of time it can spend basking in the sun. Intensive human activity around the ponds will tend to keep this cautious turtle underwater which may lead to serious metabolic deficiencies, weight loss, and eventual death.

Summary of Previous Comments

A total of seven comments were received in response to the proposal of May 19, 1978 (43 FR 21702–21705) to list this species as Endangered and designate its Critical Habitat. All responded favorably to the proposed status and designation of Critical Habitat. One of those who commented, Dr. James Lazell, Jr., recommended enlarging the Critical Habitat to:

All lands within the Town of Plymouth, Plymouth County, Massachusetts, within the boundaries

formed by State Route 3 on the Northeast, Long Pond Road on the East, Miles Standish State Forest and Plymouth State Reservation on the South, Furnace Road on the West, and Summer Street on the Northwest, back to the intersection of Summer Street and Route 3.

Michael Dukakis, Governor of Massachusetts at the time, noted that Plymouth red-bellied turtles are known from Upper West Pond and Micajah Pond, although these records are very old. The turtle is also known from several ponds on Naushon Island, but as the former Governor noted, this island is already protected through restricted access by its owner. He further questioned limiting the Critical Habitat designation solely to ponds while leaving out adjacent land areas. The Service has carefully considered these comments and agrees that the Critical Habitat designation should be expanded beyond the lake areas proposed in the May 19, 1978 rulemaking. The Service believes that, based on the best scientific and commercial data available, the additional land areas proposed by this rulemaking are essential for the Conservation of this species because of their value for nesting, basking and overwintering.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain ponds and adjacent land areas within the geographical area occupied by the species under consideration should be designated as Critical Habitat.

This species has an extremely limited range and is highly susceptible to changes in its habitat. Since physical or chemical changes in the waters occupied by this species as well as alteration of basking, nesting and overwintering sites may result in extinction, designation of Critical Habitat is essential for this turtle's conservation. The physical and biological features of this habitat are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are insignificant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the Plymouth red-bellied turtle.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such agency (hereinafter in this section referred to as an 'agency action') does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section."

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the Plymouth red-bellied turtle, but also to insure that their actions do not result in the destruction or adverse modification of this critical habitat which has been determined by the Secretary to be critical.

Section 4(f)(c) of the Act requires, to the maximum extent practicable that any proposal to determine critical habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species.

1. With regard to the Plymouth red-bellied turtle, a major threat to the continued existence of this species is the adverse modification of the water quality and levels of the ponds on which it depends. Any significant alteration of the water levels, as by groundwater pumping, or reduction in water quality which would reduce or eliminate vegetation and aquatic prey items of this turtle could adversely modify Critical Habitat since aquatic vegetation serves as both food and shelter to the turtle. Siltation resulting from land clearing adjacent to ponds or pollution of the groundwater could eliminate vegetation and aquatic invertebrates.

2. Because this species uses wetlands adjacent to the ponds, the draining of wetlands within the Critical Habitat could adversely affect the species.

3. Shoreline modification, filling, and dredging for beaches, dikes, real estate development or similar types of activity could be considered to adversely affect Critical Habitat since they could affect water quality, levels of shoreline, and nesting and overwintering sites for the species.

Public Meetings/Hearings

The Service hereby announces that a public meeting/hearing will be held on this proposed rule. The public is invited to attent this meeting/hearing and to present opinions and information on the

proposal. Specific information relating to the public meeting is set out below:

Place, Date, Time and Subject

1. Hearing Room, Plymouth Town Office Building, October 17, 1979, 10–12 a.m., 1–3 p.m. Plymouth red-bellied turtle.

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Plymouth red-bellied turtle. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

(1) Biological and other relevant data concerning any threat (or lack thereof) to this species;

(2) Additional information concerning the range and distribution of the species;

(3) Current or planned activities in the subject areas;

(4) The probable impacts of such activities if the area is designated as critical habitat; and

(5) The foreseeable economic and other impacts of the critical habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether this determination 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.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

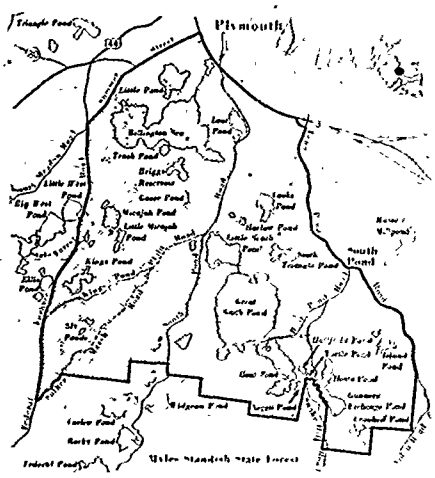
Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.95 [Amended]

1. It is proposed that § 17.95(c), Reptiles, be amended by adding Critical Habitat of the Plymouth red-bellied turtle after that of the leatherback sea turtle as follows:



Plymouth Red-Bellied Turtle

(Chrysemys rubriventris bangsi)

All lands within the boundaries formed by State Route 3 on the Northeast, Long Pond Road on the East, Miles Standish State Forest and Plymouth State Reservation on the South, Furnace Road on the West, and Summer Street on the Northwest, back to the intersection of Summer Street and Route 3.

Dated: August 30, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-28462 Filed 9-12-79; 8:45 am]

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federal register

Thursday
September 13, 1979

Part VII

Securities and Exchange Commission

Corporate Electoral Process and Corporate Governance Generally; Shareholder Communications and Participation

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 241 and 271

[Release Nos. 34-16163, IC-10860; File No. S7-799]

Shareholder Communications, Shareholder Participation in the Corporate Electoral Process and Corporate Governance Generally

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation of rules and request for comments.

SUMMARY: The Commission has authorized the Division of Corporation Finance to issue its interpretive views regarding recently adopted proxy statement disclosure requirements relating to certain business and personal affiliations of directors. Some of the more frequently raised questions regarding these disclosures are set forth together with the Division's interpretive responses. The Commission is also requesting comments on the operation and efficacy of these requirements as well as certain other disclosure requirements relating to the structure, functioning and composition of boards of directors.

DATE: Comments should be received by the Commission on or before November 30, 1979.

ADDRESSES: All comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-799. All comments received will be available for public inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Registrants with specific questions should contact the staff members directly responsible for reviewing the documents they file with the Commission. General questions may be directed to Richard B. Nesson, G. Michael Stakias or Gregory H. Mathews, Division of Corporation Finance, (202) 272-2589, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission hereby issues Securities Exchange Act Release No. 34-16163 (IC-10860), to be added to Parts 241 and 271 of Title 17, Chapter II of the Code of Federal Regulations as given below.

Disclosure of Director and Nominee Information

In December 1978, the Commission issued a release, Securities Exchange Act Release No. 15384 (December 6, 1978), 43 FR 241 (December 14, 1978), which announced the adoption of rule, form and schedule amendments intended to provide shareholders with information to assist their assessment of the structure, composition and functioning of issuers' boards of directors. Since the publication of that release, the staff has received many requests for interpretation of the disclosure provisions set forth in item 6(b) of Schedule 14A, which require a brief description of any of certain significant business and personal relationships between directors and the issuer. In view of the volume of such requests this release is published to provide current information on the interpretations of those provisions by the Commission's Division of Corporation Finance (the "Division").

Set forth below is a series of interpretations in question and answer form. The questions included represent some of those more frequently brought to the attention of the staff by registrants, their counsel and other interested persons. Experience in administering the rules and observing their operation has led to some modification of interpretations previously expressed by the staff orally or in writing. The interpretations herein are deemed controlling at this time.

The following subjects are covered:

	Question
I. General Interpretations of Item 6(b)(3)	1-7
II. Description of Item 6(b)(3) Relationships	8-10
III. Format for Presentation of Item 6(b) Information	11
IV. Description of Item 6(b)(4) Relationships	12
V. Relationship of Item 6(b) of Schedule 14A and Item 4(f) of Regulation S-K	13-14

I. General Interpretations of Item 6(b)(3)

Items 6(b)(3)(i)-(v) of Schedule 14A require that the issuer describe any relationship to the issuer which exists by virtue of the fact that a nominee or director is, or has within the last two full fiscal years been, an officer, director or employee of, or owns, or has within the last two full fiscal years owned, directly or indirectly, in excess of 1 percent equity interest in any firm, corporation or other business or professional entity:

(i) Which has made payments to the issuer or its subsidiaries for property or services during the issuer's last full fiscal year in excess of 1 percent of the issuer's consolidated gross revenues for its last full fiscal year;

(ii) Which proposes to make payments to the issuer or its subsidiaries for property or services during the current fiscal year in excess of 1 percent of the issuer's consolidated gross revenues for its last full fiscal year;

(iii) To which the issuer or its subsidiaries was indebted at any time during the issuer's current fiscal year in an aggregate amount in excess of 1 percent of the issuer's total consolidated assets at the end of such fiscal year, or $5,000,000, whichever is less;

(iv) To which the issuer or its subsidiaries has made payments for property or services during such entity's last fiscal year in excess of 1 percent of such entity's gross revenues for its last full fiscal year; or

(v) To which the issuer or its subsidiaries proposes to make payments for property or services during such entity's current fiscal year in excess of 1 percent of such entity's consolidated gross revenues for its last full fiscal year.

1. *Question:* Is a non-profit organization to be considered a "firm, corporation or other business or professional entity" for purposes of item 6(b)(3)?

Interpretive Response: Relationships disclosable under item 6(b)(3) include relationships of a nominee to a non-profit organization. For example, an officer of a non-profit organization providing health services may serve on the board of the issuer, a pharmaceutical corporation. If the non-profit organization has made payments for property or services in excess of 1% of the issuer's consolidated gross revenues, disclosure of the director's relationship to that organization would be required.

2. *Question:* Should a bank holding company issuer consider funds deposited in a subsidiary bank as part of its aggregate indebtedness outstanding in determining the application of item 6(b)(3)(iii)?

Interpretive Response: Contrary to an earlier interpretive response issued by the Division,[1] a bank holding company issuer need not consider funds deposited in a subsidiary bank as part of its aggregate indebtedness outstanding.

3. *Question:* Will trade indebtedness owing by an issuer or its subsidiaries to another entity be treated as indebtedness outstanding in determining the application of item 6(b)(3)(iii)?

Interpretive Response: No. An issuer need not consider trade indebtedness as part of its aggregate indebtedness outstanding. Payments made or proposed to be made for property or

[1] See the Division's interpretive letter to Donald L. Rogers, (Association of Bank Holding Companies), available February 1, 1979.

services by the issuer to another entity, if in excess of one percent of the issuer's gross revenues, would in any event be disclosable pursuant to items 6(b)(3) (iv) or (v).

4. *Question:* Is it acceptable for purposes of determining an issuer's outstanding indebtedness as required by Item 6(b)(3)(iii) to calculate such indebtedness as of the issuer's fiscal year end?

Interpretive Response: Yes. The Division will accept disclosure based on the outstanding indebtedness at the fiscal year end.

5. *Question.* Should a bank holding company issuer consider principal payments, in addition to service fees and interest, as payments for property and services?

Interpretive Response: No. Repayments of principal do not constitute payments for property or services for purposes of item 6(b)(3).

6. *Question:* Is a payment by the financial institution-issuer to a manufacturer or vendor of property to be leased to a third party in a direct lease financing transaction a payment by the issuer for "property or services" for purposes of item 6 (b) (iv) or (v)?

Interpretive Response: Financial institutions engage in direct lease financings which are, in substance, the financing of an asset at the request of the lessee-customer. In such direct lease financing transactions, the issuer purchases the asset desired by its customer and leases that asset on a long-term basis to the customer. Under the regulations of the Comptroller of the Currency and of the Federal Reserve Board governing direct lease financing by national banks and by bank holding companies, the property can only be purchased upon the specific request of the customer. The manufacturer or vendor from whom the issuer purchases the asset, generally, is selected by the lessee-customer. Under the terms of the lease in these financing transactions, substantially all of the benefits and risks incident to the ownership of the asset are transferred to the lessee-customer. The puchase and lease by the issuer of the asset is a means to finance the acquisition of that asset for the lessee-customer, and the economic effect on the parties to such a lease transaction is similar, in many respects, to that of any installment purchase. Therefore it is the Division's view that a payment by the issuer to a manufacturer or vendor of property to be leased in a direct lease financing transaction is not a payment for property or services within the meaning of items 6(b)(3) (iv) and (v), where the choice of the manufacturer or vendor is dictated solely by the lessee-customer.

7. *Question:* Under what circumstances is a payment by an advertising agency considered a payment by the issuer for property or services?

Interpretive Response: Under certain circumstances, an issuer may direct its advertising agency to place an advertisement with a particular entity. In these cases such payments would be considered to be payments by the issuer to the selected entity for property or services.

II. Description of Item 6(b)(3) Relationships

8. *Question:* What type of information is required to be disclosed in response to the requirement contained in item 6(b) to "describe any of the following relationships which exist"?

Interpretive Response: The requirement is intended to elicit the following information concerning the relationships referred to in item 6(b)(3):

(a) the identity of the entity with which the issuer has a commercial relationship;

(b) the nature of the nominee's affiliation with that entity;

(c) the relationship between that entity and the issuer; and

(d) the magnitude of the business done between the issuer and the entity.

9. *Question:* How should the magnitude of the business relationship between the issuer and the other entity be shown?

Interpretive Response: The magnitude of the business relationship should be stated in terms of the actual percentage of applicable revenues or assets, or in a dollar amount.

10. *Question:* Where an issuer discloses the magnitude of a business relationship in terms of a percentage, and the actual percentage of revenues or assets is not readily ascertainable, is it permissible to disclose a range of percentages?

Interpretive Response: The Division has not objected to a three percent range in an issuer's description of the magnitude of the relationship with another entity.

III. Format for Presentation of Item 6(b) Information

11. *Question:* Where in the proxy statement is the most appropriate place to disclose item 6(b) information?

Interpretive Response: When disclosure of a particular relationship between the issuer and a nominee or director is required, such disclosure should be made in, or in close proximity to, the table normally used to present other information about nominees and directors.

IV. Description of Item 6(b)(4) Relationships

Item 6(b)(4) requires disclosure of any relationship where "the nominee is a member or employee of, or associated with, a law firm which the issuer has retained in the last two full fiscal years or proposes to retain in the current fiscal year."

12. *Question:* Is this relationship, like relationships referred to in item 6(b)(3), required to be described only if the magnitude of business between the issuer and the law firm exceeds a specified percentage of revenues or a specified dollar amount?

Interpretive Response: No. The nominee's employment by, or association with, a law firm retained by the issuer is disclosable regardless of the amount of fees paid by the issuer. Disclosure of the magnitude of the relationship between the issuer and the law firm should be stated as the dollar amount of total payments made by the issuer to the firm.

V. Relationship of Item 6(b) of Schedule 14A and Item 4(f) of Regulation S-K

As indicated above, item 6(b) requires that the issuer describe certain economic relationships between board nominees and the issuer. Item 4(f) of Regulation S-K is designed to require disclosure of certain transactions between the issuer and its officers and directors. Certain information may be required to be disclosed pursuant to both items.

13. *Question:* Where the same information is required to be disclosed in response to item 6(b) of Schedule 14A and item 4(f) of Regulation S-K, must the information be disclosed more than once?

Interpretive Response: No. Disclosure of this information should be made in, or in close proximity to, the table normally used to present information about nominees and directors. A cross reference to this information should be made in that section of the proxy statement, customarily entitled "Certain Transactions," containing other information responsive to item 4(f).

14. *Question:* If, on the other hand, information relating to certain transactions is not required to be disclosed pursuant to item 4(f) of Regulation S-K because the transaction involves payments which do not exceed $40,000, should such information be disclosed under item 6(b), if applicable?

Interpretive Response: Yes. Information required to be disclosed under item 6(b) is not subject to the

$40,000 exclusion provided for in the instructions to item 4(f).

Request for Written Comments on the Operation and Efficacy of Certain Recently Adopted Disclosure Requirements

As indicated above, item 6(b) was adopted as part of a series of amendments to the disclosure provisions of the proxy rules in order to provide shareholders with information to assist their evaluation of the structure, composition and functioning of issuers' boards of directors.[2] Item 6(d) requires disclosure of information concerning the existence, composition and functions performed by audit, compensation and nominating committees of the board. Items 6(e) and 6(f) require disclosure of director attendance at board and committee meetings and director resignations, under certain circumstances. At the time these rules were adopted, the Commission's staff was directed to monitor carefully the disclosures made in order to determine whether amendments would be appropriate. The Commission continues to seek information from interested persons and, therefore, is requesting written comments concerning the operation and efficacy of these new disclosure requirements. Commentators are requested to supply empirical data to the extent possible in support of their comments, and to suggest any appropriate modifications to the rules. Commentators are specifically requested to address the following issues:

(a) Does the information elicited by item 6(b) provide a basis for a realistic assessment of the nominee's ability to render independent judgment?

(b) If not, are additional disclosure requirements appropriate?

(c) Should the disclosure thresholds relating to the specified percentages of equity ownership, revenues and assets be modified?

(d) The relationship of a non-officer director of the issuer with another corporation doing business with the issuer may be disclosable where his interest in that corporation arises solely from his service on its board of directors. Should item 6(b) require disclosure of such relationships?

(e) Should the disclosure threshold contained in item 6(b)(3)(iii) relating to the specified dollar amount of outstanding indebtedness be modified?

The Commission will endeavor to review the comments and take such actions as may appear necessary to propose and adopt amendments, if any, in time for compliance by issuers in the 1981 proxy season.

All interested persons are invited to submit their views and comments on the foregoing proposals in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 30, 1979. Such communications should refer to File S7-799 and will be available for public inspection.

By the Commission.

George A. Fitzsimmons

Secretary.

September 6, 1979.

[FR Doc. 79-28549 Filed 9-12-79; 8:5 am]

BILLING CODE 8010-01-M

[2] See Securities Exchange Act Release No. 15384 (December 6, 1978), 43 FR 58522 (December 14, 1978).

federal register

Thursday
September 13, 1979

Part VIII

Securities and Exchange Commission

Timely Reporting; Proposed Amendment of Rule and Form and Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240 and 249]

[Release No. 34-16162]

Timely Reporting—Proposed Amendment of Rule and Form and Proposed New Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes the amendment of Rule 12b-25 and its related form which would eliminate the extension of time to furnish information procedure and, in lieu thereof, institute a system requiring notification of a registrant's or a reporting person's inability to timely file reports or portions thereof with the Commission. Concurrently with this proposal, the Commission proposes for comment a new Rule 12b-26 which would require that an issuer identify on the cover page of periodic reports any required material omitted from such a report.

DATES: Comments should be submitted on or before November 9, 1979.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-798. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Bruce Mendelsohn (202) 272-2589, Division of Corporation Finance, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today proposed an amendment to Rule 12b-25 and its related form. In lieu of the present extension procedure in Rule 12b-25, the Commission proposed for comment a new procedure which would require notification when an issuer or reporting person is unable to file on a timely basis any report or portion thereof required by Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)]. A new Rule 12b-26 which would require prominent disclosure on the cover pages of periodic reports if a required portion of such a report is omitted is also proposed for public comment.

Elimination of the Extension of Time To Furnish Information Procedures [1]

Presently, Rule 12b-25 sets forth the circumstances under which a registrant may apply for an extension of time to furnish information to the Commission required by Section 13 or 15(d) under the Exchange Act. Present Form 12b-25, upon which the application is made, contains specific questions designed to aid the registrant in applying for an extension of time. Under this rule, the application is deemed granted unless denied by the Commission within 15 days after receipt. In practice, the Division of Corporation Finance, by delegated authority, has granted such extensions only in the most compelling and unexpected of circumstances and only where an issuer has demonstrated that the granting of the request is appropriate in the public interest and consistent with the protection of investors.

The Commission is inclined to believe that the purposes of the Exchange Act "to insure the maintenance of fair and honest markets in securities transactions * * *" [2] may be better served without an extension procedure. In this regard, it may not be in the public interest to excuse non-timely reporting through the application process embodied in Rule 12B-25. It is the Commission's position that required reports should always be filed when due.

Moreover, it would appear that an extension fo time to file confers little, if any, substantive benefit upon the requesting party. In this regard, the Commission questions whether the present procedure is any longer warranted. Indeed, the elimination of the extension procedure would result in the most limited consequences to registrants and investors. Furthermore, an inordinate amount of staff time is being sent processing these applications.

By eliminating the review requirement for extension of time requests, the Commission would anticipate being able to place increased emphasis on the review of all Exchange Act filings. In the manner, the Commission will attempt to implement one of the recommendations of the Advisory Committee on Corporate Disclosure which noted that a substantive review of periodic reports consistent with the quality of information sought in registration statements is essential to the end product of a high quality disclosure document.[3]

Although the proposed amendment makes a change from present practice which may be perceived as being less advantageous to registrants, the Commission believes that the limited benefits from the extension procedure are outweighed by the obstacles it may cause to informed markets and by the burden imposed on the Commission.

Proposed Notification Procedure

Concurrent with the elimination of the extension procedure embodied in Rule 12b-25, the Commission proposes the adoption of a new notification procedure under the Rule. The new procedure would require that, no later than one business day after the end of the specified period when the report is due, the registrant or reporting person file with the Commission a notification on the proposed revised Form 12b-25 which identifies the report or portion thereof in question and gives reasons why the filing cannot be made on time. The proposed amended rule relates to reports required to be filed pursuant to Section 13 or 15(d) of the Exchange Act.[4] The Commission notes that the proposed system would only require a notification and thus would not necessitate any responsive staff action.

It should be emphasized that the proposed notification procedure will provide issuers with a public forum in which to address the facts and circumstances relevant to their particular situations.

Effects of the Proposals

It should be emphasized that the proposals, it adopted, would eliminate extensions for the filing of required reports.[5] Moreover, the proposed notification procedure should be taken as neither an invitation for non-timely reporting nor an acquiescence of the Commission to any non-timely filing.

Failure by public companies to observe the periodic reporting requirements presents an obstacle to the maintenance of fair and informed training markets in the securities of publicly-held companies. The applicability of various rules and the availability of certain disclosure forms under the Securities Act of 1933 is predicated upon full compliance with

[1] The Commission is proposing that an extension of time to file procedure be retained for audited financial statements required by Items 2 and 7 of Form 8-K for certain acquired businesses. See the proposed revised Instruction 4 to Item 7(a) of Form 10-K, *infra*.

[2] Section 2 of the Securities Exchange Act of 1934, 15 U.S.C. 78b.

[3] Report of the Advisory Committee on Corporate Disclosure, Chapter XIV, Page 427 (1977).

[4] E.g., Forms 8-K, 10-Q, 10-K, and 13F and Schedules 13D and 13G.

[5] However, as stated in note 1, *supra*, the retention of an extension procedure for certain financial statements required by Form 8-K is being proposed.

the periodic reporting requirements. For example, the use of Form S-7 or S-16 for registration of certain public offerings of securities depends in part upon a company having filed *timely* reports pursuant to Section 13 or 15(d) of the Exchange Act for a least the twelve calendar months preceding the filing of the registration statement. Section 15c2-11 under the Exchange Act requires a dealer to have certain information concerning an issuer before its securities may be quoted by that dealer. Rule 144 under the 1933 Act requires the filing of all Exchange Act reports required to be filed for the 12 months immediately preceding a sale. Indeed, with respect to Rule 144, an effect of the filing of the notification form pursuant to the proposed amended Rule 12b-25 may be to give notice that compliance with Rule 144(c)(1) would not be possible until the subject report is filed (assuming all other required reports had been filed).[6]

The Commission would also like to point out that failure to file a timely notification form pursuant to the proposed rule would create an additional violation of the reporting requirements.

Proposed Rule 12b-26

The Commission is also proposing for comment a new Rule 12b-26 which would require registrants to prominently disclose on the cover pages of periodic reports filed pursuant to Section 13 or 15(d) any required portion omitted from those reports. It is believed that this requirement will assist the investing public and the Commission in the review of Exchange Act reports.

Specific Inquiries

The Commission solicits comment as to whether amended Rule 12b-25 should provide an automatic extension of the applicable filing requirement upon the filing of a revised Form 12b-25 and, if so what period would be appropriate for the automatic extension.

The Commission also solicits comment as to whether the amendment of Rule 12b-25 and its related form and the concurrent adoption of the proposed Rule 12b-26 would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

[6]However, it should be noted that the proposed amended rule is not meant to create an affirmative obligation to search the Commission's files to ascertain whether a notification was filed.

Text of Proposed New and Amended Rules and Form

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

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

1. By revising § 240.12b-25 to read as follows:

240.12b-25 Notification of inability to timely file periodic reports.

(a) If any report or portion thereof required by sections 13 or 15(d) of the Securities Exchange Act of 1934 is not filef within the time period prescribed for filing, the registrant or reporting person, no later than one business day after the due date for such report, shall file with the Commission a notification on Form 12b-25 reporting the inability to timely file the report and indicating the reasons therefor. This paragraph also relates to portions of reports omitted pursuant to Rule 12b-21, 17 CFR 240.12b-21.

(b) If a notification filed pursuant to paragraph (a) of this section related to a portion or portions of a periodic report filed pursuant to sections 13(a) or 15(d), the registrant shall include, on the upper right corner of the amendment to the report (required to be filed on Form 8) which includes the previously omitted information, the following statement:

The following items were the subject of a notification on Form 12b-25 and are included herein: *(List Item Numbers)*

Instruction. The statement required by paragraph (b) is intended to facilitate notification to the Commission and the public that previously omitted portions which were the subject of a Form 12b-25 have been filed. If the statement does not appear on the amendment to the periodic report (Form 8), the registrant runs the risk of being perceived as continuing to be late with respect to such material.

(c) The provisions of this section shall not apply to amendment in accordance with Instruction 3(b) of Instructions as to Financial Statements of Form 10-K.

(d) The provisions of this section shall not apply to reports required to be filed by an investment company registered under the Investment Company Act of 1940 [12 U.S.C. 80a et seq.] pursuant to the provisions of that Act or the rules adopted thereunder notwithstanding the fact that such reports are also required to be filed by the Securities Exchange Act of 1934 or the rules adopted thereunder.

Note.—The disclosures required in reports filed with the Commission are essential to the preservation of full, fair and informed securities markets. Therefore, it is of critical importance that such reports be furnished within the time they are required to be filed under the Commission's rules, and nothing in this section should be construed to mean that the Commission has authorized or approved any nontimely reporting.

2. By adding § 240.12b-26 to read as follows:

§ 240.12b-26 Cover page disclosure when a required portion has been omitted from a periodic report filed pursuant to sections 13(a) or 15(d).

If a required portion of a periodic report filed pursuant to sections 13(a) or 15(d) has been omitted for any reason other than that it is inapplicable under the circumstances, the registrant shall prominently indicate the nature of the omitted portion on both the cover page of such periodic report and in that section of the report where the omitted information normally would have appeared.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. By revising Instruction 4 to Item 7(a) of Form 8-K to read as follows:

§ 249.308 Form 8-K, for current reports.

* * * * *

Item 7. Financial Statements and Exhibits.

* * * * *

(a) Financial Statements of business acquired.

Instructions [Instructions 1 through 3 remain unchanged].

4. Filing of Other Financial Information in Certain Cases. The Commission may, upon the written request of the registrant and where consistent with the protection of investors, extend the time for filing the financial statements herein required or permit the omission of one or more of such financial statements or the filing in substitution therefor of appropriate statements of comparable character, if the required audited financial statements are not reasonably available to the registrant, because the obtaining thereof would involve unreasonable effort, expense or practical difficulties. A request for such relief shall be filed as a part of the report. The request, other than a request for an extension of time to file, shall set forth the following information:

* * * * *

4. By revising § 249.322 to read as follows:

§ 249.322 Form 12b-25—Notification of inability to timely file reports or portions thereof pursuant to sections 13 or 15(d) of the Act.

This form shall be filed pursuant to § 240.12b-25 of this chapter by issuers and reporting persons who are unable to timely file periodic reports, or portions thereof required by sections 13 or 15(d) of the Act. The filing shall consist of a signed original and three conformed copies, and shall be filed with the Commission at Washington, D.C. 20549, no later than one business day after the due date for the periodic report in question. Copies of this form may be obtained form the Commission on request.

BILLING CODE 8010-01-M

The text of the proposed form is as follows:

FORM 12b-25

SEC FILE NUMBER _____

CUSIP NUMBER _____

NOTIFICATION OF INABILITY TO TIMELY FILE REPORTS OR PORTIONS THEREOF PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Nothing in this Form shall be construed to imply that the Commission has authorized or approved any non-timely reporting.

/_/ Check here if this is an amended notification.

Read Attached Instruction Sheet Before Preparing Form. Please Print or Type.

PART I

Full Name of Registrant

Address of Principal Executive Office (Street and Number)

City, State and Zip Code

PLEASE PLACE AN X IN APPROPRIATE BOX IF A CHANGE IN NAME OR ADDRESS HAS OCCURRED

Former name, if changed: _____ /_/Name /_/Address

Former address, if changed: _____

Name and telephone number of person to contact in regard to this

_____ (Name) _____ (Area Code) _____ (Telephone Number)

REPORT OR PORTION THEREOF WHICH CAN NOT BE TIMELY FILED

(1) Form: _____ Period Covered: _____ Date Due: _____

(2) If the notification relates to a part of a filing, identify the Item(s) to which the application relates Item(s): /_/ The remaining portion has been filed /_/ The remaining portion will be timely filed

(3) Have all reports required to be filed during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) been filed? If answer is no, identify report(s) /_/Yes /_/No

(4) Is it anticipated that any significant change in results of operations from the corresponding period of the last fiscal year will be reflected by the earnings statements to be included in the subject report or portion thereof? /_/Yes /_/No If so, attach an explanation of the anticipated change, both narratively and quantitatively, and, if appropriate, state the reasons why a reasonable estimate of the results can not be made.

PART II

State below in detail the specific reasons in narrative form as to why the report or portion thereof could not be filed within the time required.

NOTE: Stock or boilerplate phrases such as "the auditors have not completed their review" may not provide meaningful explanation unless accompanied by brief disclosure of the basis for such statements.

_____
(Name of registrant as specified in charter)

has caused this application to be signed on its behalf by the undersigned thereunto duly authorized.

Date_____ By _____

Instruction. The form may be signed by an officer of the registrant, by counsel or by any other duly authorized person. The name and title of the person signing the form shall be typed or printed under the signature.

ATTENTION: Intentional misstatements or omissions of fact constitute Federal Criminal Violations (See 18 U.S.C. 1001).

BILLING CODE 6010-01-C

Securities and Exchange Commission

General Instructions

1. This Form is required by Rule 12b-25 of the General Rules and Regulations under the Securities Exchange Act of 1934, which states:

Rule 12b-25. Notification of Inability to Timely File Periodic Reports.

(a) If any report or portion thereof required by Sections 13 or 15(d) of the Securities Exchange Act of 1934 is not filed within the time period prescribed for filing, the registrant or reporting person, no later than one business day after the due date for such report, shall file with the Commission a notification on Form 12b-25 reporting the inability to timely file the report and indicating the reasons therefor. This paragraph also relates to portions of reports omitted pursuant to Rule 12b-21, 17 CFR 340.12b-21.

(b) If a notification filed pursuant to paragraph (a) related to a portion or portions of a periodic report filed pursuant to Sections 13(a) or 15(d), the registrant shall include, on the upper right corner of the amendment to the report [required to be filed on Form 8] which includes the previously omitted information, the following statement:

"The following items were the subject of a notification on Form 12b-25 and are included herein: *(List Item Numbers)*"

(c) The provisions of this rule shall not apply to those financial statements that are to be filed by amendment in accordance with Instruction 3(b) of Instructions as to Financial Statements of Form 10-K.

(d) The provisions of this rule shall not apply to reports required to be filed by an investment company registered under the Investment Company Act of 1940 [12 U.S.C. 80a et seq.] pursuant to the provisions of that Act or the rules adopted thereunder, notwithstanding the fact that such reports are also required to be filed by the Securities Exchange Act of 1934 or the rules adopted thereunder.

Instruction. The statement required by paragraph (b) is intended to facilitate notification to the Commission and the public that previously omitted portions which were the subject of a Form 12b-25 have been filed. If the statement does not appear on the amendment to the periodic report (Form 8), the registrant runs the risk of being perceived as continuing to be late with respect to such material.

2. One signed original and three conformed copies of this Form and amendments thereto must be completed and filed with the Securities and Exchange Commission, Washington, D.C. 20549, in accordance with Rule 0-3 of the General Rules and Regulations under the Act. The information contained in or filed with the Form will be made a matter of the public record in the Commission files.

3. A manually signed copy of the Form and amendments thereto shall be filed with each national securities exchange on which any class of securities of the registrant is registered.

4. Amendments to the notifications must also be filed on Form 12b-25 but need not restate information that has been correctly furnished. The Form shall be clearly identified as an amended notification.

5. These general instructions are not to be filed with the application. Please detach before mailing the Form.

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570-574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 78m, 78o(d), 78w(a))

The Commission hereby proposes for comment the proposed amendment of Rule 12b-25 and its related form and proposed Rule 12b-26. Rule 12b-26 and the amendments of Rule 12b-25 are proposed pursuant to Sections 13, 15(d) and 23(a) of the Exchange Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 6, 1979.

[FR Doc. 79-28550 Filed 9-12-79; 8:45 am]

BILLING CODE 8010-01-M

federal register

Thursday
September 13, 1979

Part IX

Environmental Protection Agency

Criteria for Classification of Solid Waste Disposal Facilities and Practices; Final, Interim Final, and Proposed Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[Docket No. 4004; FRL 1234-1]

Criteria for Classification of Solid Waste Disposal Facilities and Practices

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation contains minimum criteria for determining what solid waste disposal facilities and practices pose a reasonable probability of adverse effects on health or the environment. Those facilities that violate the criteria are "open dumps" for purposes of the State Solid Waste Management planning effort supported by EPA under Subtitle D of the Resource Conservation and Recovery Act (RCRA or the Act). The criteria also provide the standard to be applied by the Federal district courts in determining whether parties have engaged in acts that violate the prohibition of open dumping, also contained in Subtitle D of RCRA. The criteria also partially fulfill the requirement of Section 405 of the Clean Water Act (CWA) to provide guidelines for the disposal and utilization of wastewater treatment plant sludge. Any owner or operator of a publicly owned treatment works must comply with these criteria when disposing of sludge on the land.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Truett V. DeGeare, Jr., P.E., Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone (202) 755-9120.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is issued under authority of Sections 1008(a)(3) and 4004(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6907(a)(3) and 6944(a), as well as Section 405(d) of the Clean Water Act, as amended, 42 U.S.C. 345.

II. Background

This regulation was published in the Federal Register in proposed form for public review and comment on February 6, 1978. The Agency held five public hearings and eleven public meetings to discuss the proposed regulation and received a substantial number of written comments on the proposal. Having considered the views of the public, the Agency is now promulgating this regulation in final form. This preamble discusses some of the more significant issues raised during the public comment period and revisions made on the basis of those comments.

The objectives of the Act are to promote the protection of health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act sets forth a national program to improve solid waste management, including control of hazardous wastes, resource conservation, resource recovery, and establishment of environmentally sound solid waste disposal practices. This is to be carried out through a cooperative effort among Federal, State, and substate governments and private enterprise.

Subtitle D of the Act fosters this cooperative effort by providing for the development of State and regional solid waste management plans that involve all three levels of government. As the Federal partner in this process, EPA seeks, through regulations and financial assistance, to aid State initiatives in the formulation and implementation of such plans.

Section 4002(b) of the Act requires the Administrator to promulgate Guidelines for the Development and Implementation of State Solid Waste Management Plans. On July 31, 1979, EPA issued those guidelines (44 FR 45066). While those guidelines are to consider a broad range of topics, Section 4003 of the Act identifies the minimum requirements which State plans must address. EPA provides financial assistance to help the States develop and implement their plans. Under Section 4007, EPA reviews and approves State plans which satisfy the minimum requirements of Section 4003.

The State solid waste management plan is the centerpiece of the Subtitle D program. Through the plan the State identifies a general strategy for protecting public health and the environment from adverse effects associated with solid waste disposal, for encouraging resource recovery and resource conservation, for providing adequate disposal capacity in the State, and for dealing with other issues relevant to solid waste management. The plan must also set forth the institutional arrangements that the State will use to implement this strategy. (A more detailed description of the planning program is contained in the Preamble accompanying the Section 4002(b) guidelines.)

A. Section 4004: Disposal Facility Criteria

Under section 4004(a) of the Act the Administrator is to promulgate "regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps * * *" The criteria establish the level of protection necessary to provide that "no reasonable probability of adverse effects on health or the environment" will result from operation of the facility. In setting these criteria EPA is providing a general definition of "sanitary landfill" and "open dump". As part of their planning programs, the States will evaluate existing disposal facilities to determine whether they comply with the Section 4004 criteria. Those facilities which do not satisfy the criteria are "open dumps" under the Act. EPA will, under authority of Section 4005(b), publish a list of open dumps in the Federal Register.

The inventory of "open dumps" will serve two major functions. First, it will inform the Congress and the public about the extent of the problem presented by disposal facilities which do not adequately protect public health and the environment. Second, it will provide an agenda for action by identifying a set of problem facilities, routinely used for disposal, which should be addressed by State solid waste management plans in accordance with Section 4003 of the Act.

Essentially, the inventory is a planning tool which supports the State planning effort. The States must know where the problem facilities are in order to satisfy Section 4003(3) which requires that the plan "provide for the closing or upgrading of all existing open dumps within the States * * *."

B. Section 1008(a)(3): Open Dumping Criteria

Under Section 1008(a)(3) of the Act the Administrator is to publish suggested guidelines that provide minimum criteria "to define those solid waste management practices which constitute the open dumping of solid waste or hazardous waste." Thus, these criteria are to establish a broad definition of the act of open dumping, which is prohibited under Section 4005(c) of the Act.

The prohibition may be enforced in Federal district court through the citizen suit provision in Section 7002. The Act does not give EPA authority to take legal action against parties that may violate the open dumping prohibition. The application of the open dumping criteria to the specific acts of specific

individuals is a matter for the Federal courts to determine in the context of particular cases. Judicial review of specific acts in the context of open dumping suits should not be confused with State planning activities, particularly the evaluation of disposal facilities for the inventory of open dumps. The inclusion of a facility in the list of open dumps is not an administrative determination by EPA that any particular parties are engaging in prohibited acts of open dumping. (The Preamble accompanying the Guidelines for Development and Implementation of State Solid Waste Management Plans (44 FR 45066) provides a more detailed explanation of this issue.)

C. Section 405(d): Sludge Disposal Guidelines

Under Section 405(d) of the Clean Water Act EPA issues guidelines for the disposal and utilization of sludge. Under Section 405(e) of the CWA owners and operators of publicly owned treatment works (POTW's) must dispose of sludges from such works in accordance with those guidelines. Criteria designed to avoid a reasonable probability of adverse effects on health or the environment from disposal of sludge on land are clearly within the scope of this provision of the CWA.

D. Copromulgation of the Criteria

The criteria which EPA promulgates today are designed to fulfill or partially fulfill the requirements of each of the provisions discussed above. While all three provisions embody different implementation schemes, they all are concerned with the adverse effects on health or the environment that may be caused by solid waste disposal activities. Since there is an inherent compatibility of purpose among the three provisions, EPA has decided to structure the criteria so they may be used in all three contexts. EPA believes that co-promulgation of regulations, where possible, improves the quality of its regulatory efforts by eliminating the potential for inconsistencies among similar regulations and by providing a clear statement to the regulated community of the standards to which they will be held.

As an example of the compatibility between provisions, the facility classification criteria for purposes of the State planning program can, and probably should, be concerned with the same set of environmental effects as the criteria defining the prohibited act of open dumping. Regardless of whether one is evaluating facilities to aid in the establishment of setting state planning priorities or examining the acts of specific individuals to determine legal liability for open dumping, the same set of environmental effects should be of concern. At the same time, having a single set of criteria for defining unacceptable environmental effects does not undermine the use of that definition for different purposes.

It should be pointed out that these criteria are not necessarily the only guidelines to be promulgated under Section 405(d) of the CWA. These criteria apply where the owners and operators of POTW engage in the placement of sludge on the land. Future EPA guidelines on sludge disposal and utilization may address incineration, energy recovery, and give-away or sale of processed sludge.

III. General Approach

This regulation sets forth eight criteria that address broad classes of health and environmental effects that may be caused by solid waste disposal activities. The criteria are structured to define unacceptable impacts, those that present a "reasonable probability of adverse effects on health or the environment." In terms of the three statutory provisions authorizing this regulation, the criteria define an open dump (RCRA Section 4004), the minimum elements of prohibited open dumping practices (RCRA Section 1008(a)(3)) and the effects which must be avoided by POTW owners and operators (CWA Section 405).

EPA recognizes that these criteria will be applied to a variety of situations and that there is a need for flexibility in the standards to allow them to be applied to particular circumstances. During the comment period some reviewers expressed preference for greater specificity in the criteria, including more detailed design and operating requirements. Others favored greater flexibility and opportunity for consideration of local, site-specific conditions.

In developing the final criteria the Agency attempted to be as specific as possible without reducing the opportunity for State and local solid waste management and enforcement agencies to take into account the site-by-site variations and make assessments based on local conditions. Wherever possible EPA tried to set specific performance standards that define unacceptable environmental effects. Such an approach should provide a concise and measurable means of determining compliance with the criteria. However, in some situations it was not possible to devise a meaningful performance standard for the environmental effect of concern, given the lack of experience with such an approach to regulation of solid waste.

Where specific performance standards were not possible, EPA specified an operational technique to achieve the desired level of protection. When that approach was necessary the criteria maintain regulatory flexibility by allowing for the use of alternative techniques that achieve the same general performance level. Parties claiming that alternative approaches provide protection equivalent to that of methods described in the criteria have the burden of establishing that fact.

In addition EPA wishes to emphasize that the standards established in the criteria constitute minimum requirements. These criteria do not pre-empt other State and Federal requirements. Nothing in the Act or the CWA precludes the imposition of additional obligations under authority of other laws on parties engaged in solid waste disposal.

Various commenters criticized EPA's general approach as being either too restrictive or too lenient. Some argued that implementation of the criteria would substantially reduce needed disposal capacity. The Agency recognizes that one of the most critical problems in the solid waste management field today is the lack of acceptable disposal facilities due, in part, to public opposition to their siting. However, this particular rulemaking cannot deal directly with this problem.

The Agency is committed to evaluating other means by which it can help with the problem. Adequate disposal capacity is essential nationwide. Hopefully, implementation of the criteria will increase the credibility of disposal operations, thereby aiding in reducing public opposition to acceptable and needed facilities.

Some commenters felt that the criteria should be written very stringently in order to provide an incentive for initiation of resource recovery and conservation practices. Other commenters observed that, even with increased levels of resource recovery and conservation, disposal facilities would continue to be required into the foreseeable future; even resource recovery facilities produce a residue which requires disposal. The Agency believes that resource recovery and conservation are desirable solid waste management approaches which should be actively pursued. However, the purpose of the criteria is to define disposal activities which pose no reasonable probability of adverse effects on health or the environment,

and the criteria have been developed with that goal in mind. While the implementation of these criteria may make resource conservation and recovery more economically competitive, these regulations have not been formulated simply to advance that cause. Such an approach is not authorized by the Act.

EPA also received comments attacking the Agency's use of standards, definitions and approaches developed under other Federal environmental and public health programs. They claimed that incorporating these items into the criteria extends those other programs beyond their statutory authority. While the use of particular Federal standards will be discussed later in this Preamble in the context of each criterion, a general point should be made about the use of approaches developed or employed in other programs. The Act requires that the criteria address adverse health and environmental effects of solid waste disposal, whatever those might be. The use of other Federal Standards in responding to this broad mandate is, in fact, quite desirable in order to minimize duplicative, overlapping and conflicting policies and programs. Unless it can be shown that other Federal standards and approaches are clearly inconsistent with the Act's objectives, it is within the Agency's discretion to use them, where applicable, in writing RCRA regulations.

IV. The Criteria

A. Scope

These criteria apply to the full range of facilities and practices for "disposal" of "solid waste", as those terms are defined in Section 1004 of the Act. Various commenters suggested the exclusion or inclusion of specific types of solid waste disposal activities. EPA examined these suggestions in light of the Act's definitions, Section 1006 of the Act (which directs the Agency to avoid duplicative regulatory programs), the Act's legislative history and the objectives of Subtitle D. EPA has concluded that the criteria apply to all solid waste disposal with the following exceptions:

1. The criteria do not apply to agricultural wastes, including manures and crop residues, returned to the soil as fertilizers or soil conditioners. All other disposal of agricultural wastes, including placement in a landfill or surface impoundment, is subject to these criteria. This exclusion is based on the House Report (H.R. Rep. No. 94-1491, 94th Cong., 2nd Sess. 2(1976)) which explicitly indicates that agricultural wastes returned to the soil are not to be subject to the Act.

2. The criteria do not, at this time, apply to overburden from mining operations intended for return to the mine site. The House Report indicates that this type of overburden is not to be the immediate focus of the Act's programs.

3. The criteria do not apply to domestic sewage or treated domestic sewage. However, the criteria do apply to disposal of sludge resulting from the treatment of domestic sewage. In defining "solid waste" the Act specifically excludes solid or dissolved material in domestic sewage. Treated domestic sewage from which pollutants have been removed in a wastewater treatment plant is still considered to be domestic sewage for purposes of the Act. Including such wastewater effluents within the Act's scope is particularly unnecessary because existing EPA programs concerning treatment of domestic sewage are seeking to assure that these effluents are disposed of in an environmentally sound manner.

However, during the treatment of domestic sewage, solid and dissolved materials are removed from the sewage and collected as sludges. Typically, these sludges are disposed of separately from the treated sewage which passes through the treatment plant. The language of Sections 1004(27) and 1004(26A) indicate that sludge generated by a wastewater treatment plant, water supply treatment plant or air pollution control facility is solid waste for purposes of the Act. EPA believes that while the Congress intended to exempt treated sewage effluents from the Act's provisions, it intended to include sludges created by the operation of treatment facilities. This approach is consistent with Congressional intent, expressed in Section 1002(b)(3) and the legislative history, that the Act specifically address the new solid waste management problem that resulted from effective implementation of programs designed to protect the air, water and other environmental resources.

With this interpretation a question is raised about the operation of septic tanks, a particular type of sewage treatment device. The materials which pass through the tank and are released into drainage fields are analogous to the treated sewage effluent passing through a treatment plant, and thus are not considered solid waste. The materials which settle to the bottom of the septic tank and are subsequently removed for disposal at some other facility are analogous to the sludge created by the operation of other sewage treatment processes. Therefore, septic tank pumpings fall within the Act's definition of solid waste.

4. The criteria do not apply to solid or dissolved materials in irrigation return flows. This exemption is clearly stated in Section 1004(27) of the Act.

5. The criteria do not apply to source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923). This exemption is stated in Section 1004(27) of the Act.

6. The criteria do not apply to industrial discharges which are point sources subject to permits under Section 402 of the Clean Water Act as amended. In defining solid waste the Act specifically exempts these discharges. The principal purpose of this provision is to assure that waters of the United States (the jurisdictional concern of the Clean Water Act) are not regulated under this Act.

7. The criteria do not apply to facilities for the disposal of hazardous wastes subject to Subtitle C of the Act. Section 3004 establishes the standards which will be applicable to such facilities. EPA's final regulations for its hazardous waste program will delineate the class of facilities subject to the Subtitle C requirements.

8. The criteria do not apply to disposal of solid waste by underground well injection that is subject to regulations (40 CFR Part 146) for the Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. 3001, *et seq.* While the subsurface emplacement of fluids through a well (the activity regulated by UICP) could also fall within the Act's broad definition of disposal, Section 1006 of the Act requires that EPA avoid duplication with its other programs (including those under the Safe Drinking Water Act) in administering the Act. Leaving regulation of underground well injection to the UICP is consistent with that mandate and is especially appropriate since the UICP seeks to achieve objectives similar to those of the Act.

B. Definitions (Section 257.2)

General definitions which apply to all the criteria are presented in § 257.2. The section defines "disposal," "facility," "leachate," "open dump," "practice," "sanitary landfill," "sludge," "solid waste," and "state." Also definitions that are only applicable to a particular criteria are presented in that criteria section.

EPA received many comments that reflected a concern over the definition of "facility". Several commenters suggested that EPA exempt such things

as wastewater treatment lagoons, potable water treatment lagoons, surface impoundments (pits, ponds, lagoons, basins), mining waste disposal facilities, utility waste disposal facilities and agricultural waste disposal facilities. The Act does not define the term "facility". EPA believes that the term should be interpreted broadly unless such an interpretation clearly conflicts with other provisions or objectives of the Act.

After examining these requests for exemptions in light of the Act and its legislative history, EPA concluded that there was no statutory basis for excluding these types of facilities. All such facilities could present a reasonable probability of adverse effects on health or the environment. EPA does not have any basis for determining that such facilities are not "solid waste disposal facilities" for purposes of the Act.

Several commenters asked whether the definition of "facility" would encompass "backyard" disposal practices such as home compost piles or burning of household wastes. EPA does not believe that Congress intended the Subtitle D classification scheme to be implemented at the household level. Section 1004(27) refers to wastes from "community activities". In addition, the legislative history indicates at several points that "municipal" wastes are of concern under Subtitle D. The Act's emphasis on "community" or "municipal" waste, indicates that the Congress intended to focus on solid waste managment at that level rather than at the household level. EPA believes that "backyard" practices should be controlled through State or local nuisance and public health laws.

Some commenters suggested that disposal facilities used by small communities (especially small facilities in rural areas) be excluded from coverage due to the anticipated higher unit cost (cost per capita or cost per ton of waste) of compliance for such facilities. The Agency found no basis for such an exclusion. In fact, such an exclusion could foster the development of additional small facilities in order to escape the cost of compliance and, cumulatively, could result in greater environmental damage in rural areas. Thus, the criteria apply to large and small facilities, whether urban or rural, because it is essential that all facilities prevent adverse impacts on health and the environment in accordance with the criteria.

Less sophisticated and less costly design and operational techniques, however, may be applicable at smaller facilities due to the smaller quantities of waste disposed and reduced magnitude of potential adverse effects. In addition, small or rural communities may take various approaches to reduce the per capita cost burden and achieve economy of scale through regionalized collection and disposal systems, sharing of equipment among facilities, or operation of facilities only during limited hours.

During the public comment period it was suggested that there be less stringent criteria for existing facilities than for new facilities. In considering this suggestion the Agency has found no difference in the potential adverse effects from existing as opposed to new, facilities. With regard to implementation of the criteria, however, the Act does recognize the need to continue the controlled use of existing facilities while alternatives which comply with the criteria are being developed. In taking steps to close or upgrade existing open dumps, a State may issue compliance schedules that allow use of a disposal facility while it is being upgraded or while alternative disposal options are being developed.

A few commenters also raised the question of whether a junk yard, which may buy or sell waste items, is a solid waste disposal facility. While a junk yard is clearly a "solid waste management" facility under the Act, there is some question whether the operation of a junk yard constitutes the disposal of solid waste.

Under Section 1004(3) "disposal" involves the placement of solid waste into or on any land or water so that a constituent of the waste may enter the environment. This entry of waste materials into the environment is an essential component of the Act's definition. As the Senate Report states, "Disposal is letting wastes out of control" (Sen. Rept. No. 94-988, 94th Cong., 2d Sess. 26 (1976)).

If a junk yard is operated in such a way that no waste material enters the environment then it is possible that it is not a solid waste disposal facility. If constituents of the waste, however, are entering the environment (e.g. battery acids from automobiles leaching into the ground), then the junk yard would be a disposal facility. It is up to the State to determine whether particular junk yard operations constitute disposal of solid waste.

C. Reorganization of the Criteria

After reviewing the comments EPA has decided to change the format of two portions of the criteria as they appeared in the proposed regulation. The criteria concerning environmentally sensitive areas and disease have been reorganized.

The proposed regulation had one section that addressed the location of disposal facilities in wetlands, floodplains, permafrost areas, critical habitats of endangered species, and recharge zones of sole source aquifers, all of which were categorized as "environmentally sensitive areas". In the Preamble to the proposed regulation the Agency also requested comment on other areas, specifically karst terrain and active fault zones, for similar consideration.

Environmentally sensitive areas are no longer addressed in a separate section. Criteria regarding floodplains and critical habitats of endangered species appear in independent sections discussed later. Wetlands are addressed in the section on surface water, since wetlands are treated in the same manner as surface waters under the Clean Water Act. Concerns for recharge zones of sole source aquifers are directly related to those for ground-water protection; thus, protection of sole source aquifers has been incorporated into the ground-water section of the criteria.

Permafrost areas are no longer addressed in the criteria. While EPA is not concerned with the effects of solid waste disposal in permafrost areas, there are several reasons why it is not appropriate to establish a national criterion concerning permafrost. Permafrost areas only occur in Alaska in the United States. The State of Alaska has authority to regulate solid waste disposal and to protect permafrost. EPA believes that the State's program is inadequate to protect these areas. Under Section 6001 of the Act Federal facilities must comply with applicable State solid waste disposal requirements. Thus, there should be full compliance with those State disposal requirements affecting permafrost areas. Moreover, the criteria addressing floodplains, surface water and ground water will cover many of the environmental effects of concern in such areas. Under these circumstances it does not seem necessary to establish separate permafrost criteria at this time.

In response to the Agency's request, some commenters described risks inherent in disposal of solid waste in karst terrain and active fault zones. The concerns raised pertained primarily to ground water. The Agency believes that these concerns are adequately addressed by the ground-water criteria and has not provided a separate criteria for karst terrain or active fault zones.

In the proposed regulation the criterion for disease just addressed the

problem presented by disease-carrying vectors. In the section addressing food-chain crops, the proposed criteria provided for controls to reduce the likelihood for transmission of pathogens from the solid waste to humans. Since both provisions concerned the prevention of disease, they have been combined in § 257.3–6.

D. Floodplains (Section 257.3–1)

Disposal of solid waste in floodplains may have several significant adverse impacts: (1) If not adequately protected, wastes may be carried by flood waters and flow from the site, affecting downstream water quality and structures; (2) filling in the floodplain may restrict the flow of flood waters, causing greater flooding upstream; and (3) filling in the floodplain may reduce the size and effectiveness of the flood-flow retaining capacity of the floodplain, which may cause a more rapid movement of flood waters downstream, resulting in higher flood levels and greater flood damages downstream. For these reasons it is generally desirable to locate disposal facilities outside of floodplains.

The proposed criteria required that a facility not restrict the flow of the base flood nor reduce the temporary water-storage capacity of the floodplain, in order to prevent increased flooding upstream or downstream resulting from the base flood. In addition, the proposal required that the facility be protected against inundation by the base flood, unless the facility is for land application of solid waste for beneficial utilization as agricultural soil conditioners or fertilizers.

In developing this criterion EPA sought to comply with Executive Order 11988, "Floodplain Management" (42 FR 28951), which requires Federal agencies, in carrying out their responsibilities, to take actions to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. In accordance with Executive Order 11988, EPA consulted with the Water Resources Council and the Federal Insurance Administration of the Department of Housing and Urban Development. Both of these agencies deal with floodplain management issues.

A few commenters questioned whether floodplain concerns were within the statutory scope of these regulations. Clearly, improper disposal of solid waste in a floodplain can have adverse effects on health and the environment. EPA is not aware of any other Federal program that addresses the particular environmental threat presented by solid waste disposal activities in floodplains. Therefore, there is no question that these concerns are within the purview of this regulation.

After evaluating the proposed floodplains criterion in light of the comments, EPA re-evaluated the rationale for the proposed regulation. There was an apparent contradiction in the criterion between the requirement to prevent any increased flooding and the provision to protect against inundation. As several commenters pointed out, compliance with one was likely to lead to violation of the other. In addition EPA concluded that it was not necessary to eliminate any and all marginal increases, however small, in flood levels caused by disposal operations. Moreover, not all inundation of disposal facilities leads to adverse environmental effects. Depending on the waste material there may be no adverse downstream effects; where such effects could occur, proper control measures to prevent washout of the waste materials (e.g. diking) would be sufficient to avoid the problem.

Therefore, EPA made the following changes in the floodplain criterion:

1. The disposal facility or practice should seek to avoid washout of solid waste, rather than necessarily prevent inundation of the waste. This change allows for the development of management practices or facility designs that can avoid washout of the solid waste without preventing all inundation by flood waters. (Several commenters indicated that such approaches were feasible.)

2. All of the requirements are linked to an assessment of the hazard to human life, wildlife, land or water. This is designed to avoid a situation where any increase in flood levels attributable to disposal activities or washout of waste is automatically precluded. EPA does not believe that the incremental effect of solid waste operations on floodplain management justifies such a drastic approach. In some cases, however, disposal activities may present a significant marginal increase in the risk of flood damage. It is appropriate to avoid such a risk. EPA cannot specify for all situations what that unacceptable risk will be. This issue must be resolved on a case-by-case basis in the implementation of these criteria.

3. The exception for land application of solid waste for beneficial utilization as an agricultural soil conditioner or fertilizer has been eliminated. EPA believes that special exceptions for classes of activities are no longer necessary. In more clearly specifying the performance objective for disposal in floodplains, the criteria provide the flexibility to allow continuation of those activities that do not present health and environmental hazards.

Some commenters questioned the use of the 100-year base flood in defining the floodplain of concern. EPA believes that this is an appropriate definition. The 100-year floodplain does not represent a flood that will occur only once in 100 years. It is the flood which has a one percent or greater chance of occurring in any one year. Such a flood may occur several times or never occur within a given 100-year period. In selecting the 100-year flood to define the floodplain of concern EPA is maintaining consistency with the approach in other Federal programs and in Executive Order 11988.

Some commenters misinterpreted the criteria as a prohibition against locating facilities in floodplains. While areas other than floodplains are often preferable locations for disposal facilities, the proposed criteria did not provide such a prohibition. Certainly, that point is even clearer in the floodplain criterion issued today.

E. Endangered and Threatened Species (Section 257.3–2)

Solid waste disposal activities can adversely affect endangered and threatened wildlife by releasing toxic materials into the environment and by disrupting the ecosystems on which they rely for food and shelter. Therefore, it is appropriate for these criteria to contain provisions designed to mitigate adverse effects of solid waste disposal activities on endangered and threatened species of plants, fish or wildlife.

The proposed criterion was designed to ensure that disposal activities did not occur in the critical habitats of endangered species unless it was determined that the activities would not jeopardize the continued existence of endangered species. The proposal also required the approval of disposal plans by the Office of Endangered Species (OES) in the Department of Interior (DOI).

Under Section 7 of the Endangered Species Act (ESA), as amended, 16 U.S.C. 1536, all Federal agencies, in consultation with the Secretary of the Interior or the Secretary of Commerce, are to utilize their authorities in furtherance of the purposes of the ESA. EPA held formal consultations with the DOI and received a "biological opinion" recommending changes in the criteria. EPA considered this recommendation from DOI and all public comments in setting this criterion.

EPA has concluded that the criteria should assure that no solid waste disposal facilities or practices cause or contribute to the taking of endangered

or threatened species. Taking means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing or collecting, or attempting to engage in such conduct. In addition such activitites should not destroy or adversely modify the critical habitats of these species. EPA believes that this criterion is clearly within the scope of the Act and that it satisfies Agency responsibility under the ESA.

Some commenters questioned EPA's authority to address effects on endangered species in the criteria. The Act gives EPA authority to set criteria concerning the full range of health and environmental effects resulting from solid waste disposal. The taking of endangered or threatened species by solid waste disposal activities is certainly an environmental effect of concern. In addition the ESA places a responsibility on the Agency to use its authority under the Act to mitigate such effects.

The major change in this criterion from what was contained in the proposed regulation is the shift in concern to the *taking* of endangered and threatened species. The proposed regulation focused on avoiding modifications of critical habitats that *jeopardized the continued existence* of a species. After examining that approach in light of the comments, EPA decided that the "jeopardize" language was inappropriate for a definition that would be applied to a vast number of site-specific conditions. In deciding whether an act or facility would jeopardize the continued existence of a species, the officials implementing the criteria would have to examine the marginal effect that harm to particular members of a species would have on the national population of that species. Particularly in the case of the open dump inventory, which involves the evaluation of thousands of solid waste disposal facilities, it would be extremely difficult to implement a "jeopardize" standard.

A determination of whether disposal activities are "taking" endangered species is more readily applicable to the site-specific situations for which these regulations will be used. Officials charged with implementing the criteria, as well as parties engaged in solid waste disposal, can quickly determine what is necessary to achieve compliance. Such an approach is consistent with EPA's general intent to establish concise, measurable performance standards wherever possible.

The use of the "taking" concept does not reflect an EPA belief that the ESA requires such an approach. EPA's obligation under Section 7 of the ESA, if any, is to assure that the criteria, which provide a national definition of the unacceptable environmental effects of solid waste disposal, do not jeopardize endangered species. Where those criteria are applied by State agencies, such implementation activities are not subject to Section 7 because no Federal action is involved.

Some commenters suggested that in complying with Section 7 EPA could not set criteria applicable to non-Federal parties that are more restrictive than what Section 9 of the ESA now requires of such parties. (Section 9 prohibits the taking of endangered species.) EPA rejects that argument. The Act and Section 7 of the ESA give EPA authority to set criteria different than the requirements otherwise applicable under Section 9.

EPA believes that the best way to ensure that national populations of endangered and threatened species are not jeopardized is to avoid the destruction of members of that population in site-specific situations. While the standard could have been written several ways to accomplish that objective, EPA believes that preventing the "taking" of endangered and threatened species has several advantages. This approach will aid coordination between solid waste and endangered species programs where feasible. It also gives the regulated community a uniform standard defining its responsibility in both contexts. The "taking" definition is broadly stated and thus would encompass the variety of adverse effects on endangered and threatened species that could be caused by solid waste disposal. In its "biological opinion" DOI endorsed this approach.

In the proposed regulation EPA only addressed endangered species. Several commenters suggested that "threatened" species identified by DOI also be included for consideration. EPA believes that such threatened species of wildlife are also deserving of protection and, therefore, has included them in the criteria. Thus, the endangered and threatened species of concern are those listed under authority of Section 4 of the ESA.

In endorsing the "taking" language, DOI's "biological opinion" included exceptions for activities covered by permits under Section 10 of the ESA or allowed by Section 6(g)(2) of the ESA. Section 10 authorizes the issuance of permits for the taking of species "for scientific purposes or to enhance the propagation or survival of the affected species." The operative portion of Section 6(g)(2) makes the Section 9 prohibition of taking inapplicable in states that have negotiated cooperative agreements with DOI. Under cooperative agreement, designated State officials may take endangered species for conservation purposes. Since neither of these situations seemed applicable to solid waste disposal activities they have not been included in the criteria.

EPA has decided to retain that part of the proposed regulation that reflected a concern for the wildlife habitats. Where "critical" habitats of threatened or endangered species have been identified by DOI it is unacceptable under the Act for solid waste disposal activities to destroy or adversely modify such habitats. In setting this criterion EPA is not precluding all disposal in a critical habitat area. Only when such disposal appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using the habitat does a violation occur. The "biological opinion" from DOI endorses this approach.

EPA has decided to drop that portion of the proposed criteria which required approval of disposal plans by the Office of Endangered Species, Department of Interior. EPA agrees with the several commenters, including OES, who said that such a requirement was inappropriate. The Act and the CWA create the implementing mechanisms for these criteria. While the OES may, and probably should, be consulted on the application of § 257.3–2 to particular situations, the officials responsible for applying the criteria, rather than the OES, must determine whether a violation has occurred.

F. Surface Waters (Section 257.3–3)

It is essential that solid waste activities not adversely affect the quality of the nation's surface waters. Rivers, lakes and streams are important as sources of drinking water, as recreational resources and as habitats for a wide variety of fish and other aquatic organisms. The nation's coastal and inland wetlands provide natural flood and storm control, sediment and erosion control, recharge of acquifers, natural purification of waters, and flow stabilization of streams and rivers. Wetlands produce nutrients which support complex ecosystems extending into estuaries and streams well beyond the marshes and wetland areas. Wetland habitats support fish, shellfish, mammals, waterfowl, and other wildlife fauna and flora.

Solid waste disposal has led to surface-water contamination from runoff of leachate, accidental spills, and drift of spray occurring at dumps, landfills, surface impoundments, farmlands, and landspreading operations. In the

proposed criteria EPA sought to coordinate its surface water standards under the Act with programs developed under the Clean Water Act (CWA) to restore and maintain the integrity of the waters of the United States (including wetlands.)

The proposed criteria required that point source discharges of pollutants comply with a National Pollutant Discharge Elimination System (NPDES) permit issued for the facility according to Section 402 of the Clean Water Act. A separate section addressed wetlands, a particular category of waters of the United States. This section, which has now been combined with the other surface water provisions, required that facilities not be located in wetlands unless permits were obtained under provisions of Section 402 and/or 404 of the Clean Water Act. The proposed criteria also required non-point source discharges of pollutants to be prevented or minimized.

The final regulation maintains this general approach and has eliminated those parts of the proposed regulation that might have created conflicting RCRA and CWA requirements concerning the adverse effects of solid waste disposal on surface waters. The separate section for wetlands was eliminated because they are treated like all other surface waters under the CWA. The provision affecting non-point source discharges to surface water has been linked more directly to applicable requirements developed for State and areawide water quality management planning programs under Section 208 of the CWA.

Under Section 1006 EPA is required to integrate, to the maximum extent practicable, the provisions of the Act with the Clean Water Act and other statutes. Under the CWA, EPA conducts programs designed "to restore and maintain the chemical, physical and biological integrity of the Nation's water." EPA believes that this goal is also a legitimate objective for its regulatory activity under the Act and that, in the spirit of Section 1006, EPA should use its authority under the Act to see that the goals of the CWA are achieved. Thus, in defining unacceptable solid waste disposal activities, EPA can and should determine that facilities and practices violating the Clean Water Act cannot be acceptable for purposes of RCRA.

Thus, in establishing the surface water criterion EPA used concepts, and approaches used under the CWA. The surface waters of concern are the waters of the United States, which include "wetlands" meeting the Agency's and the Corps of Engineers' definition of that term. All point source discharges of pollutants must comply with requirements for NPDES permits pursuant to Section 402 of the CWA. Discharge of dredge or fill material to waters of the United States must comply with requirements for permits established pursuant to Section 404 of the CWA. ("Requirements" under the 402 and 404 permit programs include the general requirement to apply for such permits, as well as the substantive provisions of issued permits.) Non-point source pollution from solid waste disposal activities must not be in violation of legal requirements established to implement a water quality management plan under Section 208 of the CWA. Water quality standards developed to satisfy Section 303 of the CWA may be implemented through either NPDES permits, Section 404 dredge and fill permits, or legal requirements developed to implement a Section 208 plan.

Some commenters suggested that in using a CWA-based approach in these regulations EPA was attempting to regulate discharges to waters of the United States under the Act. This is certainly not the intent or result of these criteria. The implementation of CWA programs will be left to those responsible for those programs. In these criteria EPA is merely indicating that where solid waste activities violate the CWA, as determined by officials implementing that law, EPA cannot determine that those activities provide adequate protection to public health and the environment for purposes of RCRA.

Commenters also expressed concern over the definition of "wetlands", arguing that man-made channels and basins (particularly wastewater treatment lagoons) that happen to support vegetation should not be subject to protection under this criterion. In keeping with the goal of coordination, EPA is accepting the approach taken under the CWA, as expressed in the recently issued NPDES regulations (44 FR 32854). Thus, waste treatment lagoons or other waste treatment systems that happen to support vegetation are not waters of the United States. (As indicated in the NPDES regulations, cooling lakes and ponds are generally within the definition of waters of the United States, but certain kinds of cooling ponds may be excluded.)

Several commenters questioned the proposed inclusion of "surface runoff" as a point source discharge of pollutants. Under the existing NPDES regulations the term "discharge of pollutant" is defined to include "* * * surface runoff which is collected or channelled by man." EPA will maintain that approach in these criteria. All other surface runoff is subject to applicable requirements developed under section 208 plans for non-point source pollution.

Several public comments reflected concern about what permits would be necessary under the CWA for solid waste disposal in wetlands. Diking or other dredge or fill operations designed to prepare an area within waters of the United States for disposal of wastes would require a 404 permit as a matter of course. A question arises, however, concerning the actual deposit of the waste material into waters of the United States. Such a discharge could be treated as a discharge of pollutants requiring a Section 402 NPDES permit or as a discharge of dredged or fill material requiring a 404 permit.

Under previously issued regulations implementing the CWA (42 FR 37122), where the "primary purpose" of the discharge of waste material is for disposal, rather than for filling an area, the discharge is subject to the NPDES program.

Some commenters suggested a need for procedures establishing how NPDES permits will be applied to solid waste disposal. In response the Agency is developing policy guidance for this permitting process. As of this writing a draft of this policy guidance, "NPDES Permits for Solid Waste Disposal Facilities in Waters of the United States—Policy Guidance Memorandum, August 23, 1978," has been distributed for external review. A public meeting for discussion of the draft policy guidance memorandum was held on December 11, 1978. EPA is currently reviewing the public comments submitted on this issue. EPA is also considering whether solid waste disposal in wetlands is more appropriately handled under the Section 404 permit program. EPA intends to explore this issue with the Corps of Engineers.

EPA has dropped any reference to a presumption against issuance of an NPDES permit for discharge of solid waste into wetlands. That reference, contained as a comment in the proposed regulation, reflected EPA's general belief that disposal activities should not be conducted in wetlands if other alternatives exist. The NPDES permit, however, will define the legal responsibilities of parties engaging in disposal of solid waste near or in waters of the United States. If the requirements of an applicable NPDES permit can be satisfied, then there will be no added "presumption" against the facility or practice.

Commenters raised concerns over the ability of NPDES permitting agencies to

process applications and issue permits for point source discharges of pollutants from solid waste disposal facilities. It was noted that not many NPDES permits have been issued to such discharges.

It has been Agency policy to prioritize issuance of NPDES permits based on the potential adverse environmental impact of the discharge. However, all discharges require NPDES permits, and it is incumbent on the discharger to apply for the NPDES permit. Generally, no enforcement action is taken if application for an NPDES permit has been made, but the permit has not yet been issued. Upon issuance, the discharger must maintain compliance with the NPDES permit. Upon denial or revocation of a permit, the discharge must be discontinued.

In using the 208 planning program, EPA has dropped the proposed requirement to "prevent or minimize" nonpoint source pollution from solid waste disposal activity. Several commenters were concerned that such a requirement might duplicate or conflict with provisions developed to implement a State water quality management plan. EPA shares that concern and, therefore, has made the changes described above. However, EPA is also aware that not all 208 plans will have addressed the non-point source pollution problems presented by solid waste disposal. EPA intends to explore this problem further to determine whether uniform national guidance is needed and can be given on how to handle this type of pollution problem. If a set of standards can be devised EPA will consider amending these criteria.

Not all portions of a 208 plan will necessarily be applicable to solid waste disposal activities, and it will be up to officials implementing the criteria to make the appropriate determination. The criteria are linked only to those portions of the plan that have been translated into legal requirements (i.e. statute, regulation, ordinance, administrative orders.) This assures clarity on what is required, avoiding questions about how to comply with broadly-stated policy statements.

G. Ground Water (Section 257.3–4)

Ground water, generally a high quality, low cost, readily available source of water, is the drinking water source for at least one half of the population of the United States; often it is the only economical and high quality water source available. Ground water is generally suitable for human consumption with little or no treatment necessary.

Ground water has been contaminated by solid waste disposal on a local basis in many parts of the nation and on a regional basis in some heavily populated and industrialized areas, precluding its use as drinking water. Existing monitoring of ground-water contamination is largely inadequate; many known instances of contamination have been discovered only after ground-water users have been affected. The Act and its legislative history clearly reflect Congressional intent that protection of ground water is to be a prime concern of the criteria.

The proposed criteria established requirements for ground-water protection based on the utilization of the ground water. Ground-water utilization was divided into two categories: Case I addressed ground water currently used or designated for use as drinking water supplies or ground water containing 10,000 miligrams per liter (mg/l) total dissolved solids or less; and Case II addressed ground water designated for other uses.

For Case I, the proposed criteria required that the quality of ground water beyond the *disposal facility* be maintained for use as a drinking water supply. The proposed criteria were based on the "endangerment" approach adopted from previously proposed regulations for the Underground Injection Control Program (41 FR 36726). "Endangerment" was defined to mean introduction of a contaminant that would require additional treatment of current or future drinking water supplies or would otherwise make the water unfit for human consumption. The proposed criteria required that the disposal facility not "endanger" Case I ground water beyond the property boundary. (Comments were specifically requested on the use of other distances in lieu of or in addition to the property boundary.) For Case II, States could, where consistent with their authority, designate ground water for uses other than drinking water and would establish the quality at which the ground water was to be maintained consistent with the designated use.

In order to predict, as early as possible, the potential for ground-water endangerment, the proposed criteria required that ground water be monitored so as to indicate the movement of contaminants from the disposal facility where endangerment was likely. Contingency plans were required for corrective actions to be taken in the event that an adverse impact was indicated by the monitoring.

For sole source aquifers, the proposed criteria required that facilities not be located in the recharge zone unless alternatives were not feasible and unless "endangerment" was prevented.

Under the final ground-water criteria, the facility or practice must not *contaminate* an *underground drinking water source* beyond the *solid waste boundary or an alternative boundary* set by the State. Contamination occurs when leachate from the disposal activity causes the concentrations of certain pollutants in the ground water to either (1) exceed the maximum contaminant level (based on the primary drinking water standards) specified for that pollutant, or (2) increase at all where the background concentration of the pollutant already exceeds the applicable maximum contaminant level. An underground drinking water source is an aquifer currently supplying drinking water for human consumption or an aquifer in which the concentration of total dissolved solids is less than 10,000 milligrams per liter (mg/l). Generally, the existence of contamination is determined at the waste boundary. However, States with approved solid waste management plans may establish an alternative boundary if, after thorough examination of the site-specific situation, a finding is made that an adjustment of the boundary would not result in contamination of ground water needed or used for human consumption.

(1) *Approach to Ground-water Protection.* A few commenters suggested that the proposed regulation was beyond EPA's authority becaue it allegedly involved the establishment of ambient ground-water standards. This charge reflects a misunderstanding of the approach taken in the proposed, as well as the final, regulation. EPA is not regulating ground water with these criteria; rather, EPA is setting standards applicable to disposal of solid waste. In defining the unacceptable effects of such disposal on ground water, EPA has concluded that solid waste activities should not degrade ground water beyond levels established to protect human health. The criteria are designed to achieve that objective.

EPA recognizes that ground-water quality is important for other purposes (e.g. for irrigation of plants, for its effect on fragile ecosystems.) Differing standards may be appropriate to protect its usefulness for these other purposes. At this time, however, EPA has decided to define "contamination" in terms of the water's use as a drinking water source. EPA believes that the prevention of adverse human health effects from direct consumption of ground water, should be the first among several objectives in protecting ground-water quality. Moreover, the Agency has

developed standards for drinking water but has not established standards for other uses.

These criteria reflect EPA's concern for both present and future users of ground water. A significant number of people in the country take their drinking water directly from ground-water resources. EPA expects that such direct use will continue in the future. In defining unacceptable solid waste disposal activities, these criteria cannot be based only on current patterns of ground-water use. Potential future users of the aquifer must be considered.

EPA believes that solid waste activities should not be allowed to cause underground drinking water sources to exceed established drinking water standards. Future users of the aquifer will not be protected unless such an approach is taken. Where maximum contaminant levels have already been exceeded due to other conditions or actions affecting the aquifer, solid waste activities should not be allowed to increase the risk of damage to present or future users of the aquifer.

(2) *Contaminants of Concern.* Commenters stated that the "endangerment" standard in the proposed regulation was vague, especially since it did not specify contaminants that would make more extensive treatment necessary or otherwise make the water unfit for human consumption. Some felt this approach would allow too much contamination, given the lack of certainty regarding toxicity of many contaminants and the state-of-the-art of monitoring and water treatment. Others stated that it would require facility operators to demonstrate protection from a myriad of substances, that the levels to which those substances should be tolerated was not defined, that the standard was based on unspecified treatment and changing technology, and that the capability of existing treatment is a function of too many parameters. In order to respond to these comments the Agency explored various lists of contaminants upon which to base the criteria.

Several reviewers supported the proposed criteria's use of the National Interim Primary Drinking Water Regulation (NIPDWR) in the definition of "endangerment". Some reviewers pointed out, however, that the list of contaminants in the NIPDWR (40 CFR Part 141) was not created to serve as ground-water quality standards, and that it does not include all potentially harmful substances which might be associated with leachate from solid waste.

EPA recognizes that the NIPDWR lists only those parameters commonly found in public drinking water supplies. Other substances which may be harmful to human health were not included in Part 141 due to their relatively rare occurrence in drinking water systems, the unsuitability of analytical methods, the high costs of monitoring, or the lack of toxicity data. For example, cyanide was not listed in the NIPDWR because of its low rate of occurrence. Several potentially dangerous substances which were excluded from the NIPDWR are present in leachate from waste disposal.

There is no doubt, however, that the contaminants identified in the NIPDWR are appropriate for consideration in the criteria. Generally, no commenters opposed the inclusion of any listed contaminant in this regulation. The one exception is the manmade radionuclides identified in the NIPDWR. These substances fall within the class of radioactive substances excluded from the Act's definition of solid waste and, thus, the leaching of these materials into ground water should not be addressed by these criteria.

EPA has evidence that all of the contaminants identified in the NIPDWR have been in wastes covered by these criteria and that such materials are likely to enter ground-water supplies. Therefore, while it may be advisable to expand the list of contaminants covered by the criteria as new information is developed by the Agency, it is certainly appropriate to use the contaminants identified in the NIPDWR in the criteria at this time.

The Agency has also explored the use of the National Secondary Drinking Water Regulations (NSDWR) in defining maximum contaminant levels. The NSDWR (40 CFR Part 143) represent the Agency's best judgment on the standards necessary to protect underground drinking water supplies from adverse odor, taste, color and other aesthetic changes that would make the water unfit for human consumption. EPA believes that this is a serious concern which deserves consideration in the criteria. In addition, many of the substances listed in the NSDWR often occur together with other substances in leachate which can be injurious to health.

However, EPA has decided not to include the contaminants identified in the NSDWR in the criteria at this time. It was not clear in the proposed regulation that EPA was considering their use for purposes of the criteria. To avoid any question about the adequacy of opportunity to comment on the use of the NSDWR in the criteria, EPA has decided to specifically seek public comment on this issue. Thus, EPA is also issuing today a proposed amendment to the criteria which would add the maximum contaminant levels in the NSDWR to the definition of ground-water "contamination."

Two other sets of pollution parameters were considered for inclusion in these criteria: the *Quality Criteria for Water* (EPA 1976) and the list of toxic pollutants referenced in Section 307(a)(1) of the Clean Water Act, as amended.

The publication *Quality Criteria for Water* recommends levels for water quality in accord with the objectives in Section 101(a) and the requirements of Section 304(a) of the Clean Water Act. The primary purpose of that publication is to recommend levels for surface water quality that will provide for the protection and propagation of fish and other aquatic life and for recreation. Although recommended levels are also presented for domestic water supply, and for agricultural and industrial use, ground water was not a major consideration.

Quality Criteria for Water lists most of the substances in Parts 141 and 143. Several of the additional parameters listed are only of interest in surface water protection, such as mixing zones (one third the width of a stream, 10 percent of the area of a lake, etc.), temperature, and suspended solids. While several health related substances that could be present in leachate are listed (e.g., boron, beryllium, cyanide, nickel and several insecticides and other organics), the recommended limits are specified for aquatic life protection and these are not appropriate for ground water. Furthermore, the recommended limits were written to be guidance in developing standards, not to be used as standards themselves. Therefore, EPA decided that this list was inappropriate for these criteria.

Under Section 307 of the CWA the Agency may establish either technology-based or stricter health-based standards for toxic pollutants identified under Section 307(a)(1). EPA is investigating the appropriateness of using the health-based standards in the criteria. Such substances as aldrin/dieldrin, DDT, endrin, toxaphene, benzidine and polychlorinated biphenyls (PCB's) are not subject to section 307 standards. EPA may be establishing such standards for other pollutants some time in the future. At this time, however, for purposes of these criteria, EPA will rely only on established drinking water standards.

(3) *Levels of Contamination.* While the design of the ground-water criteria is similar to the "endangerment" approach

of the Underground Injection Control Program under the Safe Drinking Water Act, it provides for greater specificity and does not use the exact wording of that program or statute. Therefore, to avoid confusion the term "endangerment" is no longer used in the criteria. Instead, the word "contaminate" has been employed. A facility "contaminates" ground-water if it introduces a substance that would cause:

(a) The concentration of that substance in the ground water to exceed specified maximum contaminant levels, or

(b) An increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the specified maximum contaminant level.

The first part of the above definition is intended to protect water that can be used as drinking water without treatment. The second part is intended to protect ground water already at or above the maximum contaminant level by preventing introduction of substances that would exacerbate the problem.

Many comments were received on levels of contamination. Some suggested using the maximum contaminant levels (MCL's) in the National Primary and Secondary Drinking Water Regulations; others suggested using higher limits or using lower limits. Some reviewers suggested varying the levels with the background quality or the potential use of the ground water.

The reasons given for adopting higher allowable levels, or more lenient standards, (than the MCL's) included contention (1) that the increased cost of land disposal would be greater than the value of the threatened resource; (2) that the more efficient approach for some of the substances was to remove them from the water supply by treatment after contamination; and (3) that some of the Secondary MCL's are commonly exceeded in ambient or native ground water, thereby effectively resulting in a non-degradation standard for those aquifers. EPA sees no reason to doubt that some people will continue to consume ground water directly without treatment. That portion of the public should be protected from adverse effects (as defined by the drinking water standards) caused by solid waste leachate entering their drinking water. In some situations protection of the public will require non-degradation of an aquifer. The Act does not call for a balancing of the costs of disposal against the "value" of ground-water resources. EPA believes that this criterion represents a reasonable approach to ground-water protection. It allows for the use of natural mechanisms (e.g. soil attenuation, diffusion of contaminants in the aquifer) to reduce the risk of adverse health effects without compromising the general objective of protecting drinking water supplies.

The reasons given for more stringent limits included: (1) Land disposal facilities are but one of several sources of ground-water contamination, and each source contributes to the overall rise in contaminant levels, (2) future research may find that lower levels are necessary to adequately protect health, (3) some agricultural, industrial and other important uses of ground water may be impaired, and (4) since ground water is often consumed without treatment, more stringent limits would require less reliance on programs to monitor and to require treatment before domestic usage.

Generally, EPA has not written more stringent standards because existing information does not indicate that such standards are needed to protect public health. Future research results might, of course, justify changing the criteria. As discussed earlier EPA does not now have the scientific basis for setting stricter standards designed to protect ground-water's use for non-drinking water purposes. The standard does recognize that an aquifer may be polluted by several sources. Where existing ground-water quality levels exceed the MCL's, the solid waste activity may not degrade ground-water quality at all. No matter what the standard, the need for monitoring must be determined on a case-by-case basis, and it seems doubtful that differing standards would change that need.

Some reviewers mentioned that relying only on upper water quality limits results in more stringent requirements for protection of contaminated water than for uncontaminated water (i.e. facilities over uncontaminated waters could introduce substances up to the maximum contaminant levels, while facilities over contaminated waters could not introduce any substance that would increase contaminant levels). While this is a possible result of the standard, EPA does not believe that the health risk justifies a complete non-degradation standard.

In adapting the NIPDWR for the criteria a few modifications were necessary. As indicated earlier the standards for man-made radionuclides were not included because the statutory definition of solid waste excludes such materials from the Act's scope. The contaminant level for coliform bacteria had to be modified because under the NIPDWR the MCL varied somewhat depending on sampling frequency and community size. EPA assumed that sampling of ground water around disposal sites would be less frequent than in a public water system, and so the NIPDWR coliform standard related to the least frequent sampling regimen was selected for the criteria. Also, the criteria do not include the NIPDWR limit for turbidity, since that limit was established for surface water supplies.

(4) *Where the Standard is Applied.* Another concern regarding the ground-water criterion is the issue of where the standard is to be applied (i.e. at what point in the aquifer does contamination from the facility or practice constitute non-compliance). In the proposed criteria, the point of application was at the facility property boundary. The rationale for applying the standard at the property boundary was that it would provide for protection of off-site ground water while affording the opportunity for natural soil attenuation and dispersion and dilution of leachate in ground water underlying the area designated for waste deposition (i.e. within the facility).

However, the proposed criteria recognized that monitoring and control of leachate within the property boundary would generally be necessary in order to assure that the standard at the property bountary would be met. Therefore, there also were proposed operational requirements including monitoring of ground water, prediction and control of leachate migration, collection and removal of leachate and prevention of water infiltration.

Commenters indicated two potential shortcomings of the facility property boundary approach: (1) That future owners of the facility property might use contaminated ground water underlying the facility as drinking water and (2) that if the facility property were very large, great expanses of ground water could be contaminated and purchase of additional property could be used to circumvent the intent. EPA agrees that such results could occur.

Commenters also expressed concern that the operational controls and monitoring provisions were vague and could be meaningful only if specified on a site-by-site basis, rather than generally prescribed in a regulation of national applicability. Commenters also described these operational provisions as inappropriate to a regulation which must delineate acceptable performance levels.

The Agency considered use of other distance specifications in lieu of the property boundary in order to try to respond to reviewers' concerns about

the potential for contamination of large expanses of ground water. The proposed criteria requested comments on alternative distances and the rationale for specification of such distances. Various distances were suggested in the public comments; however, there was no basis presented for selection of one distance over another. While there is a rationale for limiting migration of contamination to within the areas to be used for waste disposal in order to protect neighbors who may use the ground water untreated as a drinking water supply, there is no rationale for limiting migration to any *particular* distance.

In evaluating this issue EPA recognized that the point of application of the standard must be mindful of the ablility to monitor at that point. Ideally, the best way to protect present and future users of an aquifer is to assure that drinking water standards are not violated anywhere in the aquifer, including the area immediately under the waste material.

However, any attempt to monitor directly under the waste presents two major difficulties. First, an environmental risk may be posed by the installation of monitoring wells through the waste material or in areas where waste will be deposited. These wells may become conduits for direct flow of waste constituents (e.g. leachate) into the aquifer. While it may be theoretically possible to construct a well that doesn't allow such infiltration, the technology for this has not been sufficiently demonstrated that EPA would want to encourage this practice on a national scale. Secondly, the immediate proximity of waste to the well, in conjunction with the "conduit" phenomenon, would undermine the utility of the monitoring well. Samples extracted would not be likely to be representative of the aquifer; rather, they would be likely to contain concentrated leachate, overestimating the contamination of the aquifer.

EPA also examined the possibility of other fixed distances from the center of the waste area. This approach was rejected because it was impossible to establish a uniform distance that would be meaningful for the vast number of situations to which this standard applied. In some instances a fixed distance would mean that monitoring wells would still be placed through waste material. A longer distance might, in some cases, put the point of measurement beyond the area of likely placement of drinking water wells.

After examining all of these approaches EPA concluded that the *solid waste boundary* is the appropriate point for application of the standard. The solid waste boundary is intended to be taken as the outermost perimeter of the solid waste as it would exist at completion of the disposal activity. With that as the point of measurement, ground-water contamination will be detected as soon as possible without presenting the risks inherent in monitoring under the waste. Likewise, it avoids the problem of guessing the distance at which a potentially affected party is likely to put a drinking water well. (The only assumption is that drinking water won't be taken from wells drilled directly through the area of solid waste deposition.)

In most cases, for disposal facilities, the solid waste boundary would be the boundary of the solid waste as shown on the design and operating plans which are provided to and approved by the State agency as part of the State's facility permitting or certification program. Where such plans do not exist to designate the perimeter at completion, especially for the practice of indiscriminate or unauthorized disposal, the perimeter at completion can only be taken as the current boundary of the deposited waste.

With this approach to the point of application for the MCL's, the monitoring requirements are relatively clear. Monitoring wells should be placed so as to avoid their becoming conduits for waste materials. Unsaturated and saturated zones underlying the area of the facility designated for waste deposition (i.e. within the solid waste boundary) may be employed for attenuation or control of leachate migration, but contamination of underground drinking water sources outside of these zones constitutes non-compliance with the criteria.

The point of application of the MCL's may be modified under certain circumstances. EPA recognizes that hydrogeological conditions, property rights or legal arrangements concerning an aquifer may limit the ability of the public to directly use some or any part of a particular aquifer as a drinking water source. EPA believes that some flexibility is needed in the criteria to provide for such situations. Therefore, the criteria allow the State to modify the point for application of the MCL's.

To prevent this from becoming a major loophole, the criteria establish limits to this flexibility. Only States with approved solid waste management plans may modify the point of measurement. This may only occur where the State has conducted a thorough examination of the site-specific situation and has made a specific finding that establishment of the alternative boundary would not result in contamination of ground water needed or used for human consumption. The examination leading to the finding should include the opportunity for public participation. The criteria specify the key factors that must go into this determination.

The proposed criteria would have allowed a State to designate an aquifer as a Case II aquifer (an aquifer designated for use other than as a drinking water supply). For an aquifer so designated, the proposed criteria required the ground water to be maintained at a quality as specified by the State. Several commenters challenged the use of this approach. Some argued that, given the uncertainties in future drinking water needs, all potentially usable drinking water should be conserved. They also pointed out that there was inadequate data on ground-water quantity, quality and use projections to make such designations and that institutions and authorities to make such trade-offs are non-existent. Commenters also suggested that it was improper for the criteria to defer totally to State standards for designated aquifers.

EPA generally agrees with the comments. These and other factors lead EPA to drop the aquifer designation provision and rely on the alternative boundary approach as the means for allowing flexible application of the criteria.

(5) *Underground Drinking Water Source.* The final criteria maintain the general approach found in the proposed regulation. The reference to aquifers that "may be designated by the State for future use as a drinking water supply" has been deleted. EPA concluded that this was unnecessarily vague. Any future drinking water source would be likely to fall within the second portion of the definition (aquifers in which ground water contains less than 10,000 mg/l total dissolved solids).

Some commenters questioned the use of the 10,000 mg/l total dissolved solids measure for usable aquifers. It is the Agency's general policy that ground-water resources below that concentration be protected for possible use as a drinking water source. This policy is based on the Safe Drinking Water Act and its legislative history which reflects clear Congressional intent that aquifers in that class deserve protection.

(6) *Sole Source Aquifers.* These aquifers are those which the Administrator specifically designates under authority of Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523; 42 U.S.C. 300f, 300h-3(e); 88 Stat. 1660 et

seq.). This provision of the Safe Drinking Water Act is administered through regulations proposed as 40 CFR Part 148. As applied through RCRA, the Agency's concern for the impact of disposal facilities on these aquifers is not different from that for other underground drinking water sources as defined in the criteria. Therefore, for clarity and consistency, this area of the proposed criteria has now been incorporated into the ground-water section. Rather than addressing the location of facilities in recharge zones of such aquifers (an operational standard), the criteria apply the performance standard described above for all underground drinking water sources, including sole or principal drinking water sources, regardless of location.

H. Application To Land Used For The Production Of Food-Chain Crops (Section 257.3–5)

The conservation of the nation's natural resources is one of the Agency's highest priorities. The application of sewage sludge, as well as other solid wastes, to the land surface or incorporation within the root zone of crops may provide significant benefit through the addition of organic matter, nitrogen, phosphorus and certain other essential trace elements to the soil. Specifically, land application of solid waste coupled with good management techniques for enhancement of parks and forests and reclamation of poor or damaged terrain is a desirable land management technique.

Application of solid waste to agricultural lands may also be an environmentally acceptable method of disposal. However, when improperly managed, the application of solid waste to agricultural lands can create a potential threat to the human food chain through the entry of toxic elements, compounds, and pathogens into the diet. (It should be noted that pathogens are covered under the Disease section of the criteria.) In developing these criteria, the Agency attempted to achieve the benefits of resource conservation while at the same time providing for protection of public health and the environment. In recognition of the above public health concerns, the Agency prefers the application of solid waste to non-food-chain land rather than to agricultural lands. However, the Agency believes that food-chain land application practices which comply with these criteria will pose no reasonable probability of adverse effects on public health or the environment.

This section is only concerned with disposal activities affecting food-chain crops. The other sections of the criteria apply to all disposal activities, including those occurring on lands producing food-chain crops. However, solid waste facilities and practices are only affected by this section if the site of disposal is also a field for production of food-chain crops.

In their role as guidelines under Section 405 of the Clean Water Act the criteria define the responsibility of owners and operators of POTW's when they apply sewage sludge directly to the land. In an effort to encourage the beneficial use of sludge in small communities EPA is concerned that these criteria could present an unwarranted administrative burden upon such communities. Therefore, EPA will explore the possibility of reducing monitoring and recordkeeping requirements for those POTW's with small design capacity which do not have significant industrial inflow and which generate a sludge with a low contaminant level. Such reduced requirements for facilities which apply sludge to land used for the production of food-chain crops would be a part of future regulations or guidance designed to implement Section 405. EPA is considering using a design capacity of 1.0 million gallons or less per day to define "small" facilities and cadmium concentrations of less than 25 mg/kg (dry weight) to define "low-contaminant" sludge.

This section of the criteria is being issued today as an "interim final" regulation. This means that, while the regulation is "final" and legally enforceable, EPA is seeking further public comment on the regulation. If changes are warranted by suggestions or new information generated during the public comment period, EPA is quite willing to modify this section.

The "interim final" approach has been recognized by the courts as a permissible means for EPA to use when trying to satisfy the competing demands placed on its rulemaking efforts. Particularly where EPA is under court order to issue regulations by certain dates, this approach has been used to satisfy the spirit of the court's order without curtailing opportunity for additional public participation in the rulemaking process.

These criteria are subject to the mandate of the U.S. District Court for the District of Columbia in *State of Illinois v. Costle*, No. 78–1689 (D.D.C. Jan. 3, 1979). Under the order of that court the criteria were to be issued by July 31, 1979, and EPA intends to satisfy the spirit of that order. EPA believes that the standards established in this section provide a reasonable approach to the environmental problem at issue. However, the public has not had a full opportunity to comment on some of the technical data and analyses supporting this portion of the regulation. The "interim final" approach is appropriate because it allows the Agency to accommodate these two competing interests. It achieves substantial compliance with the court mandate while allowing full public participation in the rulemaking effort.

As proposed, this section of the criteria addressed four general categories of pollutants: (1) Cadmium; (2) pathogens; (3) pesticides and persistent organics; (4) ingestion of toxic organic chemicals and heavy metals (especially PCB's and lead). In the final regulation this section addresses cadmium and PCB's. Pathogens are considered under the disease criterion (§ 257.3–6). Lead, pesticides and persistent organics will not be addressed at this time because current information available to the Agency is inadequate to support specific standards. EPA will investigate the possibility of adding more pollutants to the criteria at a later date.

(1) *Cadmium.*—The proposed criteria included two approaches for the land application of solid wastes containing cadmium. The first approach incorporated four site management controls: Controls of the pH of the solid waste and soil mixture; annual cadmium application limits that were reduced over time; cumulative cadmium application limits based on soil cation exchange capacity (CEC); and a restriction on the cadmium concentration in solid wastes applied to facilities where tobacco, leafy vegetables and root crops are grown. The second approach required comparability of the cadmium content of crops and meats marketed for human consumption to the cadmium content of similar crops and meats produced locally where solid waste had not been applied. Also, a contingency plan was required which identified alternative courses of action that would be taken if the cadmium levels were not found to be comparable. This approach was only available to facilities possessing the necessary resources and expertise to adequately manage and monitor their operations to assure such comparability.

In the final regulation, application of solid waste to land is specified as a disposal practice in which the solid waste is applied to within one meter (three feet) of the surface of the land. That distance was selected to represent the root zone of food-chain crops, where uptake of cadmium by plants is likely to occur.

The final regulation maintains the same general approach as the proposed regulation. Under the first option controls are placed on both annual application rates and maximum cumulative loadings. The provision mandating that the pH of the mixture of soil and solid waste be maintained at 6.5 has been changed to a requirement that the pH be at 6.5 or more at the time of each solid waste application (except when cadmium concentrations are 2 mg/kg or less in the solid waste).

While the annual application rate limits are basically the same as those in the proposed regulations, two changes have been made. The limit for annual cadmium application to "accumulator" crops is now 0.5 kilograms per hectare/yr. (In the proposed regulation the limit was expressed in milligrams per kilogram dry weight of waste.) In addition, the annual application rate limit for all other crops will be phased in over a slightly longer time period than that which was proposed.

The limits on cumulative loadings are also basically the same as those in the proposed regulation. However, they have been modified to account for pH effects. Where natural soil background pH is at 6.5 or greater, or where the natural soil background pH is less than 6.5 but safeguards exist at the site which will assure that the soil pH will be maintained at 6.5 or greater for as long as food-chain crops are grown, the maximum limits contained in the proposed regulation are applicable. In all other situations maximum cumulative loadings may not exceed 5 kg/ha.

As in the proposed regulation, there is a second approach that would allow unlimited application of cadmium providing that four specific control measures are taken: First, the crop grown can only be used as animal feed. Second, the pH of the soil must be maintained at 6.5 or above for as long as food-chain crops are grown. Third, a facility operating plan must describe how the animal feed will be distributed to prevent human ingestion. The plan must also describe measures that will be taken to prevent cadmium from entering the human food-chain due to alternative future land uses of the site. Fourth, future owners are provided notice (through provisions in land records or property deed) that there are high levels of cadmium in the soil and that food-chain crops should not be grown.

EPA received many comments on the cadmium controls in the proposed regulation. In order to clearly explicate the final standard and respond to major public comment, this preamble will discuss the issues under five headings: (a) Health effects; (b) trace amounts of cadmium; (c) maximum cumulative loadings; (d) annual rates of application; and (e) closely controlled facilities.

(a) *Health Effects of Cadmium.*—The comments that were received exhibited widely divergent views on the health implications of cadmium contained in solid waste. As a result, the Agency reexamined the available scientific data and reached the following conclusions.

A variety of adverse health effects have been documented in humans and experimental animals under conditions of acute as well as chronic exposure to cadmium. While acute health effects in humans are generally caused by high-level occupational exposure through inhalation, chronic health effects may result through the diet and cigarette smoking, which are the major routes of cadmium intake for most people. The kidney is considered the main target organ for chronic exposure to cadmium, although chronic respiratory effects have been observed in long-term occupational settings. Upon ingestion or inhalation, the metal gradually accumulates in the kidney cortex. According to both clinical-epidemiological and model-calculation data, the critical concentration of cadmium in the kidney cortex is approximately 200 micrograms per gram (ug/g), wet weight, in the average human. At that level, renal tubular dysfunction, characterized by proteinuria, is expected to occur. This condition is manifested by the excretion of B_2-microglobulin, which is the earliest discernible laboratory evidence of organ damage. Although mild or moderate increases in excretion of B_2-microglobulin, per se, are not life-threatening, the condition is often irreversible, and continued excessive exposure to cadmium can lead to other renal function abnormalities (such as glycosuria, amino-acid uria, and phosphaturia).

Several autopsy studies have been performed to determine the cadmium content of various types of body tissue, such as the kidney and the liver. These studies confirm that the kidney is the organ which contains the highest concentration of cadmium and that the concentration of the metal increases with age. Further, the autopsy data indicate that for the general United States population (smokers included) the mean cadmium levels reached in the kidney cortex are in the range of 20–35 micrograms per gram wet weight. Smoking would tend to raise the mean cadmium concentration since the data also show that smokers have approximately double the concentration of non-smokers. There were significant individual variations from the mean value, with some concentrations over 60 micrograms per gram.

Various models have been established to calculate the daily level of exposure which will result in a cadmium concentration of 200 ug/g in the kidney cortex, i.e., the concentration at which tubular proteinuria can be expected to occur. EPA scientists reviewed these models and have reached the following consensus. Ingestion of 440 micrograms of cadmium per day over a 50-day period is a reasonable estimate of the amount of cadmium necessary for 50 percent of the individuals within the population to develop proteinuria. It is significant to point out, however, that there are many individuals who may develop proteinuria at lower exposure levels. The metabolic model, developed by Friberg, shows that ingestion of about 200 micrograms per day over a 50-year period is the level at which most sensitive individuals accumulate 200 ug/g cadmium in the kidney cortex. The dose-response model, developed by Kjellstrom and Nordberg, reflects a non-threshold dose-response. Using this model, daily cadmium exposures in the range of 100 to 125 micrograms would produce renal dysfunction in about 5 to 8 percent of the population after some 50 years of exposure.

These model calculations are based on the assumption that all cadmium intake is through the diet. Therefore, allowances are necessary for non-dietary routes of cadmium intake, such as smoking or occupational exposure. (The contribution of smoking to cadmium intake is readily quantifiable. Available data show that smoking one pack of cigarettes a day is roughly equivalent to cadmium retention in the body resulting from a dietary intake of 25 micrograms.)

In 1972, the World Health Organization (WHO) used a model such as the ones referred to above to arrive at a recommended maximum cadmium intake level through the diet. Employing a margin of safety to allow for non-dietary intake sources and for sensitive individuals, the WHO recommended that human exposure to cadmium should not exceed 57 to 71 micrograms per day from the diet.

There is no general consensus on the current dietary cadmium levels in the United States, but there is wide agreement that the daily intake levels vary significantly according to individual dietary habits. Based on annual market basket surveys conducted by the Food and Drug Administration (FDA), the median ingestion level is about 39 micrograms

per day and the mean ingestion level is about 72 micrograms per day for male teenagers, who have the highest per-capita food intake among any age group. Any average value as an estimate for cadmium intake through the diet has the shortcoming that it does not represent those individuals with unusual dietary habits, such as the heavy consumption of cadmium-rich foods (e.g., leafy vegetables); and the available evidence shows that there is a wide range of dietary cadmium exposure among the population.

One other source for estimating cadmium intake levels in the human body was reviewed by the Agency. This comprises chemical analysis of fecal excretions. The fecal excretion studies are based on the experimental finding that only about 6 percent of ingested cadmium is retained in the body, while the rest is excreted. Three recent fecal excretion studies derived the daily mean dietary cadmium intake estimate of about 20 micrograms for American teenage males. The reasons for the significant differences between the results of the fecal excretion studies and the FDA market basket surveys are not yet understood. The fecal excretion studies also showed significant individual variations in derived cadmium ingestion levels. Thus, five percent of the population appeared to exceed 30 to 40 micrograms per day intake, and one percent appeared to exceed 50 micrograms per day intake.

There are population groups for whom an increase of cadmium levels in the diet may be more significant than for the average population. Among these are the smokers, who are known to receive an added body burden of cadmium via inhalation. Vegetarians also may be experiencing higher cadmium intake than the average population, since certain vegetables contain significantly more cadmium than other food items. Also, the scientific literature indicates that certain nutritional deficiencies, such as low calcium, zinc, or protein, result in a marked increase in cadmium absorption through the gastrointestinal tract, while individuals with vitamin D deficiency are more susceptible to injury by a given level of cadmium in the body.

Both the FDA approach and the fecal study approach are legitimate means of estimating current average intakes of cadmium. However it is also clear that "sensitive" individuals may be experiencing much higher absorption of cadmium. Since under this regulation higher estimates of current intake will mean that lower levels of cadmium will be allowed to be added from solid waste disposal, EPA believes that it should use the higher estimate of current diet levels in order to provide greater protection for sensitive individuals. Therefore, as will be explained later, the criteria will rely on the FDA estimate of 39 ug/day as the median level in the diet, which was derived by averaging the median levels over several years.

In addition to the concerns over renal toxicity, several commenters raised questions over potential oncogenic, carcinogenic, mutagenic and teratogenic effects of cadmium. Based on an evaluation of the currently available scientific data, the Agency has concluded that the evidence that cadmium may cause these effects in man is suggestive but not decisive enough to serve as the basis for this regulation. Consequently, the limitations on cadmium incorporated in the criteria are based on the substantial evidence of that metal's impact on the kidney, specifically the renal cortex, which the Agency considers to be the main target organ for chronic environmental exposure. However, if cadmium is determined to cause the aforementioned effects in humans, the Agency will reevaluate the regulations and establish appropriate new limits.

The Agency is concerned over the conduct of any practice which could significantly increase the amount of cadmium in the diet beyond current levels. Therefore, it is the intent of this rulemaking to minimize the movement of cadmium into the human food chain from solid waste applied to the land. After an evaluation of the full range of scientific information concerning cadmium, EPA has decided to make the following assumptions to serve as a basis for setting limits on solid waste application.

First, the Friberg model, which defines 200 ug/day as the "danger level" in the human diet, is most appropriate for regulatory purposes. There is more data to validate that approach than there is for the Kjellstrom dose-response model.

Second, to provide an adequate safety margin in defining the risk from solid waste applied to food-chain crops, the criteria should be concerned about daily dietary intake of 70 ug/day of cadmium.

Third, for analytical purposes, EPA will assume a maximum increment of 30 ug/day in conjunction with high risk diet assumptions. In order to relate the health effects analysis to the diverse and complicated data that exist on crop uptake, it is necessary to make a judgment about the incremental cadmium ingestion that must be prevented by this regulation. Clearly, this is a difficult task in light of the various sensitivities of particular individuals, the long-term nature of the health risk and the various dietary patterns which may occur.

In using this assumption, EPA is not stating that such an increase in the diet of the average American is acceptable. An increase of that magnitude in the *average* diet would clearly be unacceptable. For the average to increase by this increment, many individuals would be experiencing much higher cadmium intakes.

It must be emphasized that the 30 ug/day figure will be used in an analysis of a high-risk situation. That high-risk situation is one where an individual receives 50% of his vegetable diet from sludge-amended soils for a period of 40 to 50 years. While such a situation could occur, due to a wide variety of other mitigating factors most people will experience much smaller exposures to cadmium.

Realizing that any numerical expression of unacceptable health risk can only be an approximation, EPA used the 30 ug/day as a reasonable assumption for this analysis. The Agency's Office of Research and Development determined that daily cadmium intake of about 200 ug/day could lead to serious health effects. To provide a margin of safety, that office suggested that a limit of 150 ug/day from all sources of exposure be considered for regulatory purposes. EPA is also concerned about the added cadmium which may enter the human body due to smoking. Heavy smokers (those smoking 3 packs of cigarettes per day) can expect to add the equivalent of 75 ug of cadmium to their daily intake.

Reducing the 150 ug/day by that figure gives an estimate of the "danger level" for dietary intake. The result of that calculation (75 ug/day) is close to the World Health Organization's recommendation of 57–71 ug/day. EPA decided that a level of 70 ug/day represented a reasonable limit on the maximum acceptable daily dietary intake of cadmium. The FDA's estimate of current levels of cadmium in the median American is 39 ug/day. Therefore the 30 ug/day assumption would keep cadmium ingestion within the limit of 70 ug/day.

(b) *Trace Amounts of Cadmium.*—Where the cadmium content of sludges is quite small the likelihood of a significant uptake in plants is also relatively small. Several commenters suggested that the requirement for pH control (6.5 at time of waste application) should not apply to those solid wastes which contain only trace amounts of cadmium. EPA agrees with this comment and, therefore, has exempted wastes with cadmium concentrations of 2 mg/kg (dry weight) or less from the pH

control provision. This modification would allow such wastes as food processing residuals to be landspread without unnecessary pH control measures.

(c) *Maximum Cumulative Loadings of Cadmium.*—Comments received on the cumulative cadmium application limits, soil pH, and soil cation exchange capacity (CEC) are interrelated and, therefore, will be discussed concurrently. In general, commenters felt that varying degrees and combinations of the three aforementioned parameters will limit the uptake of cadmium by food-chain crops.

Most commenters agreed that it is necessary to control the pH of the solid waste/soil mixture to minimize the uptake of cadmium by food-chain crops. The final regulation recognizes that need by requiring that the pH of the soil/solid waste mixture be 6.5 at the time of application. The proposed regulation required that pH be maintained at 6.5 for as long as food-chain crops were grown. Several commenters pointed out that such a provision would be difficult to implement or enforce in many situations. The Agency agrees that this may be true in some instances but did not want to preclude the application of solid waste to food-chain crops where soil pH can be maintained at acceptable levels.

These considerations prompted EPA to modify the standard for cumulative loadings to delineate three soil categories based on pH: (1) Those with natural pH of 6.5 or above; (2) those with natural pH below 6.5; and (3) those with natural pH below 6.5 but where pH will be maintained at or above 6.5 for as long as food-chain crops are grown. The criteria establish the same set of standards for categories (1) and (3) but tighten the standard for soils with the more dangerous condition reflected in category (2).

The prime data base for the calculation of acceptable cumulative loadings was a set of field studies on former landspreading sites where crops were grown at least two years after application of solid waste. This approach was appropriate for setting maximum cumulative limits because such standards are primarily concerned with future uses of landspreading sites for home gardening or commercial agriculture.

These data correlated cumulative loadings of solid waste in the soil to plant uptakes of cadmium in representative leafy vegetables. From existing data comparing uptakes of leafy vegetables to other basic food classes, EPA calculated the ratio of uptakes in leafy vegetables to those in other classes. The ratios were than applied to the field data to predict what uptakes would have been if other types of crops had been grown on former landspreading sites. This gave an estimate of cadmium uptakes that would be likely to occur in fields with differing cumulative levels of cadmium.

EPA then used a "diet scenario" analysis to translate the plant uptake levels into predictions about the amount of cadmium entering the human food chain. The Agency's assumptions about intake of the various food classes followed that of the U.S. Food and Drug Administration's 1974 Total Diet Studies. From this, EPA calculated the additional cadmium entering the human diet, assuming varying levels of dependence on crops from waste-amended fields. (EPA calculated intakes for situations where 100%, 50%, 25% and 10% of the diet come from such fields.)

The 5 kg/ha limit for acid soils (below 6.5 pH) was established by relating the diet scenario analysis to the health effects analysis. The diet scenario analysis indicated that on mildly acid soils (pH=5.8) 5 kg/ha of cadmium only increased dietary cadmium by 22 ug/day (making the assumption that no more than 50 percent of one's vegetable diet is derived from sludge fields). However, a cumulative loading of 7 kg/ha on very acid soils (pH=4.9) increased the dietary level by 211 ug/day. This marked increase in dietary cadmium may be attributed to both the increase in the cumulative cadmium application rate from 5 kg/ha to 7 kg/ha and the drop in pH from 5.8 to 4.9. Such an increase is far above the acceptable level in the diet. Therefore, EPA has established the maximum cumulative limit at 5 kg/ha for acid soils.

Soil cation exchange capacity was also utilized in calculating the permissible loadings for soils with pH of 6.5 or greater. The evidence available to EPA indicates that CEC is an important index of soil factors in limiting uptakes in high-pH soils. However, in highly acidic soils, pH becomes the dominant factor affecting plant uptake.

Soil CEC is an easily measured index of those properties, particularly the nature and content of clay and organic matter, that affect the soil's ability to absorb cadmium. High CEC levels mean that a soil has a greater capacity to adsorb cadmium and thus prevent that cadmium from entering plants grown in the soil. Several studies have demonstrated the inverse raltionship between CEC and plant uptake of cadmium.

The proposed cadmium standard recognized the importance of CEC and established differing limits depending on CEC levels in the background soil. The actual numbers selected were based on recommendations from recognized agricultural research groups (including the North Central Regional Extension Services and the U.S. Department of Agriculture). Several commenters supported the selected levels as providing adequate protection against excessive uptake of cadmium.

Where possible, EPA also used existing field studies on former landspreading sites to validate those recommendations. An application of the diet scenario analysis to available data on high-pH soils with mid-range CEC's supports the conclusion that the levels established in the recommendations provide adequate protection to the public. As an example, again assuming that half of the vegetable diet comes from sludge-amended fields, the data show that a cumulative level of 7 kg/ha could result in an 11.9 ug/day dietary increment, while a level of 15 kg/ha could result in a 39.2 ug/day increment. Using the 30 ug/day increment assumption discussed previously, the 15 kg/ha loading is too high, while the 7 kg/ha loading is well within the acceptable range. EPA believes that this analysis supports the selection of 10 kg/ha is an appropriate standard for soils with a mid-range CEC. In light of the other clear evidence of the role of CEC in limiting uptake EPA believes that it is, therefore, appropriate to use the limits recommended by the research community.

The Agency recognizes that there are some facilities with naturally acid soils where land management practices can be implemented with adequate safeguards to assure that the soil pH will be maintained at 6.5 or higher for as long as food-chain crops are grown. Where such safeguards exist, the criteria provide an option to permit such facilities to use the CEC-based cadmium loading rates. However, the Agency is concerned that the application of up to 20 kg of cadmium per hectare may result in significant cadmium uptake by crops if the pH is not controlled for as long as food-chain crops are grown. Therefore, unless the facility can clearly demonstrate long-term control over pH, the Agency strongly recommends that those facilities having naturally acid soils select the option which limits the cumulative cadmium application rate to 5 kg/ha.

The Agency considered establishing even lower cumulative cadmium application rates on soils with a natural pH that is very highly acidic (including prohibition on landspreading on soils

with very low pH). While it is clear that leafy vegetables, root crops and tobacco tend to accumulate cadmium in their tissues and, therefore, are more sensitive to high soil cadmium concentrations under acid soil conditions, insufficient data exist to establish more restrictive cumulative levels for such soils. The Agency is continuing to examine this situation and will, upon development of additional data and information, propose new cumulative limits for highly acidic soil. However, in recognition of the higher uptake of cadmium by these crops, the Agency recommends avoiding the application of solid waste containing cadmium (e.g., sewage sludge) on very acidic soils used for the production of leafy vegetables, root crops and tobacco and discourages the application to agricultural land which is likely to be converted to production of such crops.

The Agency also considered requiring a soil analysis for total cadmium prior to the application of solid waste and adjusting the cumulative limit for cadmium additions downward to account for soils with high background cadmium concentrations. However, the Agency was not able to justify the use of a background correction factor since there is a paucity of data concerning the relationship between naturally occurring cadmium and solid waste-added cadmium, with respect to crop uptake. Until these questions are resolved, the Agency recommends that a soil test be performed prior to initiating landspreading, in order to establish the background conditions at the site. Further, for those facilities which have unusually high background cadmium soil concentrations, the Agency recommends that consideration be given to reducing cadmium application.

(d) *Annual Cadmium Application Limit.*—Comments received on the proposed annual cadmium application limits were widely divergent. Several commenters stated that the proposed cadmium limitation of 0.5 kilogram per hectare (kg/ha) per year was unnecessarily restrictive. The indicated reasons were primarily that the reduction in solid waste application would result in increased costs and that the potential risk to human health was not sufficient to justify that reduction. A second group of commenters suggested that the annual limitations on cadmium application were not sufficiently protective of public health and should be reduced much further or the application of cadmium-containing solid waste to agricultural lands be prohibited altogether, since the proposed limits would permit the entry of significant quantities of cadmium into the human diet.

Comments were also received on the proposed cadmium concentration limit of 25 mg/kg for solid wastes applied to facilities where tobacco, leafy vegetables or root crops are grown for human consumption. Some commenters viewed the proposed limit as being overly restrictive, while others recommended that cultivation of those crops which tend to accumulate cadmium to relatively high levels should not be allowed on waste-amended soils.

EPA believes that annual cadmium application limits are particularly important on those active sites which are nearing the cumulative cadmium application limits. As the total amount of soil cadmium at such sites begins to reach the cumulative loading limits, both the cadmium previously applied to the soil and new additions of cadmium from solid waste will affect crop uptake of cadmium. In setting annual application rates EPA must account for this factor.

Available research indicates that there are significant differences in uptake among crop species. It would, however, be impossible to write specific cadmium limits for each crop type based on the available data. Moreover, such an approach would complicate the regulation, making implementation confusing and impractical.

In looking at individual crop uptakes, however, EPA determined that there is a set of "accumulator" crops which tend to absorb very large quantities of cadmium as compared to all other crops. Tobacco, leafy vegetables and root crops constitute the "accumulator" class. In order to provide an adequate margin of safety EPA believes that the annual application rates should be based on data from representative "accumulator" crops. This assures that when a mix of crops is grown on sludge-amended fields no crop will have dangerous up takes of cadmium.

The available data indicates that significant increases of cadmium occur even with small applications of waste. For example, annual rates of approximately 0.7 kg/ha applied to soils which have not received sludge previously have been shown to triple the amount of cadmium in lettuce leaves. Using the diet scenario analysis it can be demonstrated that application rates of 0.8 kg/ha can lead to dietary increases of 10.3 ug/day from leafy vegetables alone. Other data indicate that this level may be even greater where cadmium from landspreading in previous years is already in the soil. Under these circumstances EPA concluded that an annual limit of 0.5 kg/ha is necessary to provide adequate protection to the public health.

EPA recognizes that not all crops will present the same risk as accumulator crops, particularly in the first few years of landspreading. However, due to the factors discussed above applications of solid waste should eventually be limited to 0.5 kg/ha for all food-chain crops. Therefore, the Agency has decided to distinguish between accumulator and non-accumulator crops in the annual limits. When wastes are applied to accumulator crops the annual limit will be 0.5 kg/ha immediately. For all other crops a phased reduction will be allowed.

The criteria limit additions to 2.0 kg/ha until June 1984 and 1.25 kg/ha until December 1986. This gives communities and industry the time necessary to implement programs, such as cadmium source control and pretreatment of industrial discharges, to reduce current cadmium concentrations in their wastes or to develop alternative disposal practices. The schedule has been slightly relaxed from the proposed criteria in order to make it compatible with the Agency's pretreatment program schedule. The Agency believes that allowing higher cadmium application rates than 0.5 kg/ha through 1986 will have a negligible human health effect because the health impacts from cadmium are long-term and cumulative in nature. Based on assumptions similar to those used in the "diet scenario" analysis (see the discussion of cumulative loading limits), it can be shown that during this initial period applications of 2.0 kg/ha do not present significant health risks.

The proposed regulation also distinguished between accumulator and non-accumulator crops, and that approach is being maintained in the final criteria. However, the proposed limit for accumulator crops was expressed in terms of sludge quality (cadmium concentration in the waste not to exceed 25 mg/kg dry weight). Calculations show that a cadmium concentration limit of 25 mg/kg in the solid waste will not necessarily preclude application rates above 0.5 kg/ha, the level which EPA believes is more directly related to the human health risk.

For example, some solid wastes are often applied to the land as soil conditioner or mulch. Such a solid waste (e.g., composted sewage sludge), at a cadmium concentration of 25 mg/kg, would contribute cadmium to the soil at the rate of about 1.5 kg/ha when applied 1.3 cm (0.5 inch) thick to the land surface. Therefore, EPA decided to integrate this standard with the rest of

the section and express the limit in kg/ha.

(e) *Closely Controlled Facilities.* Substantial public comment was received on the second major approach proposed for controlling dietary intake of cadmium via the application of solid waste to land. This approach required cadmium levels in crops or meats produced from solid waste-amended soils to be comparable to cadmium levels in similar crops or meats produced locally where solid waste had not been applied. Several commenters stated that this approach would be very difficult to implement because of problems in establishing an effective system to monitor and control agricultural products. Moreover, terms such as "local market" and "comparable levels" are vague and, therefore, subject to varying interpretations.

Commenters suggested two major alternatives to the proposed approach; both of these were considered by the Agency. They were dilution of cadmium-containing crops and meats in the market place, and establishment by the FDA of maximum permissible levels of cadmium in food products. Dilution in the market place was not selected as a control option, partly because of the difficulty of implementation. More importantly, the dilution of a toxic contaminant into the food chain is an unacceptable long-term policy because it could, over a number of years, significantly increase the total body burden in humans.

The FDA indicated that the alternative approach of establishing a tolerance level for cadmium in food products commodities; however, several years will be required to obtain the statistically meaningful data necessary to establish tolerance levels in agricultural crops.

Based on the public comments received, the proposed criteria have been modified to simplify implementation yet still provide adequate health protection. As promulgated, this cadmium management approach sets forth four requirements which will serve to minimize the increase of cadmium in the human food chain.

First, only animal feed may be grown under this option. Research data show that animals excrete most of the ingested cadmium; the small amount that is absorbed is accumulated in viscera such as the kidney and the liver. The likelihood of significantly increasing individual or general dietary cadmium levels through animal feeds is negligible. Several commenters suggested that the Agency consider prohibiting the marketing of livers and kidneys of such animals for human consumption. There is some question whether such an approach is within EPA's authority under the Act. Moreover, control of distribution in this manner is unnecessary because the marketing of organs from such animals would not result in a significant increase of cadmium in an individual's diet.

The second control to assure proper management of the facility is the requirement that the solid waste and soil mixture have a pH of 6.5 or greater at the time of solid waste application or at the time the crop is planted, whichever occurs later. The Agency believes that maintaining the soil pH at a near-neutral level is particularly important under this cadmium management approach where the cadmium application rate is unrestricted.

The third requirement calls for the development of a facility operating plan. The purpose of this plan is to demonstrate how the animal feed will be distributed and what safeguards are utilized to prevent the crop from becoming a direct human food source. EPA is primarily concerned about crops such as corn, wheat and soybeans which may be used for animal feed or direct human ingestion. In addition, the facility operating plan should describe the measures that have been taken to safeguard against possible health hazards resulting from alternative future uses of the land. Some future land uses, such as the etablishment of vegetable farms or home vegetable gardens, could result in significant dietary increases of cadmium. Such provisions in the facility operating plan could cover a range of options, such as dedication of the facility as a public park, placement of fresh top soil over the site, or removal of the contaminated soil.

The fourth requirement is a stipulation in the land record or property deed which states that the property has received solid waste at high cadmium application rates and that foodchain crops should not be grown, due to a possible health hazard.

(2) *Poly-chlorinated Biphenyls (PCB's).* The proposed criteria required that solid waste containing pesticides and persistent organics, when applied to land used for the production of food-chain crops, not result in levels of these substances in excess of the tolerances set pursuant to the authorities of the Federal Food, Drug and Cosmetic Act. The proposed criteria also required that solid waste of concern due to its toxic organic chemical or heavy metal content (e.g., PCBs and lead) not be applied to a site so that the freshly applied solid waste may be directly ingested by animals raised for milk or by humans.

At this time, EPA has decided not to establish tolerances for pesticides and persistant organics in solid waste. They were not developed because there were no adequate data on the amounts of these substances in solid waste to demonstrate a public health risk. An ongoing study is expected to obtain information on the amount of pesticide and persistent organics in sewage sludge to help develop a standard relating to this subject. After reviewing existing FDA tolerance limits for such substances, EPA has determined that they are impractical as a basis for standards for solid waste application to food-chain lands, because those tolerance limits are based on food contamination from pesticide application. At this time there is almost no information available indicating the relationship between the level of such substances in solid waste and the resulting food contamination. Direct application of the FDA tolerance limits would require extensive chemical analysis for a very large number of pesticides and toxic organic substances that might be present in the solid waste in trace amounts. Other data sources also did not provide an adequate basis for setting standards. The Agency will continue to evaluate data on this subject and explore this problem with the FDA and other interested parties. It is possible that standards on this subject could be part of pending sewage sludge disposal guidelines under Section 405 of the Clean Water Act, as well as future amendments to the criteria.

While EPA is concerned about the health problem posed by ingestion of lead, the Agency is not aware of any evidence that increased lead ingestion by dairy animals results in elevated lead levels in milk. Consequently, the Agency is not able to promulgate a standard for lead based on ingestion of solid waste by dairy animals, as was suggested by some commenters. While direct ingestion of lead by children, which may occur when they play in areas where sludge has been applied, may also be a concern, there is limited data available to establish a standard for this situation. The Agency intends to explore this potential problem further in the pending sewage sludge disposal guidelines under Section 405 of the Clean Water Act.

In establishing the standard for PCB's, the Agency looked to tolerance levels established by the FDA to define the health risk. The FDA has established maximum tolerance levels of 0.2 mg/kg (actual weight) for animal feeds and 1.5 mg/kg (fat basis) for milk. The standard

promulgated in the criteria is designed to prevent PCB levels from exceeding these levels due to application of solid waste to fields growing animal feed. When solid wastes are applied to the land surface so as to allow direct contact between the solid waste and the crop, the animal feed can become contaminated. By incorporation of the solid waste beneath the soil surface (generally below the root zone of pasture grasses), the amount of ingested PCB's is greatly reduced. Therefore, EPA has concluded that the proper regulatory strategy is to require incorporation of the solid waste into the soil when the PCB level in the waste material is so high that direct contact between the crop and the soil could cause the FDA tolerances to be violated.

Based on assumptions recommended by FDA, EPA calculated the concentration level of PCB's in solid waste which might cause the FDA tolerances to be violated. These calculations established the PCB concentration threshold at 10 mg/kg. Generally, then, any sludge which exceeds that level of PCB's must be incorporated into the soil when applied to land used for the production of food-chain crops.

There is, however, one exception to that requirement. Wastes which exceed 10 mg/kg of PCB's may be applied to fields without incorporation if testing of the animal feed grown on the field demonstrates that the FDA standards will not be violated. If such testing indicates that the FDA standards have been violated, then the solid waste disposal activities leading to the contamination have violated the criteria.

It should be noted that the calculation of the 10 mg/kg level for PCB levels in the waste is based on the assumption that the only way PCB's enter a grazing animal is through the adherence of waste material to the vegetation eaten. EPA recognizes that a certain amount of PCB's may enter the animal due to direct ingestion of soil. At this time, however, EPA does not have sufficient data to know how that factor should be used in the analysis. Moreover, the recommendations from FDA did not take that factor into consideration.

As discussed earlier this portion of the regulation is being issued as "interim final", which means that further public comment is solicited. EPA encourages the public to provide suggestions and data that would help the Agency to account for the direct ingestion of soil in setting a PCB standard.

I. Disease (Section 257.3–6)

Solid wastes can contain pathogenic bacteria, viruses and parasites which can infect both humans and animals. Wastes can provide food and harborage for rodents and flies which are capable of transmitting these disease organisms to humans and animals. Other routes of disease transmission to humans and animals include direct contact with wastes during landspreading operations, contact with soil or plants which have been contaminated with wastes, or ingestion of food and water contaminated with wastes.

The proposed criteria required protection of public health by control of disease vectors. This requirement was to be met through minimizing the availability of food and harborage for disease vectors or through other techniques where appropriate. In another section, the proposed criteria required stabilization of solid waste of concern due to its pathogen content when applied directly to the surface of land used for the production of food-chain crops. In addition, a one-year waiting period was prescribed before growing human food crops which are normally eaten raw. In yet another section, the proposed criteria required controlled access to solid waste disposal facilities so as to minimize exposure of the public to exposed waste.

The final disease criterion combines provisions concerning vectors and pathogens. The provision concerning vectors calls for the minimization of on-site populations of disease vectors. Periodic application of cover material (usually at the end of each operating day) or other appropriate techniques should satisfy the performance standard.

Sewage sludge and septic tank pumpings are the solid wastes which are generally applied to the surface of the land and are of concern due to their pathogen content. To protect public health, the criteria provide for control of pathogens in disposal of these wastes by one of several operational approaches as described below.

Sewage sludge applied to the land surface or incorporated into the soil must be treated by a Process to Significantly Reduce Pathogens. Aerobic digestion, air drying, anaerobic digestion, composting, lime stabilization, or other similar techniques will satisfy this requirement. In addition, public access to the site must be controlled for at least 12 months, and grazing by animals whose products are consumed by humans must be prevented for at least one month.

Septic tank pumpings must be treated by one of the Processes to Significantly Reduce Pathogens, unless public access to the facility is controlled for at least 12 months and grazing by animals whose products are consumed by humans is prevented for at least one month. Neither set of provisions for sewage sludge or septic tank pumpings apply where these wastes are disposed of by a trenching or burial operation.

Further public health protection is required when sewage sludge or septic tank pumpings are applied to land where crops for direct human consumption are grown less than 18 months after waste application. In these instances, the waste material must be treated, prior to application, by a Process to Further Reduce Pathogens. Beta ray irradiation, gamma ray irradiation, pasteurization or other equivalent methods will satisfy this requirement if performed after a Process to Significantly Reduce Pathogens. High-temperature composting, heat drying, heat treatment and thermophilic aerobic digestion will satisfy this requirement without prior treatment. A Process to Further Reduce Pathogens is not required if there is no contact between the solid waste and the edible portion of the crop, as long as the solid waste is treated by a Process to Signficantly Reduce Pathogens prior to application. In addition, public access to the facility must be controlled for at least 12 months after solid waste application, and grazing of animals whose products are consumed by humans must be prevented for at least one month.

Like the portion of the criteria concerning application of solid waste to food-chain crops (§ 257.3–4), the sewage sludge and septic tank pumpings provisions of the disease section are being issued as an "interim final" regulation. While there was extensive public review and comment on the proposed regulation, the public has not had a full opportunity to examine and analyze the new data and technical support for this section. At the same time EPA believes that it must promulgate this portion of the regulation in order to satisfy the spirit of the court order mandating issuance of the criteria. EPA will fully review all comments and make changes in the regulation if such modifications are warranted by the data.

(1) *Disease Vectors.* Some commenters sought a more specific statement of the performance objective of this provision. EPA explored the possibility of developing a numerical performance objective, but determined that such a standard would not be meaningful. While the risk from disease vectors is very real, the risk cannot be translated into a measure of "rats per square meter" or "flies per cubic foot of air space." Moreover, such performance

standards could not be measured with any accuracy. Therefore, EPA made the standard more specific by requiring minimization of on-site populations of disease vectors. This statement of the standard leaves no question that the facility must not be a breeding ground, habitat or feeding area for vector populations. At the same time, it provides some flexibility in the implementation of the standard.

Several commenters indicated that, since there are a number of techniques to protect public health from disease vectors, the phrase "minimizing the availability of food and harborage for vectors through periodic application of cover material" should be deleted. EPA agrees and has done so.

At most facilities which dispose of putrescible wastes, the most effective means to control rodents is the application of cover material at the end of each operating day. Other means include composting or processing the waste, so as to render it unattractive to rodents, or using rodenticides. At some facilities, disease vectors such as flies may be more difficult to control than rodents; but certain practices, such as the periodic application of cover material, can help alleviate the problems. Mosquitoes can be controlled by eliminating stagnant water for breeding, by predatory or reproductive control and, if necessary, by spraying with insecticides or repellants.

Cover material also serves other purposes: (a) It helps contain odor, litter, and air emissions, thereby improving the facility's aesthetic quality; (b) it reduces the potential for fires; (c) it reduces rainwater infiltration, thereby decreasing leachate generation and surface and ground-water contamination; and (d) it improves the facility's appearance and enhances utilization after completion.

Since periodic application of cover material is an effective, widely used and generally preferred means of controlling vectors, EPA believes that it is appropriate to specify it in the criteria. It is impractical, however, to cover some wastes. Moreover, cover material is not generally necessary for wastes which are non-putrescible, relatively stable or inert. The criteria allow for other techniques to be employed in these situations.

EPA has not included the phrase "minimizing the availability of food and harborage" in the final standard. That language would not cover such control measures as repellants, insecticides and rodenticides, which could be effective in meeting the objective of this section.

Commenters also requested a definition of the term "disease vector." Disease vectors are rodents, flies and mosquitoes, since these are the known organisms common at disposal facilities that are capable of transmitting disease.

(2) *Sewage Sludge and Septic Tank Pumpings.* In establishing regulations to protect public health from pathogen-induced disease, it must be recognized that there is a distinction between being exposed to disease-producung organisms and actually acquiring a disease. Healthy humans and animals can tolerate small numbers of pathogenic organisms without acquiring a disease. Disease normally occurs when the body's immune system is impaired, or the dose of pathogens is so great that it overwhelms the body's defense mechanism. In setting these criteria, the goal is to prevent human exposure to large numbers of pathogenic organisms due to solid waste disposal activities.

Commenters requested specification of which solid wastes are of concern due to their pathogen content. The criteria have been modified to specify sewage sludge and septic tank pumpings as the wastes which are generally applied to the surface of the land and are of concern due to their pathogen content. Although little information is available on septic tank pumpings, the relatively long residence time of the bulk of the waste material in a septic tank should reduce the density of pathogenic organisms. Therefore, the Agency has tentatively concluded that septic tank pumpings have the same general characteristics with regard to land application as partially treated municipal sewage sludge. The public is invited to submit pertinent data on this subject; the Agency will review any new information and reassess these regulations accordingly.

Sewage sludge and septic tank pumpings contain various types of pathogenic bacteria, viruses and parasites. While bacteria are greatly reduced by sunlight and drying, viruses may persist in soils and on vegetation for several weeks or months. Parasitic ova and cysts are quite resistant to disinfectants and adverse environmental conditions. Many, in fact, require a period of free-living existence in the soil before becoming infectious to man. Therefore, a major reason for requiring the control of pathogens is the potential for human ingestion of soil or plants contaminated with such wastes containing ova or cysts.

Some commenters suggested that the criteria require a "pathogen-free" sewage sludge. EPA does not believe that such regulation is necessary to avoid a reasonable probability of adverse effects on the population that may come in contact with sludge-amended fields. A greater degree of protection is needed for certain solid waste disposal practices (i.e., application to land where food-chain crops are grown), and this section provides for such protection.

The proposed regulation relied on stabilization as the principal treatment technique to reduce the risk of pathogen-induced disease. However, because the term "stabilization" conventionally related to odor control and to a lesser degree pathogen reduction, this term is no longer used in the criteria. The criteria have been revised to require that sewage sludge and, under certain conditions, septic tank pumpings be treated by a Process to Significantly Reduce Pathogens. These processes include aerobic digestion, air drying, anaerobic digestion, composting (three techniques), lime stabilization or other equivalent techniques.

EPA recognizes that not all of these processes achieve exactly the same level of pathogen reduction. Variations in weather, residence times, temperatures and other factors will influence the effectiveness of each process. The Agency also recognizes that different processes may be more or less effective in destroying certain types of pathogens (i.e., bacteria, viruses or parasites). Each process, however, has been shown to achieve a significant reduction in pathogen levels. Therefore, EPA believes that they are appropriate to achieve the objectives of this section.

The proposed regulation required controlled access to disposal facilities so as to minimize exposure of the public to hazards posed by exposed waste. The final regulation seeks to minimize exposure of the public to pathogens in the upper layers of waste-amended soils. Since pathogens in the surface soil are generally reduced to insignificant levels within 12 months of application, the criteria require that public access to the facility be controlled for that period of time. "Controlled" does not mean that all entry on the site be precluded. The term "controlled," rather than "prevented," was chosen for regulating public access, because with proper precautions there appears to be no health hazard. However, there would be a health hazard if, for example, children were permitted to play on the waste-amended soil. Therefore, fencing would be necessary if these wastes were applied to areas frequented by the general public (e.g., park lands) but fencing would not be necessary on farm land which was not available for use by the public.

This section also includes a limit on animal access to the fields for grazing

for one month after sewage sludge is applied. This is appropriate for several reasons. First, the animal acts as a first line of defense against human contact with pathogens. The products derived from the animal (meat or milk) will not contain the same level of pathogens as might enter the animal due to grazing on waste-amended fields. Second, in many cases rainfall in the one-month period after application will wash the sludge off the crop. Third, available evidence indicates that where sludge does remain on the crop, a one-month period should be sufficient for natural weather conditions (e.g., sunshine, wind) to destroy most pathogenic organisms.

The access restrictions described above are required for all facilities receiving sewage sludge, even after the waste has been treated by a Process to Significantly Reduce Pathogens. For septic tank pumpings, the access restrictions may be used as an alternative to such a Process. This is due to the fact that containment in a septic tank will result in partial pathogen reduction in the waste and should diminish its attractant potential to disease vectors such as flies and mosquitoes. However, septic tank pumpings do not undergo the kind of pathogen destruction that can occur with anaerobic digestion, because the waste is being continually reinoculated with fresh waste material. Therefore, EPA concluded that such wastes should be treated with a Process to Significantly Reduce Pathogens or be subject to the access restrictions.

As indicated earlier, special treatment is necessary for food-chain crop cultivation, where the risk of direct human consumption of crops contaminated by pathogens is higher. To provide protection, the proposed regulation relied on a one-year waiting period between waste application and use of that land for food-chain crops. The regulation now calls for the use of a Process to Further Reduce Pathogens if crops for direct human consumption are grown within 18 months of application or incorporation of the sewage sludge or septic tank pumpings. If no such crops are grown within 18 months of application, treatment by a Process to Further Reduce Pathogens is not required.

The processes chosen should essentially destroy all bacteria and viruses and greatly reduce the number of parasites in the waste material. Two sets of processes are permitted—those which are sufficient in themselves and those which must follow a Process to Significantly Reduce Pathogens in order to be effective. Processes which are adequate in themselves are high-temperature composting, heat drying, heat treatment and theromophilic aerobic digestion. Processes which must follow a Process to Significantly Reduce Pathogens are beta ray irradiation, gamma ray irradiation and pasteurization. This sequence of processes is necessary to assure that the waste is not an attractant to vectors. Irradiation or pasteurization, while effective against pathogens, do not provide the volatile solids reduction necessary to prevent a vector problem.

Based on available data, the Agency concluded that a Process to Further Reduce Pathogens is not necessary when there is an 18-month interval between land application of solid waste and the growing of crops for direct human consumption. EPA recognizes that there is some uncertainty about the life expectancy of pathogens in wastes applied to croplands. Bacteria and viruses persist for only a few months, but parasites, particularly resistant species such as *Ascaris lumbricoides*, may last much longer. Reports range from "no survivors" after a few months to "some survivors" (not necessarily viable) after ten years for such organisms.

Survival is most likely in the soil below the top five centimeters of soil. Field conditions such as sunlight, desiccation, freezing, heat and freeze-thaw cycles are effective at reducing survival times in the upper layer of the soil. EPA selected the 18-month period because within that period most of the waste-amended soil will be exposed to the hostile environment found at the soil surface. Agricultural soils are typically plowed or cultivated at least annually. Thus, an 18-month waiting period assures that soil which was previously below the surface will be exposed to the harsh surface conditions for at least six months before planting. The growing period will provide additional exposure of the pathogens before harvest. EPA believes that this will provide a reasonable probability that pathogen levels will be greatly reduced. Since this is an "interim final" regulation, EPA encourages public comment on the appropriateness of this rationale.

EPA recognizes that for some crops (e.g., citrus fruits, corn) the edible portions are not exposed to, nor are likely to come in contact with, the sewage sludge or septic tank pumpings. Therefore, there is no need to use a Process to Further Reduce Pathogens when such a crop is grown. However, in this case the waste must be treated by a Process to Significantly Reduce Pathogens, public access to the facility must be controlled for at least 12 months, and the grazing of animals prevented for at least one month after application of the waste. The Agency chose the more conservative approach of requiring significant pathogen reduction and controlled access for both sewage sludge and septic tank pumpings because even where direct contact appears unlikely, the quality of crops which are directly consumed by man must be assured.

In examining the health risk presented by pathogens, EPA determined that pathogens are not likely to migrate in the soil. Pathogens tend to remain intimately associated with the waste material and are often too large to move through soil pore systems. Also, soils have been reported to be effective in removing viruses and bacteria from water. Surface erosion with the resultant water runoff seems to be the only route for movement of pathogens. Based on these findings, the Agency concluded that sewage sludge and septic tank pumpings that are placed underground by a trenching or burial operation should not be subject to this section. Under such circumstances there will be minimal movement of the organisms through the soil, and the risk of erosion is slight because the wastes are completely covered.

J. Air (Section 257.3–7)

Open burning is the uncontrolled or unconfined combustion of solid wastes. Open burning is a potential health hazard, can cause property damages, and can be a threat to public safety. Smoke from open burning can reduce aircraft and automobile visibility and has been linked to automobile accidents and death on expressways. The air emissions associated with open burning are much higher than those associated with incinerators equipped with air pollution control devices.

The proposed criteria provided for control of air emissions through three stipulations: First, the facility was to control air emissions so as to comply with Federal, State, and local air regulations. Second, all open burning of residential, commercial, institutional, and industrial solid wastes was prohibited. Third, open burning of other solid wastes could be permitted if in compliance with State and local air regulations.

This final air criterion has two components. First, there shall be no open burning of residential, commercial, institutional or industrial solid waste. (This provision does not apply to infrequent burning of agricultural wastes, silvicultural wastes, land-clearing debris, diseased trees, debris

from emergency clean-up operations and ordnance.) Second, air emissions caused by solid waste disposal activities shall not violate applicable requirements developed for State implementation plans (SIP's) under Section 110 of the Clean Air Act.

While several commenters suggested that a ban on open burning is unnecessary, EPA has decided to retain that provision for residential, commercial, institutional or industrial waste. The ongoing open burning of these wastes presents significant hazards to human health, and no health or environmental benefit is derived from the practice. Several commenters suggested allowing open burning with a variance. There is no environmental rationale for such a variance because open burning does not lessen the need for disease vector control or leachate control for maintaining surface and ground-water quality. Moreover, variance procedures for this situation would be particularly difficult to administer because of the dynamic nature of the many variables involved (existing air quality, wind speed, humidity, mixing and vertical dispersion, efficiency of the burn, amount and type of waste, etc.).

EPA decided to exempt from the open burning prohibition those wastes which are typically burned infrequently. The burning of agricultural wastes in the field, land-clearing debris, standing trees in a forest, diseased trees, debris from emergency clean-up operations and ordnance is not typically an ongoing practice and, thus, does not present a significant environmental risk. In addition some of these practices, particularly the destruction of disease-carrying trees or debris from emergency clean-up operations, provides an added environmental benefit in preventing chances of disease or accident. It should be noted, however, that the criteria assure that the conduct of these infrequent acts of burning must be in compliance with applicable requirements developed under the State SIP.

In requiring compliance with the SIP, EPA is seeking to coordinate the criteria with the Clean Air Act, as mandated in Section 1006 of the Act. The regional health concerns addressed through the SIP's are clearly of concern under the Act as well. The prohibition of open burning should prevent most air quality problems. Where such concerns are not covered by the open burning ban, EPA believes that it is unacceptable for solid waste disposal activities to cause violations of SIP requirements.

EPA has eliminated that part of the proposed regulation that required compliance with "all applicable Federal, State and local air regulations" and the reference to protection of public health and welfare. Some commenters said that the proposed criteria "federalized" State and local air regulations. EPA is not federalizing any such regulations in the final criteria. In tying the criteria to the SIP's, EPA is assuring that, at a minimum, solid waste activities that undermine Congressionally-established Federal environmental air quality objectives will not be considered adequate under the Act.

Several commenters requested clarification regarding the impact of the criteria on the use of pit or trench incinerators. Emission factors (i.e., particulates) for such incinerators equal or exceed those for open burning dumps. Since such devices do not control emissions, they fit the definition of open burning. Thus, for purposes of the criteria, combustion in a trench incinerator constitutes "open dumping."

Comments were requested in the Preamble of the proposed regulation on the advisability of including in the final promulgation specific air quality limits which would be based on Occupational Safety and Health Administration (OSHA) air quality standards. Several commenters noted that since OSHA air quality standards are based on workplace exposure and not ambient air quality, the inclusion of these standards would be inappropriate and possibly confusing. Air quality standards based on OSHA regulations have not been included in the final promulgation.

Commenters also suggested that the content of the air criteria be moved to the safety criteria (§ 257.3-8) since many of the dangers of open burning relate directly to public safety. The Agency considers the problems of open burning to be broader than just public safety; thus, this change was not made. However, the safety criteria have been revised to reference the air criteria.

K. Safety (Section 257.3-8)

This portion of the criteria addresses a set of adverse effects involving potential accidents which could be caused by solid waste disposal activities. The legislative history of the Act indicates that in passing the provisions authorizing these criteria the Congress was concerned about all of the effects addressed in this section. The safety hazards addressed in the final regulation include explosive gases, fires, bird hazards to aircraft and public exposure to wastes due to uncontrolled access to disposal sites.

The proposed regulation also contained a provision for toxic and asphyxiating gases. While EPA is quite concerned about the emission of such gases from solid waste, EPA was unable to identify sufficient information on the nature of this problem to support the setting of particular standards. The existing data on the generation of toxic and asphyxiating gases in solid waste is quite limited. In particular, it is difficult to define a set of gases generated in solid waste disposal that present a public health hazard. Even if such a set of gases could be identified it is difficult to determine, on the basis of data currently available to EPA, what levels of such gases may be tolerated without a substantial risk to public health or the environment. EPA will continue to explore this problem. However, at present there is insufficient information to support particular limits on toxic and asphyxiating gases.

(1) *Explosive gases.* Solid waste disposal activities may produce explosive gases. In particular, methane gas is a product of solid waste decomposition. The accumulation of a sufficient concentration of methane gas in disposal facility structures or nearby off-site structures may pose a serious threat to the health and welfare of facility employees, users of the disposal site, and occupants of nearby structures. Explosions resulting in injury and death have been caused by gases from solid waste disposal.

The proposed criteria required that the concentration of explosive gases in facility structures and in soil at the facility property boundary not reach the lower explosive limits (LEL) for the gases. The final regulation is essentially the same except that concentrations in facility structures will not be allowed to exceed 25 percent of the lower explosive limit for the gas. In addition the final standard, which could potentially be applicable to several explosive gases, will only be concerned with methane at this time.

Commenter suggested that the gas criteria be deleted and that control be left to the Occupational Safety and Health Administration (OSHA). Following consultation with OSHA, the Agency rejected this suggestion because the jurisdiction of OSHA does not include all solid waste disposal facilities and practices of concern to the Act, nor does it include off-site residences to which gases can migrate.

The Agency has decided to adjust the standard for facility structures to provide a margin of safety. Several commenters suggested such a change, since allowing explosive gas to accumulate in concentrations just under the lower explosive limit would be extremely dangerous and would not provide for a reasonable probability of

avoiding adverse effects. In selecting the 25% figure EPA is using a safety factor recognized by other Federal agencies as being appropriate for similar situations.

EPA also concluded that such a safety factor was unnecessary at the property boundary. Gases at or below the LEL at the property boundary will necessarily become somewhat diffused before passing into a structure beyond the property boundary. Thus, in assuring that the LEL is not exceeded at the boundary EPA has provided a margin of safety against an off-site explosion.

EPA has selected methane as the single gas of concern. The information available to EPA indicates that build up of methane gas has been the principal source of explosions associated with solid waste disposal. Other gases may be added to the list as new information develops.

Commenters recommended that disposal facilities not in close proximity to off-site structures be exempted from the gas criteria. Considering that gas production in disposal facilities is a long-term process continuing for decades, the Agency rejected this recommendation. Facilities which are remote today may be surrounded by extensive development in the future, especially after completion of disposal operations.

(2) *Fires.* Fires at solid waste disposal facilities pose the threat of property damage and injury or death to facility employees, users, and nearby residents. Examples of circumstances which can lead to fires associated with disposal facilities or practices are: Vandalism, carelessness, spontaneous combustion, open burning of wastes, and disposal of hot ashes.

The proposed criteria required that all fires be extinguished expeditiously and that fire hazards be minimized through proper site construction and design and periodic application of cover material where appropriate.

According to the final regulation, the facility or practice shall not pose a hazard to the safety of persons or property from fires. This objective can be served by compliance with the air criterion (§ 257.3-7), particularly the open burning ban, and through periodic application of cover material.

Commenters objected to the vague nature of this provision as originally proposed. While some level of flexibility is necessary, EPA has tried to make this standard as specific as possible. The reference to "expeditious" extinguishing of fires was eliminated. EPA also specified types of operational practices to accomplish the goals of this section.

Commenters suggested that, due to the relationship between open burning and potential fire hazards, the prohibition on open burning be incorporated into this section. As explained previously the safety criteria now reference the air criterion (which contains the prohibition of open burning.)

(3) *Bird Hazards.* Many reports and investigations show that disposal facilities and practices involving putrescible wastes often attract birds, in spite of vector control efforts (compaction and cover of wastes, etc.). When solid wastes are disposed in the vicinity of airports, the birds attracted to the area can present a significant risk of accidents due to collisions between birds and planes. The Federal Aviation Administration (FAA) has issued FAA Order 5200.5, "FAA Guidance Concerning Sanitary Landfills on or Near Airports" (October 16, 1974). The order states that solid waste disposal facilities have been found by study and observation to be artificial attractants of birds and, therefore, "may be incompatible with safe flight operations" when located in the vicinity of an airport.

The proposed criteria required that disposal facilities not be located within the two distance limits (10,000 feet for turbojets and 5,000 feet for piston-type aircraft) specified in FAA Order 5200.5 unless the facility was found to not pose a bird hazard to aircraft. For facilities beyond the specified distances, but within the conical surface described by FAA Regulations (FAR), Part 77, facilities were to be reviewed on a case-by-case basis for a potential bird hazard.

The final regulation retains the basic approach but clarifies several terms, including "airport" and "bird hazard." The provision for case-by-case analysis of facilities within the conical surface has been dropped.

Some commenters questioned whether the Act provides authority to control solid waste disposal on the basis of bird hazards to aircraft. They claimed that the FAA has adequate authority to prevent bird hazards to aircraft, concluding that this section of the criteria is not necessary.

The criteria are required to address the prevention of adverse effects on health and the environment from solid waste disposal facilities. The legislative history (H.R. Rep. No. 94-1491) cites an aircraft crash resulting from birds attracted to a disposal facility as one example of adverse effects of open dumps. There are also many other examples of such hazards from disposal facilities. Therefore, the Agency has concluded that this issue is clearly within the scope of this regulation.

Although the FAA is authorized to control airport operations to reduce bird hazards to aircraft, its authority does not extend to disposal facilities outside airport boundaries which may pose such hazards. It should be noted, however, that EPA is not "enforcing" the FAA order. The selection of the distances specified in that order is merely a recognition that they represent a reasonable determination of the danger zone around an airport. Likewise, it should be made clear that neither this regulation nor the proposed standard prohibited the disposal of solid waste within the specified distances. Instead, the distances define a "danger zone" within which particular care must be taken to assure that no bird hazard arises.

Some commenters challenged the relevancy of the 10,000 foot (for turbojets) and 5,000 foot (for piston-type aircraft) distances for defining the danger zone for bird/aircraft collisions. The distances cited were derived from FAA Order 5200.5. The distances are based on the consideration that over 62 percent of all bird strikes occur below altitudes of 500 feet (150 meters), and that aircraft are generally below this altitude within the distances specified.

Some commenters emphasized that bird strikes do occur outside the distances established in the regulation. Consultation with FAA personnel and other experts in the field of bird/aircraft hazards has revealed that, even when disposal facilities are located beyond the distances specified, hazards can exist where an airport is situated between a disposal facility and bird feeding, roosting, or watering sites. The hazard arises as birds traverse the airport in flying between the disposal facility and watering, feeding or roosting areas. However, EPA does not have sufficient information to indicate how serious this problem is. Moreover, the available data is insufficient to support the setting of national regulations to cover such contingencies. At some point it becomes difficult to isolate the independent effect of solid waste disposal activities on the bird hazard problem.

EPA has also decided to give a clearer definition of some key terms. The definition of "Airport" includes those airfields currently defined by the FAA as public-use airports. The regulation applies to that set of airports because existing data indicates that the preponderance of bird strikes occur at public-use airports. For example, 120 of the 121 airports reporting strikes in 1977 were public-use airports, and 220 of the 223 airports reporting strikes in 1978

were public-use airports. The FAA agrees with this approach. EPA, in consultation with the FAA, may broaden the class of airports of concern if it receives information demonstrating that a similar bird hazard exists at other fields.

In defining the airports of concern EPA has also eliminated the proposed criteria's reference to "runways planned to be used." As several commenters pointed out, such a reference would not be workable because it would require speculation about future siting of airports.

EPA also makes it clear that the "bird hazard" of concern is "an increase in the likelihood of bird/aircraft collisions." Solid waste disposal within the danger zone may continue as long as it can be shown that the operation can be managed in such a way as to not increase the risk of collision within the specified distances.

After considering public comments, EPA has deleted portions of the proposed standard. Several commenters stated that the use of the conical surface in the criteria was ambiguous and not applicable to this standard. The conical surface is an imaginary plane delineating an airspace segment 150 feet above the established airport elevation. The FAA prohibits stationary objects in this space because they might interfere with approaching and departing aircraft. This is inapplicable to solid waste disposal activities for two reasons: (1) Birds, the "obstructions" of concern in this regulation, are hardly stationary; and (2) solid waste disposal activities are typically low-profile operations (below 150 feet) and are not likely to constitute obstructions into the conical surface.

Commenters asked who was responsible for determining whether a facility posed a bird hazard to aircraft. The Act and the CWA create the implementing mechanisms for these criteria. However, in this instance consultation with the FAA and the Fish and Wildlife Service would be very helpful. Furthermore, actions at *both* the airport and the disposal facility can reduce or eliminate hazards. Therefore, where appropriate this determination should be made in consultation with these agencies, as well as with the owners and operators of the airport of concern.

(4) *Access.* Materials and activities associated with solid waste disposal facilities can cause injury or death to persons at the facilities. Potential causes of such harm include:

(a) Operation of heavy equipment and haul vehicles;

(b) Hazards associated with the types of waste, including sharp objects, pathogens, and toxic, explosive, or flammable materials; and

(c) Accidental or intentional fires.

The proposed criteria required that entry to the facility be controlled in order to minimize exposure of the public to hazards of heavy equipment operation and exposed waste.

The final criteria call for control of access to protect the public from on-site exposure to health and safety hazards.

The importance of access control cannot be overstated, since persons have suffered injury and even death at uncontrolled waste disposal facilities. Furthermore, in most cases, there is little economic impact on solid waste disposal operations in accomplishing such control.

During normal operating hours, proper management controls can minimize safety hazards. For example, potential harm to facility operating personnel can be reduced through proper training, use of safety equipment, control of waste types, and other practices. The most effective means of minimizing the risk of injury to other persons is by complete prohibition of access to the site by non-users (e.g. by suitable fencing) and strict control of users while on the site. For individuals disposing of small amounts of wastes, storage or special disposal facilities can be provided at the entrance to the facility or away from the area being utilized by professional solid waste management personnel.

The principal change from the proposed regulation is the broadening of the regulation's coverage. Accidents at solid waste disposal sites are not limited to hazards caused by heavy equipment operation and exposed waste. EPA believes that particular types of hazards should not be specified in the regulation, thereby allowing for flexibility in how the standard is applied. Therefore, the criteria seek to avoid public exposure to all potential health and safety hazards at solid waste disposal sites.

Two commenters stated that the proposed requirement for fencing was unreasonable. It should be noted that the Agency did not propose a requirement for fencing. At many facilities natural barriers exist which make public access very difficult; however, even if the criteria were complied with through the installation of a fence around the entire property the cost would be relatively insignificant when compared to the other costs required to properly operate a disposal facility.

V. Environmental and Economic Impacts

Voluntary environmental and economic impact analyses on this regulation have been performed and are presented in the "Final Environmental Impact Statement on the Criteria for Classification of Solid Waste Disposal Facilities". These analyses are not required by the National Environmental Policy Act but provide information pertinent to the development and use of this regulation. Copies of this two-volume report may be obtained on request from: Solid Waste Information, U.S. EPA, 26 West St. Clair, Cincinnati, Ohio 45268.

EPA has also prepared a number of background documents that respond to public comments not addressed in the Preamble. These documents may be examined at E.P.A., 401 M Street, S.W., Washington, D.C. 20460 in room 2632. If there are apparent inconsistencies between these documents and this Preamble, the latter shall represent the Agency's position.

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

Title 40 CFR is amended by adding a new Part 257 to read as follows:

PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

Sec.

257.1 Scope and purpose.
257.2 Definitions.
257.3 Criteria for classification of solid waste disposal facilities and practices.
257.3-1 Floodplains.
257.3-2 Endangered species.
257.3-3 Surface water.
257.3-4 Ground water.
257.3-5 Application to land used for the production of food-chain crops. (Interim final).
257.3-6 Disease.
257.3-7 Air.
257.3-8 Safety.
257.4 Effective date.

Authority: Sec. 1008(a)(3), and sec. 4004(a), Pub. L. 94-580, 90 Stat. 2803 and 2815 (42 U.S.C. 6907(a)(3), 6944); sec. 405(d), Pub. L. 95-217, 91 Stat. 1591, 1606 (33 U.S.C. 1345).

§ 257.1 Scope and purpose.

(a) These criteria are for use under the Resource Conservation and Recovery Act (the Act) in determining which solid waste disposal facilities and practices pose a reasonable probability of adverse effects on health or the environment.

(1) Facilities failing to satisfy these criteria will be considered open dumps for purposes of State solid waste management planning under the Act.

(2) Practices failing to satisfy these criteria constitute open dumping, which is prohibited under Section 4005 of the Act.

(b) These criteria also provide guidelines for sludge utilization and disposal under Section 405(d) of the Clean Water Act, as amended. To comply with Section 405(e) the owner or operator of any publicly owned treatment works must not violate these criteria in the disposal of sludge on the land.

(c) These criteria apply to all solid waste disposal facilities and practices with the following exceptions:

(1) The criteria do not apply to agricultural wastes, including manures and crop residues, returned to the soil as fertilizers or soil conditioners.

(2) The criteria do not apply to overburden resulting from mining operations intended for return to the mine site.

(3) The criteria do not apply to the land application of domestic sewage or treated domestic sewage. The criteria do apply to disposal of sludges generated by treatment of domestic sewage.

(4) The criteria do not apply to the location and operation of septic tanks. The criteria do, however, apply to the disposal of septic tank pumpings.

(5) The criteria do not apply to solid or dissolved materials in irrigation return flows.

(6) The criteria do not apply to industrial discharges which are point sources subject to permits under Section 402 of the Clean Water Act, as amended.

(7) The criteria do not apply to source, special nuclear or byproduct material as defined by the Atomic Energy Act, as amended (68 Stat. 923).

(8) The criteria do not apply to hazardous waste disposal facilities which are subject to regulation under Subtitle C of the Act,

(9) The criteria do not apply to disposal of solid waste by underground well injection subject to the regulations (40 CFR Part 146) for the Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. 3007 et seq.

§ 257.2 Definitions.

The definitions set forth in Section 1004 of the Act apply to this Part. Special definitions of general concern to this Part are provided below, and definitions especially pertinent to particular sections of this Part are provided in those sections.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Facility" means any land and appurtenances thereto used for the disposal of solid wastes.

"Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such wastes.

"Open dump" means a facility for the disposal of solid waste which does not comply with this part.

"Practice" means the act of disposal of solid waste.

"Sanitary landfill" means a facility for the disposal of solid waste which complies with this part.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

"Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

"State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 257.3 Criteria for classification of solid waste disposal facilities and practices.

Solid waste disposal facilities or practices which violate any of the following criteria pose a reasonable probability of adverse effects on health or the environment:

§ 257.3-1 Floodplains.

(a) Facilities or practices in floodplains shall not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste, so as to pose a hazard to human life, wildlife, or land or water resources.

(b) As used in this section:

(1) "Based flood" means a flood that has a 1 percent or greater chance of recurring in any year or a flood or a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(2) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, which are inundated by the base flood.

(3) "Washout" means the carrying away of solid waste by waters of the base flood.

§ 257.3-2 Endangered species.

(a) Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.

(b) The facility or practice shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17.

(c) As used in this section:

(1) "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Endangered Species Act.

(2) "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(3) "Taking" means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting or attempting to engage in such conduct.

§ 257.3-3 Surface Water.

(a) A facility or practice shall not cause a discharge of pollutants into waters of the United States that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act, as amended.

(b) A facility or practice shall not cause a discharge of dredged material or fill material to waters of the United States that is in violation of the requirements under Section 404 of the Clean Water Act, as amended.

(c) A facility or practice shall not cause non-point source pollution of waters of the United States that violates applicable legal requirements implementing an areawide or Statewide water quality management plan that has been developed and approved by the Administrator under Section 208 of the Clean Water Act, as amended.

(d) Definitions of the terms "Discharge of dredged material", "Point source", "Pollutant", "Waters of the United States", and "Wetlands" can be found in the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., and implementing regulations, specifically 33 CFR Part 323 (42 FR 37122, July 19, 1977).

§ 257.3-4 Ground Water.

(a) A facility or practice shall not contaminate an underground drinking water source beyond the solid waste boundary or beyond an alternative boundary specified in accordance with paragraph (b) of this section.

(b) Only a State with a solid waste management plan approved by the Administrator pursuant to Section 4007 of the Act may establish an alternative boundary to be used in lieu of the solid waste boundary. A State may specify such a boundary only if it finds that such a change would not result in contamination of ground water which may be needed or used for human consumption. This finding shall be based on analysis and consideration of all of the following factors:

(1) The hydrogeological characteristics of the facility and surrounding land;

(2) The volume and physical and chemical characteristics of the leachate;

(3) The quantity, quality, and directions of flow of ground water;

(4) The proximity and withdrawal rates of ground-water users;

(5) The availability of alternative drinking water supplies;

(6) The existing quality of the ground water including other sources of contamination and their cumulative impacts on the ground water; and

(7) Public health, safety, and welfare effects.

(c) As used in this section:

(1) "Aquifer" means a geologic formation, group of formations, or portion of a formation capable of yielding usable quantities of ground water to wells or springs.

(2) "Contaminate" means introduce a substance that would cause:

(i) The concentration of that substance in the ground water to exceed the maximum contaminant level specified in Appendix I, or

(ii) An increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contaminant level specified in Appendix I.

(3) "Ground water" means water below the land surface in the zone of saturation.

(4) "Underground drinking water source" means:

(i) An aquifer supplying drinking water for human consumption, or

(ii) An aquifer in which the ground water contains less than 10,000 mg/1 total dissolved solids.

(5) "Solid waste boundary" means the outermost perimeter of the solid waste (projected in the horizontal plane) as it would exist at completion of the disposal activity.

§ 257.3-5 Application to land used for the production of food-chain crops (interim final).

(a) *Cadmium.* A facility or practice concerning application of solid waste to within one meter (three feet) of the surface of land used for the production of food-chain crops shall not exist or occur, unless in compliance with all requirements of paragraph (a)(1) (i) through (iii) of this section or all requirements of paragraph (a)(2) (i) through (iv) of this section.

(1)(i) The pH of the solid waste and soil mixture is 6.5 or greater at the time of each solid waste application, except for solid waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less.

(ii) The annual application of cadmium from solid waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate does not exceed:

Time period	Annual Cd application rate (kg/ha)
Present to June 30, 1984	2.0
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(iii) The cumulative application of cadmium from solid waste does not exceed the levels in either paragraph (a)(1)(iii)(A) of this section or paragraph (a)(1)(iii)(B) of this section.

(A)

Soil cation exchange capacity (meq/100g)	Maximum cumulative application (kg/ha)	
	Background soil pH <6.5	Background soil pH ≥6.5
<5	5	5
5-15	5	10
>15	5	20

(B) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below: *Provided,* That the pH of the solid waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food-chain crops are grown.

Soil cation exchange capacity (meq/100g)	Maximum cumulative application (kg/ha)
<5	5
5-15	10
>15	20

(2)(i) The only food-chain crop produced is animal feed.

(ii) The pH of the solid waste and soil mixture is 6.5 or greater at the time of solid waste application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food-chain crops are grown.

(iii) There is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses.

(iv) Future property owners are notified by a stipulation in the land record or property deed which states that the property has received solid waste at high cadmium application rates and that food-chain crops should not be grown, due to a possible health hazard.

(b) *Polychlorinated Biphenyls (PCBs).* Solid waste containing concentrations of PCBs equal to or greater than 10 mg/kg (dry weight) is incorporated into the soil when applied to land used for producing animal feed, including pasture crops for animals raised for milk. Incorporation of the solid waste into the soil is not required if it is assured that the PCB content is less than 0.2 mg/kg (actual weight) in animal feed or less than 1.5 mg/kg (fat basis) in milk.

(c) As used in this section:

(1) "Animal feed" means any crop grown for consumption by animals, such as pasture crops, forage, and grain.

(2) "Background soil pH" means the pH of the soil prior to the addition of substances that alter the hydrogen ion concentration.

(3) "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milli-equivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous or saline soils ("Mehods of Soil Analysis, Agronomy Monograph No. 9." C. A. Black, ed., American Society of Agronomy, Madison, Wisconsin. pp 891-901, 1965).

(4) "Food-chain crops" means tobacco, crops grown for human

consumption, and animal feed for animals whose products are consumed by humans.

(5) "Incorporated into the soil" means the injection of solid waste beneath the surface of the soil or the mixing of solid waste with the surface soil.

(6) "Pasture crops" means crops such as legumes, grasses, grain stubble and stover which are consumed by animals while grazing.

(7) "pH" means the logarithm of the reciprocal of hydrogen ion concentration.

(8) "Root crops" means plants whose edible parts are grown below the surface of the soil.

(9) "Soil pH" is the value obtained by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the electrometric method. ("Methods of Soil Analysis, Agronomy Monograph No. 9," C.A. Black, ed., American Society of Agronomy, Madison, Wisconsin, pp. 914–926, 1965.)

§ 257.3–6 Disease.

(a) *Disease Vectors.* The facility or practice shall not exist or occur unless the on-site population of disease vectors is minimized through the periodic application of cover material or other techniques as appropriate so as to protect public health.

(b) *Sewage sludge and septic tank pumpings (Interim Final).* A facility or practice involving disposal of sewage sludge or septic tank pumpings shall not exist or occur unless in compliance with paragraphs (b) (1), (2) or (3) of this section.

(1) Sewage sludge that is applied to the land surface or is incorporated into the soil is treated by a Process to Significantly Reduce Pathogens prior to application or incorporation. Public access to the facility is controlled for at least 12 months, and grazing by animals whose products are consumed by humans is prevented for at least one month. Processes to Significantly Reduce Pathogens are listed in Appendix II, Section A. (These provisions do not apply to sewage sludge disposed of by a trenching or burial operation.)

(2) Septic tank pumpings that are applied to the land surface or incorporated into the soil are treated by a Process to Significantly Reduce Pathogens (as listed in Appendix II, Section A), prior to application or incorporation, unless public access to the facility is controlled for at least 12 months and unless grazing by animals whose products are consumed by humans is prevented for at least one month. (These provisions do not apply to septic tank pumpings disposed of by a trenching or burial operation.)

(3) Sewage sludge or septic tank pumpings that are applied to the land surface or are incorporated into the soil are treated by a Process to Further Reduce Pathogens, prior to application or incorporation, if crops for direct human consumption are grown within 18 months subsequent to application or incorporation. Such treatment is not required if there is no contact between the solid waste and the edible portion of the crop; however, in this case the solid waste is treated by a Process to Significantly Reduce Pathogens, prior to application; public access to the facility is controlled for at least 12 months; and grazing by animals whose products are consumed by humans is prevented for at least one month. If crops for direct human consumption are not grown within 18 months of application or incorporation, the requirements of paragraphs (b) (1) and (2) of this section apply. Processes to Further Reduce Pathogens are listed in Appendix II, Section B.

(c) As used in this section:

(1) "Crops for direct human consumption" means crops that are consumed by humans without processing to minimize pathogens prior to distribution to the consumer.

(2) "Disease vector" means rodents, flies, and mosquitoes capable of transmitting disease to humans.

(3) "Incorporated into the soil" means the injection of solid waste beneath the surface of the soil or the mixing of solid waste with the surface soil.

(4) "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed solid waste at the end of each operating day or at such frequencies and in such a manner as to reduce the risk of fire and to impede vector's access to the waste.

(5) "Trenching or burial operation" means the placement of sewage sludge or septic tank pumpings in a trench or other natural or man-made depression and the covering with soil or other suitable material at the end of each operating day such that the wastes do not migrate to the surface.

§ 257.3–7 Air.

(a) The facility or practice shall not engage in open burning or residential, commercial, institutional or industrial solid waste. This requirement does not apply to infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land-clearing debris, diseased trees, debris from emergency clean-up operations, and ordnance.

(b) The facility or practice shall not violate applicable requirements developed under a State implementation plan approved or promulgated by the Administrator pursuant to Section 110 of the Clean Air Act.

(c) As used in this section "open burning" means the combustion of solid waste without (1) control of combustion air to maintain adequate temperature for efficient combustion, (2) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and (3) control of the emission of the combustion products.

§ 257.3–8 Safety.

(a) *Explosive gases.* The concentration of explosive gases generated by the facility or practice shall not exceed:

(1) Twenty-five percent (25%) of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components); and

(2) The lower explosive limit for the gases at the property boundary.

(b) *Fires.* A facility or practice shall not pose a hazard to the safety of persons or property from fires. This may be accomplished through compliance with § 257.3–7 and through the periodic application of cover material or other techniques as appropriate.

(c) *Bird hazards to aircraft.* A facility or practice disposing of putrescible wastes that may attract birds and which occurs within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway used by only piston-type aircraft shall not pose a bird hazard to aircraft.

(d) *Access.* A facility or practice shall not allow uncontrolled public access so as to expose the public to potential health and safety hazards at the disposal site.

(e) As used in this section:

(1) "Airport" means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(2) "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(3) "Explosive gas" means methane (CH_4).

(4) "Facility structures" means any buildings and sheds or utility or drainage lines on the facility.

(5) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate

a flame in air at 25°C and atmospheric pressure.

(6) "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed solid waste at the end of each operating day or at such frequencies and in such a manner as to reduce the risk of fire and to impede disease vectors' access to the waste.

(7) "Putrescible wastes" means solid waste which contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for birds.

§ 257.4 Effective date.

These criteria become effective October 15, 1979.

Appendix I

The maximum contaminant levels promulgated herein are for use in determining whether solid waste disposal activities comply with the ground-water criteria (§ 257.3–4). Analytical methods for these contaminants may be found in 40 CFR Part 141 which should be consulted in its entirety.

1. *Maximum contaminant levels for inorganic chemicals.* The following are the maximum levels of inorganic chemicals other than fluoride:

Contaminant	Level (milligrams per liter)
Arsenic	0.05
Barium	1.
Cadmium	0.010
Chromium	0.05
Lead	0.05
Mercury	0.002
Nitrate (as N)	10.
Selenium	0.01
Silver	0.05

The maximum contaminant levels for fluoride are:

Temperature[1] degrees Fahrenheit	Degrees Celsius	Level (milligrams per liter)
53.7 and below	12 and below	2.4
53.8 to 58.3	12.1 to 14.6	2.2
58.4 to 63.8	14.7 to 17.6	2.0
63.9 to 70.6	17.7 to 21.4	1.8
70.7 to 79.2	21.5 to 26.2	1.6
79.3 to 90.5	26.3 to 32.5	1.4

[1] Annual average of the maximum daily air temperature.

2. *Maximum contaminant levels for organic chemicals.* The following are the maximum contaminant levels for organic chemicals:

	Level (milligrams per liter)
(a) Chlorinated hydrocarbons:	
Endrin (1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-Hexachlorocyclohexane, gamma isomer	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenyl) ethane)	0.1
Toxaphene ($C_{10}H_{10}Cl_8$-Technical chlorinated camphene, 67 to 69 percent chlorine)	0.005
(b) Chlorophenoxys:	
2,4-D (2,4-Dichlorophenoxy-acetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01

3. *Maximum microbiological contaminant levels.* The maximum contaminant level for coliform bacteria from any one well is as follows:

(a) using the membrane filter technique:

(1) Four coliform bacteria per 100 milliliters if one sample is taken, or

(2) Four coliform bacteria per 100 milliliters in more than one sample of all the samples analyzed in one month.

(b) Using the five tube most probable number procedure, (the fermentation tube method) in accordance with the analytical recommendations set forth in "Standard Methods for Examination of Water and Waste Water", American Public Health Association, 13th Ed. pp. 662–688, and using a Standard sample, each portion being one fifth of the sample;

(1) If the standard portion is 10 milliliters, coliform in any five consecutive samples from a well shall not be present in three or more of the 25 portions, or

(2) If the standard portion is 100 milliliters, coliform in any five consecutive samples from a well shall not be present in five portions in any of five samples or in more than fifteen of the 25 portions.

4. *Maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity.* The following are the maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity:

(a) Combined radium-226 and radium-228—5 pCi/l;

(b) Gross alpha particle activity (including radium-226 but excluding radon and uranium)—15 pCi/l.

Appendix II

A. Processes to Significantly Reduce Pathogens

Aerobic digestion: The process is conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15° C to 40 days at 20° C, with a volatile solids reduction of at least 38 percent.

Air Drying: Liquid sludge is allowed to drain and/or dry on under-drained sand beds, or paved or unpaved basins in which the sludge is at a depth of nine inches. A minimum of three months is needed, two months of which temperatures average on a daily basis above 0° C.

Anaerobic digestion: The process is conducted in the absence of air at residence times ranging from 60 days at 20° C to 15 days at 35° to 55° C, with a volatile solids reduction of at least 38 percent.

Composting: Using the within-vessel, static aerated pile or windrow composting methods, the solid waste is maintained at minimum operating conditions of 40° C for 5 days. For four hours during this period the temperature exceeds 55° C.

Lime Stabilization: Sufficient lime is added to produce a pH of 12 after 2 hours of contact.

Other methods: Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

B. Processes to Further Reduce Pathogens

Composting: Using the within-vessel composting method, the solid waste is maintained at operating conditions of 55° C or greater for three days. Using the static aerated pile composting method, the solid waste is maintained at operating conditions of 55° C or greater for three days. Using the windrow composting method, the solid waste attains a temperature of 55° C or greater for at least 15 days during the composting period. Also, during the high temperature period, there will be a minimum of five turnings of the windrow.

Heat drying: Dewatered sludge cake is dried by direct or indirect contact with hot gases, and moisture content is reduced to 10 percent or lower. Sludge particles reach temperatures well in excess of 80° C, or the wet bulb temperature of the gas stream in contact with the sludge at the point where it leaves the dryer is in excess of 80° C.

Heat treatment: Liquid sludge is heated to temperatures of 180° C for 30 minutes.

Thermophilic Aerobic Digestion: Liquid sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55–60° C, with a volatile solids reduction of at least 38 percent.

Other methods: Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

Any of the processes listed below, if added to the processes described in Section A above, further reduce pathogens. Because the processes listed below, on their own, do not reduce the attraction of disease vectors, they are only add-on in nature.

Beta ray irradiation: Sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20° C).

Gamma ray irradiation: Sludge is irradiated with gamma rays from certain isotopes, such as ^{60}Cobalt and ^{137}Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° C).

Pasteurization: Sludge is maintained for at least 30 minutes at a minimum temperature of 70° C.

Other methods: Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods.

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 257]

[FRL 1234-2]

Criteria for Classification of Solid Waste Disposal Facilities and Practices Amendment

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: This proposed amendment would expand the list of maximum contaminant levels (MCL's) used in the ground-water quality standard of the Criteria for Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 257). The criteria were developed and issued as a regulation under the authority of the Resource Conservation and Recovery Act of 1976. The purpose of the criteria is to provide the basis for determining whether solid waste disposal facilities or practices pose no reasonable probability of adverse effects on health or the environment.

The ground-water quality standard which has been promulgated in the criteria contains maximum contaminant levels for health-related parameters (specific inorganic and organic chemicals, coliform bacteria, and radioactive contamination). This amendment proposes limits for the following additional eleven contaminants: Chloride, color, copper, foaming agents, iron, manganese, odor, pH, sulfate, total dissolved solids, and zinc. These additions are designed to protect ground water from odor, discoloration, and taste-causing contaminants.

DATES: Comments are due November 13, 1979. One hearing will be held; it will be on November 1, 1979 at 9:00 AM. Registration for the hearing will begin at 8:30 AM.

ADDRESSES: The official record for this amendment (Docket No. 4004.2) is located in room 2107, 401 M Street, SW, Washington, D.C. 20460. The record is available for viewing from 9:00 AM to 4:00 PM Monday through Friday, excluding holidays.

The public hearing will be held in room 3906, 401 M Street, SW, Washington, D.C. Persons wishing to make oral presentations are requested to restrict their presentations to less than ten minutes.

Written comments may be submitted at the hearing or mailed to: Comments Clerk, Amended Criteria, Office of Solid Waste (WH-564), EPA, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Truett V. DeGeare, Jr., P.E. at the above address or at (202) 755-9120.

SUPPLEMENTARY INFORMATION:

Authority

The statutory authorities for this proposed amendment are Sections 1008 (a)(3) and 4004 (a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6907(A)(3) and 6944(a)), later referred to as RCRA or the Act; also, Section 405(d) of the Clean Water Act, as amended (33 U.S.C. 1345).

Discussion

This action proposes to amend the Criteria for Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 257) which has been promulgated pursuant to the above authorities.

The purpose of the criteria is to provide the basis for determining whether solid waste disposal activities pose "* * * no reasonable probability of adverse effects on health or the environment * * *" (RCRA, Section 4004). The criteria define an open dump (RCRA Section 4004), the minimum elements of prohibited open dumping practices (RCRA Section 1008(a)(3)), and the effects which must be avoided by POTW owners and operators (CWA Section 405). For a full discussion of the criteria's role see the Preamble to that regulation.

The criteria provide a ground-water quality standard consisting of specified substances or parameters. When a facility or practice causes protected ground water to exceed the contamination levels specified in that standard, the facility fails to comply with the criteria. The standard which has been promulgated in the criteria contains maximum contaminant levels for health-related parameters. This amendment proposes limits for the following additional eleven contaminants: chloride, color, copper, foaming agents, iron, manganese, odor, pH, sulfate, total dissolved solids, and zinc, in order to protect against malodorous, discoloring, foul-tasting substances in ground water.

The criteria provide that solid waste disposal facilities or practices shall not *contaminate* an *underground drinking water source* beyond the *solid waste boundary*. The italicized terms are specifically defined for their use in the ground-water section of the criteria.

Underground drinking water sources are aquifers supplying drinking water for human consumption or aquifers in which the ground water contains less than 10,000 mg/l total dissolved solids. *Solid waste boundary* is the outermost perimeter of the solid waste (projected in the horizontal plane) as it would exist at completion of the disposal activity. (There is a provision in the criteria allowing a State with an approved State solid waste management plan to establish an alternative boundary to be used in lieu of the solid waste boundary in accordance with specified procedures and conditions). *Contamination* is defined as the introduction of listed substances to ground water so as to cause (1) the concentration of the substance in the ground water to exceed the maximum contaminant level specified, or (2) an increase in the concentration of the substance in the ground water where the existing concentration of the substance exceeds the specified maximum contaminant level.

As promulgated, the criteria establish specified maximum contaminant levels which were designed to be protective of the health of persons consuming the ground water. It includes levels for ten inorganic chemicals, six organic chemicals, coliform bacteria, and radioactive contaminants. These levels are based on the National Interim Primary Drinking Water Regulations (40 CFR Part 141).

The criteria were initially proposed for public comment at 43 FR 4942 on February 6, 1978. In that proposal, the water quality standard for ground water used or usable for human consumption was that the water not be made unfit for

human consumption. The maximum contaminant levels (MCL's) of the National Interim Primary Drinking Water Regulations were included for determining fitness. Commenters noted that the term "fitness" was too vague to be workable. It was unclear whether foul-smelling, discolored, but not unhealthful water is "fit" for consumption. Others noted that since the proposed standard did not specify the contaminants or the concentrations at which unfitness would be reached enforcement would be troublesome. In considering the merits of these comments, the Agency decided that the ground-water quality standard should be specific regarding contaminants and levels which represent adverse effects on public health and the environment. Since the maximum contaminant levels in the National Interim Primary Drinking Water Regulations were the only specific contaminants and levels which were contained in the proposed criteria, the Agency has decided to promulgate the criteria based only on those contaminant levels. Before other contaminant levels are incorporated in the standard, public scrutiny and the opportunity for comment should be offered. Thus, this amendment is proposed for public review.

RCRA clearly provides that the criteria should address effects on the environment as well as on health. The House Report (No. 94-1491) instructs that the legislative standard for the Administrator in developing the Criteria is "no reasonable chance of adverse effects" on the environment. The report defines an open dump as a land disposal site where discarded materials are deposited with little or no regard for pollution controls or aesthetics. It provides specific examples of the impacts to be prevented, including 47 cases of recorded fishkills and 30 cases of recorded contamination of drinking water wells. The adverse impact on the ground water at most of the cited examples was principally due to high color and odor characteristics associated with iron, manganese and other contaminants not generally associated with direct health effects. It is thus evident that Congress intended to include foulsmelling, discolored ground water as an adverse environmental effect.

The Agency has reviewed monitoring data from a number of facilities which indicates that about half of those monitored facilities have caused ground water to exceed the health-based maximum contaminant levels promulgated in the criteria. An additional thirty percent of these contain unacceptable levels of other (non-health-related) contaminants. Additional research is needed regarding the probability that disposal activities may cause adverse environmental effects without posing direct health threats. Nevertheless, the existing literature does indicate that including malodorous, distasteful and discoloring contaminants in the ground-water quality standard might significantly increase the number of facilities in violation, and that unless these contaminants are included in the standard, a significant number of facilities which cause ground water to be foul-smelling and bad-tasting will not be classified as unacceptable.

Therefore, the Agency has decided to propose an amendment to the criteria's ground-water quality standard which would include contaminant limitations protective against malodorous, distasteful, foaming, staining, corrosive and otherwise adverse effects on ground water. In this proposed amendment, comment is being solicited on the use of the maximum contaminant levels published in the National Secondary Drinking Water Regulations (40 CFR Part 143) for that purpose. Eleven contaminant levels were specified in 40 CFR Part 143 which are of significance in the classification of disposal activities; some discussion is provided below, giving rationale and potential problems for each of the eleven and pertinent comments received by the Agency when the National Secondary Drinking Water Regulations were originally proposed.

A. *Chloride* (250 mg/1). The proposed MCL for chloride is the level above which the taste of the water may become objectionable to the consumer. In addtion to the adverse taste effects, high chloride concentration levels in the water will contribute to the deterioration of domestic plumbing, water heaters, and municipal water works equipment. Higher concentrations may also be indicative of the presence of sodium and other contaminants commonly occurring in leachate, which are not listed in either of the national drinking water regulations and, thus, not directly a part of the ground-water quality standard.

Leachate commonly contains high concentrations of chlorides. Since chloride ions are quite mobile in both saturated and unsaturated zones, isograms of chloride concentrations are particularly useful for inscribing leachate plume envelopes. In most cases, the chloride concentration is a key parameter which will indicate the potential presence of any other leachate constituent.

Comments received by the Agency on the proposed level for chlorides concerned the high costs of removal and consumer tolerance or acclimatization. Neither of these issues is appropriate for consideration in the water quality standard for the criteria. High removal costs support keeping the contaminant out, and leachate-caused concentrations are too unstable to allow acclimatization. In regions where naturally occurring or background concentrations of chloride are consistently high, people can become tolerant of the taste well in excess of the MCL. In such regions, the National Secondary Drinking Water Regulations suggest that States exercise discretion, establishing limitations commensurate with local conditions. However, such discretion is inappropriate for a leachate induced violation of the water quality standard. The concentrations of chloride often fluctuate widely in a leachate plume, and their introduction would represent a new condition to which acclimatization may take years, and increasing concentrations of chlorides is a harbinger indicating the likelihood of the presence of harmful constituents of leachate.

B. *Color* (15 Color Units). Color may be indicative of the presence of a host of organic materials against which protection is not provided elsewhere in the ground-water quality standard. Many of these organic materials are of direct health concern and of indirect concern as precursers for the formation of trihalomethanes and other halogenated organic compounds.

Experience has shown that changes in color levels will stimulate consumers' complaints more readily than a relatively high constant level. The MCL at 15 color units is set quite high; consumers of clear water would be immediately aware of the presence of leachate if it were to cause color to exceed that level. The color standard is not redundant for the staining problems which are caused by iron or manganese, since these constituents are not visible until oxidation, usually only occurring after withdrawal of the water.

The only comments rceived on the proposed color standard were that it was set too high. Support for a lower MCL included the argument that protection from halogenated organic compounds would be enhanced. This argument is quite significant for solid waste purposes. Fifteen color units may allow quite a high level of contaminants to be present. However, the Agency has proposed inclusion of these compounds directly in the Primary Regulations

(Federal Register notice, February 9, 1978, 40 CFR Part 141). The approach proposed herein, then, is to employ the higher color standard and wait for the specific MCL to be established for those compounds in the Primary Regulations.

C. *Copper* (1 mg/l). Copper, in trace quantities, is an essential and beneficial element in human metabolism but imparts an undesirable taste to drinking water at the MCL. Small amounts are generally regarded as non-toxic, but large doses may produce emesis, and prolonged consumption may result in liver damage. Copper, in some soft waters, will cause staining at the MCL.

Copper is generally quite low in both native ground water and in leachate from mixed municipal refuse; it generally occurs at concentrations less than 20 micrograms per liter except at facilities receiving wastes from industrial sources. The metal is used extensively in electroplating, chemical manufacturing and in oil refining, and the salts of copper are used in textiles, photography and pesticides. The inclusion of copper in the standard should only affect the assessment of industrial waste facilities.

High cost of removal was the basis for comments for relaxing the MCL for copper. This comment supports maintaining stringent water quality standards for the criteria. In responding to that comment, the Agency notes that the MCL was only exceeded in 1.6% of the samples in EPA's 1970 Community Water Supply Study, and that wherever high copper concentrations were observed the other heavy metals were also high. Consequently, the inclusion of the copper standard appears appropriate.

D. *Foaming Agents* (0.5 mg/l). Foaming is a characteristic of water which has been contaminated by the presence of detergents and similar substances. Water which foams in excess of the MCL will exhibit undesirable taste and foaming properties. Comments received suggested that the MCL was too stringent and that since the analytical procedure specified for the detection of foaming agents is the methylene blue test, the MCL should be stated in terms of methylene blue active substances.

The 0.5 mg/l limit for foaming agents is based upon the fact that at higher concentration levels the water may exhibit undesirable taste and foaming properties. Also concentrations above the limit may be indicative of undesirable levels of pollutants from questionable sources, such as infiltration by sewage. Because there is no standardized foamability test, this property is determined indirectly by measuring the anionic surfactant concentration in the water utilizing the test procedure specified for methylene active substances. Many substances other than detergents will cause foaming and interfere with the methylene blue test. Since most of these interferences are positive, the Agency believes that the MCL designated for foaming agents is the correct one.

E. *Iron* (0.3 mg/l). Iron is a highly objectionable constituent of water supplies. It imparts a brownish discoloration to laundry, a bitter or astringent taste to drinking water, and stains to clothing, dishes and plumbing fixtures. However, in some areas of the country, the native concentration of iron well exceeds the MCL. The limit on iron may be one of the most frequently violated standards in the criteria. Iron is very common in leachate, quite mobile in most soils, and, significantly, the concentration may be further elevated due to the release of soil-fixed iron as an effect of pH and other changes caused by the passage of leachate through the soil.

At 1.0 mg/l, a substantial number of people will note the bitter astringent taste of iron. Also, at this concentration level the staining problems associated with iron will be pronounced, thus making the water unpleasant to the consumer and unsatisfactory for most industries. Therefore, the Agency believes that the proposed MCL of 0.3 mg/l) for iron is reasonable.

F. *Manganese* (0.05 mg/l). Manganese, like iron, discolors and imparts taste. At concentrations exceeding MCL it can cause build-up in distribution piping which can slough off and cause laundry spotting and unaesthtic black precipitates. Relatively fewer regions have high native manganese than have high native iron; however, it is not unusual. For instance, New York State Health Department surveys indicate that manganese is found in every public drinking water system, and exceeds the MCL in about 10%. The Agency received no comments on the proposed standard for manganese.

G. *Odor* (3 threshold odor number). The principal reason for establishing this MCL at 3 Threshold Odor Number in the Secondary Drinking Water Regulations is that beyond that odor level, consumers would be tempted to avoid the public water system and choose alternative, possibly unmonitored, water sources. Thus, it is an odor level which is considered definitely unacceptable, particularly when newly or intermittently introduced, as may be the case from leachate.

Odor is due to the presence of a variety of substances. Most organic and some inorganic chemicals contribute taste and odor. Because odorous materials are detectable when present in only a few micrograms per liter and are often complex, it is usually impractical and often impossible to isolate and identify the odor-producing chemical. Although many of the odor-producing chemicals are not known to have other adverse effects, inclusion of odor in the standard has the additional advantage of warning of the presence of organic and inorganic pollutants often associated with municipal and industrial wastes but not otherwise listed in the standard.

Comments received by the Agency on the proposed regulation suggested that the proposed MCL should be deleted from the regulations, arguing that the threshold odor number is an arbitrary value and the analytical results obtained vary greatly from person to person. On the other hand, one commenter suggested that the MCL should be lowered to one. The level of three was determined by the Agency to be appropriate because most consumers find the water at this limit unacceptable. Determination of odor at that level is considered reliable, but below the MCL it is difficult because of possible interferences from other sources and variation of the sensing capabilities of the personnel performing the test.

H. *pH* (6.5—8.5). A variety of health and environmental effects are associated with the range of pH which could result from contamination by leachate. pH is an important determinant of corrosivity; below 6.5, significant corrosion effects become noticeable. The treatability of many of the other parameters in the water quality standard is also dependent upon pH. For example, while a facility might emit no selenium, the selenium treatment which would be required because of high background concentrations could be rendered ineffective due to the facility's effect on pH. Also, pH can interfere with existing treatment because of its effects on the efficiency of chlorination and on the solubility of toxic metals.

Naturally occurring pH is found lower than two in some volcanic situations and nearly 11 in contact with some silicates in desert basins. However, acidities and alkalinities of these magnitudes are quickly reduced by reaction with their environment. Most ground waters which lie subject to contamination by solid waste disposal activities are subjected also to atmospheric and other neutralizing

influences. A reasonable range of pH at the water table may be considered to lie between 4 and 9, numbers which also represent the reported range of the pH of leachate. Naturally occurring pH in ground water is slightly basic in most regions of the country, with sufficient buffering capacity to withstand significant stresses associated with solid waste disposal activities. Leachate from mixed municipal wastes is quite erratic, varying by both age and constituents of the waste. The occurrence of contaminated ground water in which the MCL for pH is exceeded after a reasonable mixing zone is highly indicative of adverse health and environmental effects.

Most of the comments received by the Agency concerned the upper limit for pH. Since raw leachate seldom exceeds the upper limit, these comments are not applicable for the Criteria. The remainder of the comments concerned corrosivity. The Agency is still evaluating tests and maximum concentration levels for corrosivity; these comments and the issue of corrosivity in leachate will be addressed on conclusion of the evaluations.

I. *Sulfate* (250 mg/l). Sulfate is a commonly occurring natural constituent of ground water in many regions of the country. Some States report as much as 10 percent of the underground drinking water supplies exceed the MCL. Sulfate is listed in the Secondary Drinking Water Regulations principally because of its cathartic or laxative effect in humans and to a lesser extent because of taste considerations. Its presence in leachate is frequently attributable to industrial sources of refuse such as textile and paper industries. Leachate analyses frequently report sulfate far below MCL, with occasional reports as high as 1500 to 2000 mg/l. For these facilities it is a good indicator of the extent of contamination, and its laxative and taste effects are useful indices of the adverse effects.

Comments received by the Agency were not appropriate to this amendment, considering the objectives of the criteria. Cost of treatment, and long-term acclimatization do not suggest allowing greater concentrations to result from land disposal.

J. *Total Dissolved Solids (TDS)* (500 mg/l). Dissolved solids content is useful as the single parameter which most closely describes a given water in terms of usefulness of the native water and influence of a heterogenous contaminant source. It reflects the influence of all the dissolved constituents. It reflects mineralization and, thus, the taste of water. Additionally it accelerates deterioration of plumbing and water fixtures. (One study finds a reduction of one year of water heater life per 200 mg/l TDS). Although it is a very non-specific indicator which may be difficult to isolate by source, it is useful for covering both hardness and corrosivity effects which are not otherwise a part of the water quality standard of the criteria.

In some regions of the country, particularly in the Southwest, the ground water commonly exceeds the MCL for TDS. A dissolved solids limit (10,000 mg/l) is used as the demarcation in the criteria for water too contaminated to warrant protection. Leachate is high in TDS, commonly reported between 5,000 and 40,000 mg/l.

Excessive hardness, taste, mineral deposition and corrosion are among the associated adverse effects listed in the rationale for limiting TDS in the Drinking Water Regulations. Comments received on TDS were mostly requests for flexibility or for a higher limit from water suppliers in area of high background TDS levels. No comments of concern to the criteria addressed areas of low background TDS.

K. *Zinc* (5 mg/l). Like copper, zinc is an essential and beneficial element in human metabolism, but it imparts an undesirable taste to water. It also can create a milky appearance in water and cause a greasy film on boiling. In native ground water it is seldom found in concentrations exceeding 2 or 3 mg/l. Frequently, it is reported in leachate at concentrations below the MCL; however, in industrial areas zinc concentrations in leachate have been reported up to 370 mg/l. The Agency received no comments on the proposed MCL.

Key Issues

EPA believes that this list of eleven maximum concentration levels may be appropriate for addition to the criteria. In order to properly solicit public comment, yet not delay State implementation of RCRA, the Agency is promulgating the criteria at the same time as this amendment is being proposed; the alternative of promulgating interim regulations, with the expanded ground-water quality standard in effect during the comment period, was rejected.

Several key questions are specifically highlighted for public comment. First, are these eleven proposed contaminant levels appropriate for the objectives of the criteria? Are they characteristic of leachate? Are they too commonly present in ground water to serve the purpose? Secondly, are there additional contaminants or characteristics which should be used to determine adverse effects on health and environment? Thirdly, what effect will the expansion of the standard have on compliance with the criteria? Will only those facilities with impervious liners for the prevention of discharges be acceptable, or will there be only a small incremental increase in non-complying facilities consisting of sites which do cause adverse environmental effects?

We specifically highlight for comment the fact that several States have considered these contaminant levels as they were proposed in the National Secondary Drinking Water Regulations and have chosen to promulgate State drinking water regulations based on higher or lower levels. Should these criteria permit similar State-by-State variations in the ground-water quality standard? This question should be addressed considering that without State discretion, some State agencies may be in the awkward position of requiring facilities to close or upgrade for causing effects which the State considers acceptable in drinking water supplies. Yet, on the other hand, in order to protect against the potential for inconsistencies and abuses, a flexible standard will require adding a justification and approval process. This is a level of EPA oversight not otherwise needed in implementation of the regulation.

Comments are also requested on the practicality of implementation (such as replicability of taste and odor tests), potential impacts of this amendment on segments of society and the economy, and the adequacy of the amended regulation in providing for protection of the public health and the environment. Written public comment is invited on all issues raised by the proposal.

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

Appendix A [Amended]

Accordingly, 40 CFR Part 257 is amended by adding to Appendix A a paragraph 6 as follows:

* * * * *

6. *Maximum contaminant levels for other than health effects.*

The following are the maximum levels for odor, taste and miscellaneous contaminants:

Contaminant	Level
Chloride	250 mg/l.
Color	15 Color units.
Copper	1 mg/l.
Foaming agents	0.5 mg/l.
Iron	0.3 mg/l.
Manganese	0.05 mg/l.
Odor	3 Threshold odor No.
pH	6.5–8.5.
Sulfate	250 mg/l.
TDS	500 mg/l.
Zinc	5 mg/l.

[FR Doc. 79-28533 Filed 9-12-79; 8:45 am]

BILLING CODE 6560-01-M

federal register

Thursday
September 13, 1979

Part X

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

September 1979.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of September 1, 1979, of 11 rescissions and 65 deferrals contained in the first twelve special messages of FY 1979. These messages were transmitted to the Congress on October 2, November 30, December 7, December 12, 1978, January 31, February 14, March 15, April 4, April 26, July 24, August 16, and August 27, 1979.

Rescissions (Table A and Attachment A)

Congressional action has been completed on all FY 1979 rescission proposals. Table A summarizes the status of rescissions proposed by the President as of September 1, 1979, while Attachment A shows the history and status of each rescission proposed during FY 1979.

Deferrals (Table B and Attachment B)

As of September 1, 1979, $2,913.4 million in 1979 budget authority was being deferred from obligation and another $2.7 million in 1979 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

Information From Special Messages

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the Federal Registers of:

Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III)

Wednesday, December 6, 1978 (Vol. 43, No. 235, Part III)

Wednesday, December 13, 1978 (Vol. 43, No. 240, Part VI)

Monday, December 18, 1978 (Vol. 43, No. 243, Part VI)

Monday, February 5, 1979 (Vol. 44, No. 25, Part VI)

Wednesday, February 21, 1979 (Vol. 44, No. 36, Part VII)

Tuesday, March 20, 1979 (Vol. 44, No. 55, Part VIII)

Monday, April 9, 1979 (Vol. 44, No. 69, Part VI)

Tuesday, May 1, 1979 (Vol. 44, No. 85, Part V)

Monday, July 30, 1979 (Vol. 44, No. 147, Part IX)

Tuesday, August 21, 1979 (Vol. 44, No. 163, Part VI)

Thursday, August 30, 1979 (Vol. 44, No. 170, Part X)

Attachments

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

Table A

STATUS OF 1979 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Rescissions proposed by the President	$908.7 a
Accepted by the Congress	-723.6 b
Rejected by the Congress	-185.1 c
Pending before the Congress	-0-

* *

Table B

STATUS OF 1979 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$4,614.6
Routine Executive releases (-$1,702.[illegible] million) and adjustments (+$12.6 million) through September 1, 1979	-1,690.1
Overturned by the Congress	-8.4
Currently before the Congress	2,916.1 d

---

a. This amount is net of a $6.0 million reduction proposed in a Small Business Administration rescission (S79-11A).

b. Public Law 96-7.

c. Of this amount, $51.0 million is presently deferred (D79-55 and D79-29A).

d. This amount includes $2.7 million in outlays for a Department of the Treasury deferral (D79-2[illegible]).

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 03/21/79 17:01

AS OF SEPT 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF ENERGY							
Energy Programs							
Fossil energy construction							
BA	R79- 2	50,000a		1 31 79			
DEPARTMENT OF ENERGY TOTAL BA		50,000					
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE							
National Institutes of Health							
Buildings and facilities							
BA	R79- 3	37,000		1 31 79	37,000b		
Health Resources Administration							
Health resources							
BA	R79- 4	167,893		1 31 79	46,350b	121,543	3 29 79
Office of Education							
Special projects and training							
BA	R79- 5	22,365		1 31 79	12,500b	9,8 5	3 28 79
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE TOTAL BA		227,258			95,850	131,408	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Subsidized housing programs							
BA							

PAGE 2 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 08/21/79 17:01

AS OF SEPT 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
	R79- 6	600,000		1 31 79	600,000b		
New Communities Development Corporation							
New community assistance grants							
BA	R79- 7	8,167		1 31 79	8,167b		
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		608,167			608,167		
DEPARTMENT OF THE INTERIOR							
Bureau of Mines							
Helium fund							
BA	R79- 8	3,127		1 31 79	3,127b		
DEPARTMENT OF THE INTERIOR TOTAL BA		3,127			3,127		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION							
Research and program management							
BA	R79- 9	2,400		1 31 79	2,400b		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TOTAL BA		2,400			2,400		
OTHER INDEPENDENT AGENCIES							
Foreign Claims Settlement Commission							

AS OF SEPT 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED
Payment of Vietnam prisoner of war claims					
BA	R79-10	9,000c		1 31 79	8,000b
Salaries and expenses					
BA	R79- 1	75		11 30 78	
Small Business Administration					
Salaries and expenses					
BA	R79-11	14,665		1 31 79	
BA	R79-11A	-6,000		3 15 79	6,065b
OTHER INDEPENDENT AGENCIES TOTAL BA		17,740			14,065
TOTAL BA		908,692			723,609

FOOTNOTES

a. These funds are included in a deferral (D79-55) transmitted to the Congress on April 26, 1979.

b. Public Law 96-7.

c. This amount was initially deferred (D79-29) in a special message transmitted to the Congress on October 2, 1978.

d. $1.0 million of the $9.0 million proposed for rescission is included in a deferral (D79-29A) transmitted to the Congress on April 26, 1979.

e. In addition to these amounts, rescissions totalling $51.0 million were rejected by the Congress, but are now included in deferrals D79-55 and D79-29A (as indicated under footnotes a and d).

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D79-31	161,875		11 30 78	-161,875a			
International military education and training	BA	D79-35	24,312		12 7 78	-24,312a			
Foreign military credit sales	BA	D79-45	651,000		12 12 78	-646,750			4,250
Economic support fund	BA	D79-59	200,000		8 16 79				200,000
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		1,037,187			-832,937			204,250
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				
	BA	D79- 2A			12 7 78	-3,530			
Forest Service									
Acquisition of lands for Wasatch National Forest	BA	D79-36	209		12 7 78				209
Timber salvage sales	BA	D79-37	5,500		12 7 78	-702			4,798
Expenses, brush disposal									

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
	BA	D79- 3	32,225		10 2 78				
	BA	D79- 3A		5,276	1 31 79				37,501
Restoration of forest lands	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,927	5,276		-4,245			42,958
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D79-47	500		1 31 79				500
Construction	BA	D79- 5	9,830		10 2 78				
	BA	D79- 5A		202	12 12 78	-10,032			
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,481	-6,579b		
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				
	BA	D79- 7A		208	1 31 79	-37			5,600
United States Fire Administration									
Facilities	BA	D79-32	6,150		11 30 78	-6,150			
Maritime Administration									
Ship construction	BA	D79-33	157,000		6 25 79	-157,000			
DEPARTMENT OF COMMERCE TOTAL	BA		190,969	410		-178,700	-6,579		6,100
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14 54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
Shipbuilding and conversion, Navy	BA	D79-34	563,940		11 30 78				563,940
Research, Development, Test, and Evaluation									
Navy	BA	D79-53	107,964		4 4 79	-107,964a			
Military Construction									
Military construction, all services	BA	D79- 8	548,451		10 2 78	-512,817		20,703	56,337
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,220,355			-620,781		20,703	620,277
DEPARTMENT OF DEFENSE-CIVIL									
Corps of Engineers									
Alaska hydroelectric power development fund	BA	D79-10	5,450		10 2 78				5,450
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D79- 9	458		10 2 78				
	BA	D79- 9A		130	1 31 79	-38			550
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			5,908	130		-38			6,000
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy construction	BA	D79-55	50,000c		4 26 79				50,000
	BA	D79-56	570		4 26 79				570
Strategic Petroleum Reserve	BA	D79-57	113,528		4 26 79				113,528

PAGE 4 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
Uranium enrichment - operating expenses								
BA	D79-48	63,000		1 31 79				63,000
DEPARTMENT OF ENERGY								
TOTAL BA		227,098						227,098
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
Human Development Services								
White House Conference on Aging								
BA	D79-60	2,700		8 16 79				2,700
Administration on Aging								
BA	D79-63	22,500		8 27 79				22,500
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
TOTAL BA		54,502						54,502
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D79-46	12,811		12 12 78				
BA	D79-46A		1,901	1 31 79				14,712
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D79-13	30,000		10 2 78				30,000

PAGE 5 ATTACHMENT B STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
Geological Survey									
Exploration of National Petroleum Res. in Alaska	BA	D79-54	1,792		4 4 79		-1,792d		
Payments from proceeds, sale of water	BA	D79-14	36		10 2 78				36
Bureau of Mines									
Drainage of anthracite mines	BA	D79-15	1,700		10 2 78	-363			1,337
Office of Territorial Affairs									
Administration of territories	BA	D79-38	25,000		12 7 78	-25,000			
Trust territory of the Pacific Islands	BA	D79-16	12,000		10 2 78	-12,000			
DEPARTMENT OF THE INTERIOR TOTAL	BA		83,339	1,901		-37,363	-1,792		46,085
DEPARTMENT OF JUSTICE									
Legal Activities									
Salaries and expenses, Community Relations Service	BA	D79-49	572		1 31 79	-572			
Federal Prison System									
Buildings and facilities	BA	D79-17	25,300		10 2 78				
	BA	D79-17A		11,865	11 30 78	-160			37,005
	BA	D79-58	6,200		7 24 79				6,200
DEPARTMENT OF JUSTICE TOTAL	BA		32,072	11,865		-732			43,205
DEPARTMENT OF LABOR									

PAGE 6 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
Employment and Training Administration									
Employment and training assistance	BA	D79-50	122,133		1 31 79				122,133
DEPARTMENT OF LABOR TOTAL BA			122,133						122,133
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Acquisition, operation, & maintenance of buildings	BA	D79-39	36,787		12 7 78				36,787
Other									
Emergency refugee and migration assistance fund	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78	-12,250			
	BA	D79-64	5,650		8 27 79				5,650
DEPARTMENT OF STATE TOTAL BA			45,187	9,500		-12,250			42,437
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)	BA	D79-20	290,176		10 2 78				
	BA	D79-20A		21,259	1 31 79				311,435
Federal Highway Administration									
Trust fund share of other highway programs									

PAGE 7 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
	BA	D79-21	40,000		10 2 78				
	BA	D79-21A		14,169e	2 14 79				54,169
Overseas highway									
	BA	D79-22	13,100		10 2 78				13,100
Urban Mass Transportation Administration									
Urban mass transportation fund									
	BA	D79-51	968,616		1 31 79				968,616
DEPARTMENT OF TRANSPORTATION TOTAL BA			1,311,895	35,428					1,347,323
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund									
	BA	D79-23	2,205		10 2 78				
	BA	D79-23A		73	12 7 78	-51			2,227
	O	D79-40	5		12 7 78				
	O	D79-40A		3	1 31 79	-8			
State and local government fiscal assistance fund									
	BA	D79-24	78,489		10 2 78				
	BA	D79-24A		1,665	12 7 78	-616		10	79,548
	O	D79-25	2,404		10 7 78				
	O	D79-25A		1,562	12 7 78				
	O	D79-25B		11,835f	2 14 79	-14,154		1,088	2,735
Bureau of the Mint									
Construction of mint facilities									
	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY TOTAL BA			86,424	1,738		-667		10	87,505
TOTAL O			2,409	13,400		-14,162		1,088	2,735

PAGE 8 ATTACHMENT F STATUS OF DEFERRALS FISCAL YEAR 1979 AS OF 09 06/79 14 54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness	BA	D79-28	80		10 2 78				80
GENERAL SERVICES ADMINISTRATION TOTAL	BA		2,203						2,203
OTHER INDEPENDENT AGENCIES									
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D79-29	10,945		10 2 78				
	BA	D79-29A		1,000	4 26 79	-1,051		9,000g	1,894
International Communication Agency									
Salaries & expenses	BA	D79-41	2,095		12 7 78				2,095
Acquisition & construction of radio facilities	BA	D79-42	3,141		12 7 78				
	BA	D79-42A		7,832	2 14 79				10,973
Interstate Commerce Commission									
Payments for directed rail service	BA	D79-30	13,990		10 2 78				13,990
Small Business Administration									
White House conference on small business	BA	D79-43	1,600		12 7 78				1,600
National Alcohol Fuels Commission									
Salaries and expenses	BA	D79-61	1,350		8 16 79				1,350

PAGE 9 ATTACHMENT B STATUS OF DEFERRALS FISCAL YEAR 1979 AS OF 09/06/79 14:54

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-79
National Commission on Social Security									
Salaries and expenses	BA	D79-65	1,943		8 27 79				1,943
Navaho & Hopi Indian Relocation Commission									
Salaries and expenses	BA	D79-44	12,000		12 7 78				12,000
Nat l Comm. on the Int l Year of the Child									
Salaries and expenses	BA	D79-62	485		8 16 79				485
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D79-52	15,000		1 31 79				15,000
OTHER INDEPENDENT AGENCIES TOTAL BA			62,549	8,832		-1,051		-9,000	61,330
TOTAL BA			4,523,748	75,080		-1,688,764	-8,371	11,713	2,913,406
TOTAL O			2,409	13,400		-14,162		1,088	2,735

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to Congress.

b. Impoundment resolution S. Res. 50 passed the Senate on March 13, 1979, rejecting this deferral.

c. This amount was included in a rescission proposal (R79-2) transmitted to the Congress on January 31, 1979.

d. Impoundment resolution H. Res. 239 passed the House on June 19, 1979, rejecting this deferral.

e. This amount is net of a release of $10,831 thousand that was made prior to the transmittal of this supplementary report.

f. This amount is net of a release of $2,857 thousand that was made prior to the transmittal of this supplementary report.

g. This amount was included in a rescission proposal (R79-10) transmitted to the Congress on January 31, 1979.

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BILLING CODE 3110-01-C

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Thursday, September 13, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
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202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
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275-3030	Slip Law Orders (GPO)

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

14541 3-13-79 / Bacterial products standards; BCG vaccine labeling standards

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

[Last Listing September 10, 1979]